

The purpose of this Order is to set forth Citizens' Police Review Board (CPRB) policy regarding an alternative to the normal CPRB process utilized in investigating complaints. The complainant(s) and involved officer(s) may be invited to voluntarily participate in mediation. Mediation shall be an option discussed by the CPRB Executive Director and the assigned CPRB Investigator. The primary purpose of the CPRB is to receive allegations of police officer misconduct, conduct an investigation of the allegations, and then render a decision based on the outcome of the investigation. The CPRB may utilize different investigatory and complaint resolution processes, including but not limited to voluntary conciliation and voluntary mediation. This process is to occur before the expiration of the limitations period set forth in the Police Officers' Bill of Rights (Government Code Section 3304(d)).

Initial Case Assignment

Upon initial case assignment, the CPRB Investigator will review the allegations to determine if the allegation is a Class II offense that does not indicate a pattern of misconduct. Once this determination is complete, the assigned investigator will discuss the option to mediate the case with the CPRB Executive Director and a request will be forwarded to IAD to determine if:

1. The subject officer received a sustained finding for any Class I offense within the past 12 months;
2. The subject officer's complaint history indicates a pattern of misconduct involving any Class II offenses

If mediation is deemed appropriate based on the type of allegation and the subject officer's complaint history, the assigned investigator will:

1. Contact the subject officer(s) with an offer to resolve the complaint through mediation. The officer will have five (5) business days to reply to the request to mediate the complaint, in writing, to the assigned investigator.
2. If the subject officer(s) express a willingness to resolve the complaint through mediation, the assigned investigator will contact the complainant(s) with an offer to resolve the complaint through mediation.
3. If the subject officer(s) and/or the complainant(s) decline to participate in the mediation process then the case will be resolved through the usual investigative process.

Mediation Process

The mediation team will consist of one (1) neutral third party mediator from the CPRB and two (2) neutral third party mediators from outside of the CPRB. The neutral third party mediator

from the CPRB will contact the complainant(s) and the subject officer(s) to complete an assessment, answer questions specific to mediation and schedule a date/time for the mediation session. Mediations will be scheduled on the earliest possible date; generally within thirty (30) days from the date of receipt of the formal complaint, if possible.

A mediation confirmation letter stating the date, time and location of the mediation will be sent to the subject officer(s) and the complainant(s) by the mediator. A mediation session will be scheduled for a two (2) hour time slot. Mediation sessions will be scheduled on Tuesdays and Thursdays, during normal business hours either at 9:30 a.m., 11:30 a.m. or 2:30 p.m.

Mediation sessions are CONFIDENTIAL.

Unless parties agree, only complainant(s), subject officer(s), and the mediator will be allowed in the session, and is bound by policy. A qualified, neutral interpreter will also be present if the complainant or mediator deems such action necessary. All parties are expected to sign a Citizens' Police Review Board Mediation Waiver and Consent form. Once the form is signed by both parties and the mediation session has commenced, there is no provision for a complaint to be returned for investigation if the complainant is dissatisfied with the mediation process or the outcome of the mediation session. All proceedings in the course of mediation remain legally privileged. Nothing said or presented (including proposals, offers, and responses) by any person may be publicly disclosed or used in any legal or administrative action at any time. Under penalty of law no employee or officer of the CPRB may disclose any confidential information or engage in any investigative or prosecuting function arising out of a dispute in which such person has acted on behalf of the agency. During the mediation, the parties can share confidential information or a perspective with the mediator.

The mediation session will not result in a written agreement between the parties. The complainant(s) and the officer(s) are expected to fully participate in the mediation session. If the complainant(s) and/or the subject officer(s) fail to fully participate in the mediation session, then the complaint will be returned to the original CPRB investigator for investigation.

For purposes of mediation as it relates to subject officer(s) and complainant(s), full participation is defined as, a willingness to listen and to understand the perspectives of the other party. The parties are expected to treat one another with respect while they participate in an honest dialogue.

There will be no written records of the mediation session. Recording devices, cell phones or photo imaging devices will not be allowed in negotiation sessions. Any notes created by complainant(s), subject officer(s), mediator, or any other person(s) present during the mediation session will be collected by the mediator at the conclusion of the mediation session and destroyed.

