

**PSF-5.09 - Independent Police Review - Mediation Program Protocols****INDEPENDENT POLICE REVIEW DIVISION (IPR) - MEDIATION PROGRAM PROTOCOLS***Administrative Rules Adopted by Bureau Pursuant to Rule-Making Authority*ARB-PSF-5.09

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1. At the conclusion of an interview with any IPR complainant the IPR Intake Investigator may ask the complainant whether the complainant would be interested in mediating the complaint. IPR shall explain the mediation program to the complainant (including the fact that there can be no appeal from a mediation) and indicate in the IPR file whether the complainant is amenable to the process. Written information describing the mediation program and a consent form will be sent to the complainant.
2. The IPR Intake Investigator shall complete the processing of the complaint, in accordance with normal IPR policies and procedures, and submit the complaint for review by the IPR Director.
3. The IPR Director shall determine whether the complaint appears appropriate for mediation. Normally a case will not be assigned to mediation if the case involves an allegation of criminal conduct against an officer or if the officer 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. No case may be assigned for mediation without the approval of the IPR Director or the Director's designee. If the IPR Director concludes that a case may be appropriate for mediation, the Director shall determine whether the Bureau will accept the case for mediation. No case may be assigned for mediation without the approval of the IAD Captain or the Captain's designee and the RU Manager(s) of the involved officer(s).
4. If the involved officer(s) agrees to mediation and the complainant returns the consent form, IPR shall assign the complaint to an IPR-hired mediator to schedule the mediation within a timely period. IPR shall be responsible for ensuring that the mediation is scheduled and conducted in a timely manner.
5. IPR shall communicate to all of the involved parties (by the best means available) the time, date and location of the mediation. All mediations must be conducted within the city limits of Portland, unless express consent is otherwise received from the involved officer(s) and the complainant. No mediation shall take place in a Police Bureau facility without the express consent of the complainant.
6. If any party fails to appear for a scheduled mediation session without good cause, the other party will be provided with the choice of either rescheduling the mediation or having the case returned to the IPR Director for further action in accordance with IPR's Case Handling Guidelines. If any of the involved officer(s) fails to appear for a previously scheduled mediation, without good cause, the IPR Director will notify the officer's RU Manager, through channels, so that appropriate action can be taken.
7. If any party fails to participate in a scheduled mediation in good faith, the case will be returned to the IPR Director for further action in accordance with IPR's Case Handling Guidelines.
8. Any mediation may be observed by the IPR Director or another member of the IPR staff or a member of the CRC, as designated by the IPR Director.
9. Upon the completion of the mediation and the receipt of a report from the assigned mediator(s) indicating that the mediation has taken place, the IPR Director shall categorize the complaint as "Mediation" and the case shall be closed. No entry relating to the mediation shall be placed in an involved officer's IAD file. The assigned mediator(s) shall be required to provide a report to IPR within seven days of the completion of the mediation.
10. No appeal of a completed mediation shall be permitted before the Citizen Review Committee. The CRC shall periodically appoint a workgroup to review a sample of closed mediations. The workgroup will report its findings to the CRC in a public meeting. The CRC may adopt the workgroup's report and make recommendations to the IPR for improving the mediation process.

11. If a citizen files an appeal of an IAD investigation that resulted in non-sustained findings, upon the approval of the IPR Director or the Director's designee, IPR staff shall contact the appellant and inquire whether the appellant would be interested in mediating the non-sustained findings. If the appellant is willing to mediate in lieu of pursuing an appeal (after being specifically advised that no further action will be taken on the appeal if the involved officer(s) agree to mediate), the appeal will be assigned and handled pursuant to the normal mediation process.

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## **HISTORY**

- Approved by IPR Citizen Review Committee on September 3, 2002.
- Amended on July 2, 2003 to allow for the mediation of use-of-force complaints in extraordinary circumstances and to remove prohibition from discussing workgroup audits at Citizen Review Committee meetings.
- Updated protocol approved by CRC by advisory vote on 6/21/05. Removed restrictions on use of mediation for use-of-force complaints. Reassigned duties to schedule mediations to professional mediators. Deleted process that re-advised complainant about mediation after officer had accepted mediation.
- Updated protocol adopted 6/23/05 adding paragraph 17 relating to mediation in lieu of appeals of non-sustained findings to CRC.
- Updated protocol adopted 1/14/08, incorporating CRC Mediation Workgroup report recommendations and removing internal administrative procedural descriptions.