



MEDIATION PROGRAM

Sec. 1. MEDIATION PROGRAM OVERVIEW

Mediation is a voluntary and confidential process guided by a trained, qualified, and independent Mediator. Mediation is an alternative to the standard complaint intake and internal investigation process which may lead to discipline. Mediation provides an opportunity for police officers and community members to meet and give their perspectives on the circumstances that led to the complaint, in a respectful and fair manner. Additionally, it allows the parties to improve communication and understanding between the parties while crafting mutual agreements and resolving conflict. Mediation reinforces the Community Policing philosophy of the Boston Police Department by encouraging communication and understanding between police and the public.

Sec. 2. CASES SELECTED FOR MEDIATION

Sec. 2.1. Mediation Recommendation. Recommendations for possible Mediation will be on a case by case basis, following a review of a complaint by the Internal Affairs Unit and a recommendation for Mediation by the Chief, Bureau of Professional Standards, to the Police Commissioner. Final authorization to select a case for Mediation will be granted by the Police Commissioner, or his designee, based on the totality of the circumstances.

Sec. 2.2. Mediation Recommendation Factors. Factors considered in determining the suitability of a case for Mediation include, but are not limited to, nature of the complaint, voluntary agreement by both parties, likelihood of a successful Mediation, whether a Mediation in a particular case is likely to improve police-community relations, the possibility, or existence, of criminal charges, whether the allegation against the officer is related to corruption or criminal activity, whether there is a civil lawsuit related to the incident, if an arrest was made, if use of force tactics were used, if injuries were sustained by any party, existence of property damage, the complaint and disciplinary history of the involved officer, whether the complainant alleged racial, ethnic, or gender discrimination or slurs, and any history of prior Mediations by the officer or complainant.

Sec. 3. MEDIATION PROTOCOLS

Sec. 3.1. Mediators. Cases approved for Mediation will be referred to a qualified Mediation program by the Chief, Bureau of Professional Standards. Selected Mediators will be independent of the Department, and will not be employees of the Department or the City of Boston. Mediation sessions will not be conducted in a Department office or facility, unless all parties agree. Voluntary participants in a Mediation session will be

required to sign an agreement to voluntarily consent to mediate, a confidentiality agreement, and any documents related to Mediation that are considered standard or accepted practice in Mediation.

Sec. 3.2. Time to Request Mediation: The involved Department employee will be notified by their commanding officer, and by Department email, that they have fourteen (14) calendar days to notify the Mediator of their decision to mediate. All necessary contact information for the Mediator will be included in the Department email. The complainant will be notified by the Bureau of Professional Standards that they have fourteen (14) calendar days to notify the Mediator of their decision to mediate, and will be provided with the necessary Mediator contact information. Should the Department employee and / or the complainant choose not to opt for Mediation, a standard Internal Affairs investigation will be conducted in the usual manner.

Sec. 3.3. Mediator Responsibilities: Once the parties have opted for Mediation, cases will proceed under the direction of the Mediator, and the Mediator will be responsible for contacting the participants, scheduling the Mediation session, determining a location for the Mediation session, and conducting the Mediation session, without participation from the Bureau of Professional Standards, or the Department. Mediation sessions will not be conducted on an overtime pay basis by Department employees.

Sec. 3.4. Parties Present for Mediation: Only the complainant, the involved officer, and the Mediator(s) shall participate in the Mediation.

Sec. 3.5. Report of Mediation Results: At the conclusion of a Mediation session, the Mediator will report in writing to the Chief, Bureau of Professional Standards, the date of the Mediation session, and whether the Mediation session was successfully completed or whether the Mediator determined that the Mediation session was unsuccessful.

Sec. 3.5.1. Successful Mediation: A successful Mediation will result in an entry into the Internal Affairs record that the case was successfully mediated, the investigation will be deemed closed, and no Internal Affairs investigation will be conducted, nor will discipline result in the case. No information or documentation regarding discussions held during the Mediation session by the participants will be entered in the Internal Affairs record of the Department employee if the Mediation is reported successful by the Mediator to the Chief, Bureau of Professional Standards.

Sec. 3.5.2. Unsuccessful Mediation: An unsuccessful Mediation reported by the Mediator to the Chief, Bureau of Professional Standards, will result in a standard Internal Affairs investigation being conducted in the usual manner.

Sec. 4. CONFLICTS OF INTEREST: Mediators will not conduct a Mediation session if there is a possibility of a conflict of interest between the Mediator and any of the involved participants.

Sec. 5. MEDIATOR TRAINING: Mediators will have the required training as outlined in Massachusetts General Laws c. 233 §23C, or as required by the Judiciary.

Sec. 6. EMPLOYEE ATTIRE DURING MEDIATION: Employees will be required to participate in Mediation sessions in business or business casual attire, and will not attend a Mediation session wearing a uniform, or any part of a uniform. Officers will not attend a Mediation session while wearing any equipment issued by the Department that is visible. Officers will not attend a Mediation session while wearing any insignia, badge, patch, or pin that is visible and that is indicative of policing or the Department.

Sec. 7. WITHDRAWAL FROM MEDIATION PROCESS: The Mediation process is voluntary for both parties. Participants can withdraw from the process at any point. If any participant withdraws from the process prior to a successfully completed Mediation session as determined by the Mediator, the Mediator will notify the Chief, Bureau of Professional Standards in writing that the Mediation session was not successfully completed due to a withdrawal from the process by one or more of the participants. A standard Internal Affairs investigation will then proceed upon notification of an unsuccessful Mediation by the Mediator.

Sec. 8. MEDIATION RECORDS: No notes, or other documentation reflecting the issues discussed during the Mediation session by the participants will be maintained by the Department, unless required by Federal or Massachusetts law, as part of a criminal investigation, or pursuant to mandatory reporting under Federal or Massachusetts law.

Sec. 9. CONFIDENTIALITY: Pursuant to Massachusetts General Laws c. 233, § 23C, all memoranda, and other work product prepared by a Mediator and the Mediator's case files shall be confidential and not subject to disclosure in any judicial or administrative proceeding involving any of the parties to any Mediation to which such materials apply. Any communication made in the course of and relating to the subject matter of any Mediation and which is made in the presence of such Mediator by any participant, Mediator or other person shall be a confidential communication and not subject to disclosure in any judicial or administrative proceeding. Communication and discussion related to the subject matter during Mediation will not be shared or made available to the Department by the Mediator, unless required by Federal or Massachusetts law, as part of a criminal investigation, or by mandatory reporting under Federal or Massachusetts law.

William B. Evans
Police Commissioner