CAUCUS

During the mediation sessions any participating member or the mediator may request a brief recess in order to caucus—to consult with one another in private. The mediator is available to any of the members for consultation if desired during caucuses, or otherwise. If a participating member wishes to discuss any matter with the mediator in confidence, such information will not be disclosed except as clearly authorized. Significant work in mediation occurs not only at the table but often in caucuses or other separate consultations during longer recesses.

Mediation Scheduling Conflicts

If the officer or complainant is going to be late for the scheduled mediation, they should contact the assigned mediator to inform them what time they will arrive:

1. If the officer or complainant will be delayed **less** than 20 minutes, the session shall commence upon the party's arrival.
2. If the officer or complainant will be delayed **more** than 20 minutes, the assigned mediator shall consult with the other party to determine whether the delay is acceptable or whether that party would like to reschedule.

If the officer or complainant is unable to attend the mediation due to an unforeseen emergency, they should make every effort to immediately notify the assigned mediator to have the session rescheduled. If the officer or complainant fails to appear and does not call the assigned mediator, the mediation session shall be canceled for that day and the mediator will notify the CPRB Executive Director.

1. The assigned CPRB mediator shall attempt to make contact with the complainant to determine if there was a legitimate reason for the complainant's failure to attend the mediation session. If it is determined by the CPRB Executive Director that a reasonable explanation did exist, the mediation session shall be rescheduled. If the CPRB Executive Director determines the complainant did not have a reasonable explanation for missing the mediation session, the complaint shall be administratively closed.
2. The CPRB Executive Director shall contact IAD to determine if there was a legitimate reason for the officer's failure to attend the mediation session. If it is determined by the CPRB Executive Director that a reasonable explanation did exist, the mediation session shall be rescheduled. If it is determined the officer did not have a reasonable explanation for missing the mediation session, the option for the officer to engage in the mediation may be withdrawn by the CPRB Executive Director and the allegation(s) made by the complainant will be fully investigated.

3. Regardless of the circumstances, the officer and the complainant may only reschedule a mediation session one (1) time each.
4. Failure to attend a rescheduled mediation session will result in the following action:
 - a. If the officer fails to attend, the allegation will be fully investigated by a CPRB Complaint Investigator.
 - b. If the complainant fails to attend, the complaint shall be administratively closed by the CPRB.

Disposition Process

At the conclusion of the mediation session, the mediator will provide the CPRB Executive Director a written response stating whether both parties appeared and whether the session resulted in a completed mediation. The written response will include the nature of the complaint, the complainant's identifying information and the officer's identifying information. This written response will be presented at the next CPRB Board meeting for an administrative closure. The written response will also be presented to IAD for their record-keeping purposes.

The following is an example of the Pre-Mediation Agreement:

PRE-MEDIATION AGREEMENT

MEDIATION PROCESS

Mediation is a voluntary process in which parties to a dispute attempt to resolve disagreements between them through discussion, clarification, and orderly negotiation assisted by a neutral mediator. The mediation process is not a legal adversarial action consisting of “winners” and “losers”. The main focus is not on adjudicating alleged past offenses but on forging consensus as to reasonable and desirable new ways of doing things from this point forward.

A neutral third party mediator from the CPRB will contact the complainant(s) and the subject officer(s) to complete an assessment, answer questions specific to mediation and schedule a date/time for the mediation session. Mediations will be scheduled on the earliest possible date; generally within thirty (30) days from the date of receipt of the formal complaint, if possible.

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GROUND RULES

Ground rules for conduct and decorum will be established by the mediator prior to the start of the mediation session. It is the mediator’s role to uphold and enforce the ground rules as agreed to by the parties in order to maintain the integrity of the mediation process. This might include excusing participating members from the mediation who do not adhere to the ground rules.

CAUCUS

During the mediation sessions any participating member or the mediator may request a brief recess in order to caucus—to consult with one another in private. The mediator is available to any of the members for consultation if desired during caucuses, or otherwise. If a participating member wishes to discuss any matter with the mediator in confidence, such information will not be disclosed except as clearly authorized. Significant work in mediation occurs not only at the table but often in caucuses or other separate consultations during longer recesses.

All the aforementioned is hereby agreed to by all parties in advance of the mediation process and signed the _____ day of _____.

Signed:

Party _____ **Party** _____

Witness (Optional)
