Mediation

In July 2000, the City of Albany enacted a new law creating the Citizens' Police Review Board. As part of that law, the City authorized the creation of a mediation program designed to provide an opportunity for citizens and police officers to sit down with two mediators in a neutral setting to discuss the issues raised in the complaint filed by the citizen.

For more information, contact:

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FAQs

How does the mediation option work?

Upon receipt of a citizen complaint, unless the case involves an allegation of criminal conduct against an officer, or the complaint is a result of an incident that involves an arrest, or if there was an injury to either party, or if there was property damage by an officer, the complaint will be considered appropriate for mediation. Review for this track will be made by the Office of Professional Standards (OPS) and the Assistant Chief for the Albany Police Department and by the Citizens' Police Review Board. For the CPRB, five members will be contacted by the Government Law Center (GLC) and a decision made as to appropriateness for mediation by simple majority of those five members. The decision in APD and the decision by the CPRB shall be made within two business days.

If either the APD or the CPRB finds it inappropriate for mediation the matter is referred to OPS for investigation. Neither the Albany Police Department (APD) nor the Citizens' Police Review Board (CPRB) need provide a reason for rejecting mediation.

If the case is deemed appropriate for mediation OPS will contact the officer(s). The GLC will notify the complainant.

All parties involved in the mediation process shall be informed that once mediation occurs, the complaint shall be considered “resolved.” Each party must acknowledge their understanding that the “resolution” is the fact that the mediation took place. The full CPRB Board shall issue a finding of “Mediated” for the record.

What happens when the GLC contacts the complainant or the complainant contacts the GLC?

When the GLC is contacted by the complainant(s), the GLC will ensure that the complainant(s) understands the mediation program and will ask the complainant(s) if he/she will participate in the mediation program. The parties will be contacted so that the process can be explained; questions can be answered, available dates and times determined. Once a mutually convenient date and time are determined by the mediation director, a mediator will be assigned to the case.

The mediator will provide the complainant(s) with a disclaimer that he/she will have to sign. The disclaimer will state that the complainant has been advised that once the mediation begins then his/her complaint will not be investigated regardless of the outcome of the mediation, and that the complaint shall be considered “resolved.”

If either the officer or the complainant(s) declines mediation the matter will be referred to OPS for investigation.

If both parties agree to mediation the matter will be referred to a mediator. The GLC shall contact the mediator, and in cooperation with OPS and the assistant chief or his/her designee, shall provide all pertinent information so that the mediator can establish contact with the parties and set up the mediation session. The contact with the officer(s) shall be made by the assistant chief or designee.

Who are the mediators?

The mediators are appointed by the GLC upon mutual agreement by the CPRB and the assistant chief. Mediators are highly trained and experienced to assist parties in reaching a resolution/understanding that addresses the issues raised by either side in the mediation session itself. The mediators are all certified, with experience in community or family mediation cases and are carefully selected so that their skills and backgrounds best meet the needs of the parties at the mediation table. The role of the mediators is not to determine who is right and who is wrong. They are not there to function as decision makers; they are impartial third parties without any vested interest in the outcome.

What happens in a mediation?

The mediation process is both voluntary and confidential. Each party will have an opportunity to voice his/her concern. If either party feels he or she needs assistance, such as an interpreter or an advocate, accommodations can be made. The mediators themselves are neutral, without any stake in the outcome or agreement of the process, except to make sure that it is fair, that all parties are heard and that their issues are placed on the table. The mediation can be stopped at any time by either party.

How long will it take?

Most mediations take two hours. If another session is necessary, the mediators and the parties can schedule another time to meet.

What happens if the complainant or officer fails to appear for mediation?

If the complainant(s) fails to appear for the scheduled session the first time, the GLC or the mediator will contact the complainant(s) to see if he/she wants to reschedule the mediation. If the complainant(s) does not want to reschedule the mediation, then his/her complaint will be closed as “no finding.” If the complainant(s) fails to appear for the second scheduled session, his/her complaint will be closed as “no finding.” If the officer(s) fails to appear for the first scheduled session then rescheduling will be at the discretion of the assistant chief. If it is not rescheduled the mediator will forward the case to the GLC. The GLC will then forward the case to OPS for investigation.

What happens after the mediation?

Following the completion of mediation each party will be requested to complete an evaluation form regarding the process and outcome. The GLC will forward copies of the evaluation form to the CPRB and the assistant chief.

How is confidentiality assured?

According to the Code of the City of Albany, "Statements and records disclosed during mediation may not be disclosed or introduced in evidence during any judicial or administrative proceeding, and mediators may not be compelled by a subpoena to give testimony or produce anything related to the mediation."

Both parties will consent to participate in this mediation in good faith and sign a mediation agreement. The mediation agreement states that “because both parties have chosen to address this complaint in mediation, the complaint will cease to be investigated by the Albany Police Department’s Office of Professional Standards and will be considered “resolved” upon the conclusion of the mediation regardless of the outcome. Both parties understand and agree that this is a confidential process. No records will be kept of this mediation by any party or entity except for the mediation agreement and evaluation form which will be used for the sole purpose of evaluating the Mediation Program. Anything that is discussed between the complainant and the officer will be considered confidential and shall not be discussed outside this mediation."

Can the parties talk about what occurred there?

That is an issue that the parties at the mediation table need to talk about and agree to. The mediators however are precluded from speaking to anyone but the program director about what was discussed, and even the director is bound by the confidentiality of the mediation.

Is there an appeal process?

There is no procedure for appeal by either party following mediation. The case is considered closed upon conclusion of the mediation session.

What if a large group of citizens want to talk about the incident?

The CPRB, through its panel of mediators, can provide skilled facilitators/mediators to assist with larger groups who want to sit down with the police officer(s) involved in a particular incident.