

PSF-5.09 - Independent Police Review - Mediation

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Administrative Rules Adopted by Bureau Pursuant to Rule-Making Authority

ARB-PSF-5.09

Mediation is a voluntary, non-adversarial, facilitated process to allow a complainant and an officer to discuss an interaction that gave rise to the complaint. It is not a form of litigation or arbitration, so the parties do not need legal counsel or union representation during the discussion.

1. Unless prohibited by this protocol, all complainants will be offered information about IPR's mediation program. If mediation is approved there will be not be an administrative investigation or a finding.

2. The IPR Investigator shall complete an initial investigation, in accordance with Protocol 5.01, and submit the complaint for review by the Director.

3. The Director shall review the initial investigation and determine whether the complaint appears appropriate for mediation.

4. The following complaints will not be eligible for mediation:
 - a. Allegation of inappropriate use of force by a member;
 - b. Allegation of criminal conduct by a member;
 - c. The member is a witness against the complainant in a criminal or traffic prosecution that will still be pending more than 90 days after the complaint was filed with IPR;
 - d. If any allegation within a complaint includes one of the categories above, the entire complaint will be considered ineligible for mediation

5. If a complaint is eligible for mediation, the following steps will be followed:
 - a. The assigned investigator will send a mediation consent form to the complainant;
 - b. Upon receipt of the mediation consent form or the complainant's verbal interest in mediation, the Director will notify the Internal Affairs Captain and involved member's supervisor for their consent to allow the officer to participate in mediation. IPR will then forward the mediation request to the involved member.
 - c. No mediation can occur without the consent of the complainant, IPR Director, Internal Affairs Captain, the officer's manager, or the involved member.

6. If mediation is approved by all individuals listed in Section 5c of this protocol, IPR shall assign the complaint to a professional mediator to schedule the mediation. IPR shall be responsible for ensuring that the mediation is scheduled and conducted in a timely manner.

7. IPR shall communicate to all parties by the best means available the time, date and location of the mediation.
 - a. All mediations must be conducted within the city limits of Portland, unless consent is otherwise received from the involved member(s) and the complainant.
 - b. No mediation shall take place in a Police Bureau facility without the consent of the complainant.

8. If any party fails to appear for a scheduled mediation session without good cause, the other party will be provided with the choice of rescheduling the mediation or having the case returned to the Director for further action in accordance with Protocol 5.01
 - a. If any of the involved member(s) fails to appear for a mediation without good cause, the Director ensure the officer's manager is notified so that appropriate action can be taken.

9. If the mediator finds that either party has failed to participate in good faith during a mediation, the case will be returned to the Director for further action in accordance with Protocol 5.01.

10. Mediation sessions are confidential. A mediation session may be observed by the Director or another member of the IPR staff or a member of the Citizen Review Committee, as designated by the Director.
 - a. If a Committee member witnesses a mediation they will be recused from further participation related to the case, such as if the matter is returned to Director and results in an appeal before the Committee.

11. Upon confirmation from the mediator that that the mediation has occurred, the Director shall close the case.
 - a. No entry relating to the mediation shall be placed in an involved member's personnel file.

12. The assigned mediator shall be required to provide a report to IPR within seven days of the completion of the mediation.

13. No appeal of a completed mediation shall be permitted before the Citizen Review Committee.
 - a. The Committee may appoint a workgroup to review a sample of closed mediations. The workgroup will report its findings to the Committee in a public meeting. The workgroup will seek to determine:
 - i. The effectiveness of mediation program.
 - ii. Whether mediation is being used appropriately.
 - iii. Whether there are additional areas needing review by the workgroup.
 - b. The Committee may adopt the workgroup's report and make recommendations to IPR for improving the mediation process.

14. If a community member files an appeal of an administrative investigation that resulted in non-sustained findings, upon the approval of the Director, IPR staff shall contact the appellant and inquire whether the appellant would be interested in mediating the non-sustained findings.
 - a. The appellant will be advised that no further action will be taken on the appeal if the involved officer(s) agree to mediate;
 - b. If the appellant is willing to mediate in lieu of pursuing an appeal, the appeal will be assigned and handled pursuant to the mediation procedures described above.
 - c. Mediation of an appeal eligible complaint is subject to the same approval criteria as outlined in Section 5 of this protocol.