POLICE TRAINING AND STANDARDS COMMISSION (PTSC)

POLICE COMPLAINT MEDIATION PROGRAM (MODEL POLICY)

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I. TITLE: POLICE COMPLAINT MEDIATION PROGRAM – MODEL POLICY.

II. TABLE OF CONTENTS:

III. Background
IV. Purpose and Objectives
V. Definitions
VI. Legal References
VII. Policy Statement
VIII. Police Complaint Mediation Program
IX. Complaint Mediation Program Administration
X. Selection of Complaint for Mediation
- **X – A. General**
- **X – B. Mediation Eligible Complaints**
- **X – C. Eligibility Factors for Consideration**
- **X – D. Ineligible Complaints**

XI. Notification of Parties - Option to Mediate
- **X1 – A. Officer**
- **X1 – B. Complainant**

XII. Scheduling a Mediation Session
XIII. Appearance at the Mediation Session
XIV. Voluntary Participation in Mediation
XV. Confidentiality of Mediation Session
XVI. The Mediation Process
XVII. Selection of Mediator
- **XVII – A. Qualifications**
- **XVII – B. Training**

XVIII. Role of the Mediator
XIX. Resolution
XX. Attendance of Others at Mediation Session
XXI. Presence of Interpreters
XXII. Letter of Conclusion
XXIII. Wearing Agency Uniform of Day
XXIV. Use of Video Recordings During Mediation Sessions
XXV. Session Length
XXVI. Complaint Closure
XXVII. Training
XXVIII. Evaluation - Mediation Session
XXIX. Policy and Procedure Review

Appendix

III. BACKGROUND:

Mediation is one of several alternate dispute resolution techniques that are used to settle disagreements or conflicts. It is based on the voluntary participation of the disputing parties who agree to discuss their differences in the presence of a third party, an independent, trained mediator. Mediation calls for a "good faith" conversation between the disputing parties in a safe environment where they can meet and air their views about the events or issues that created the dispute. The mediation process is intended to develop mutual understanding between the conflicting parties with the goal of resolving the dispute.

The use of mediation to resolve complaints against sworn personnel differs from the **AGENCY'S NAME** standard, formal procedures that have traditionally been used to investigate and resolve complaints filed by members of the community. The traditional complaint resolution process focuses on fact-finding, pinpointing responsibility, determining guilt or innocence, and punishing those found guilty of violating agency policies and procedures, rules and regulations or other directives. The **AGENCY'S NAME** traditional complaint review procedures, for example, focuses on determining whether or not a member of the agency has committed the alleged misconduct and whether that member should be punished for the violation. While there are still a number of instances in which its established complaint investigation/resolution process must be used, the **AGENCY NAME** believes there are also a number of cases in which mediation is a more practical and effective way to resolve differences between members of the community and law enforcement officers. In addition to effectively satisfying certain complaints generated by community members, the **AGENCY NAME** believes that the use of mediation will broaden the perspectives of both the complainants and agency personnel as they share their views and feelings about the incident in which they were involved.

Mediation does not focus on punishment or determining who was "right-wrong." Mediation is intended to be conciliatory, i.e. it emphasizes a resolution of the conflict that focuses on outcomes sought by the both parties. The **AGENCY NAME** believes this approach is especially useful when dealing with a number of complaints lodged by community members against its personnel especially those that are based on perceptions of rudeness and discourtesy, or a misunderstanding caused by miscommunication. In contrast to the traditional investigative complaint resolution procedure that focuses on guilt or innocence, mediation focuses on understanding, problem solving, and reconciliation. The **AGENCY NAME** believes that by candidly discussing differences, the complainant and the officer can hopefully not only resolve their personal dispute but can open a wider door to a better understanding of each other's views thereby lessening the potential for future disputes between the officer and community members.

The **AGENCY NAME** recognizes that mediation's application to resolving community member complaints against its personnel is a new concept. While to date, it has been used sparingly by a limited number of law enforcement agencies nationwide over the past two decades to resolve these complaints, mediation is now being examined by a greater number of law enforcement agencies as a complaint resolution technique. To this end, the **AGENCY NAME** has examined mediation's potential as a complaint resolution technique and a way to broaden both the perspectives of its personnel and the community members whom it serves. The **AGENCY NAME** has decided to offer mediation under certain circumstances to complainants and agency personnel who are willing to resolve their differences through face-to-face interaction in a safe environment.

During mediation, a trained, neutral/independent third party, referred to as a mediator, will facilitate the mediation process. The mediator shall not influence, pressure, or otherwise impose on either party an agreement or settlement in order to resolve the dispute in any particular way. The disputing parties will ***own*** the process, i.e. they will set the ground rules for how the mediation session will go and what results they hope to achieve during mediation. Hopefully, they will see mediation as their opportunity to resolve their differences in a way that is satisfactory to both of them. In essence, mediation gives both participants control over the final resolution of the complaint.

To this end, the **AGENCY NAME** has contacted the **NAME OF INDEPENDENT MEDIATION PROVIDER** and has requested that it provide the mediation services in this effort. Together with the **NAME OF THE INDEPENDENT PROVIDER,** various members of the agency, including members of the command staff, rank and file and labor organization, and members of the community, the **AGENCY NAME** has developed the Police Complaint Mediation Program presented in this policy and procedure, pursuant to COMAR 12.04.11.

IV. PURPOSE AND OBJECTIVES:

The **AGENCY NAME** understands that not everyone who has a complaint against a police officer wants to see the officer punished. Some complainants simply want to understand why an officer took a particular action, or want an opportunity to explain their own actions to the officer. Other complainants want to retain some control over how their complaint is handled rather than turning the complaint entirely over to the law enforcement agency or civilian administrative committees for decisions and resolution. When it comes to how to resolve complaints against law enforcement officers, one size does not fit all, and that is why the **AGENCY NAME** offers its Police Complaint Mediation Program as an alternative to its traditional standard complaint resolution process.

The **AGENCY NAME** has as one of its primary goals in establishing its Police Complaint Mediation Program to increase the level of trust and understanding between the community at large and members of the agency. Mediation empowers both community members and officers to exercise their voice in a safe and productive environment. Mediation gives all participants a chance to be heard and be understood and to be exposed to new viewpoints from the other participant. It also gives officers and community members an opportunity to consider new and more satisfactory ways of interacting with each other in the future.

The **AGENCY NAME** believes that mediation can bridge the communication gap and create greater understanding and appreciation between community members and officers. This, in turn, has the significant potential to improve community relations between agency members and the individuals they are sworn to protect and serve. The **AGENCY NAME** believes that informal resolution and mediation enhances community policing by improving the relationship between members of the community and law enforcement officers one complaint at a time. In addition, a successful complaint resolution can have a positive impact on the participants' family, friends and the community as a whole.

Because mediation is a confidential process, statements made by any of the parties may not be subsequently used in a formal legal proceeding including administrative hearings. Thus, each side can freely discuss the issue at hand.

This Policy and Procedure sets forth the **AGENCY NAME** **Police Complaint Mediation Program.**

V. DEFINITIONS:

For purposes of this policy and procedure, the following terms have the following meanings

COMPLAINT: an allegation made by a community member that a sworn officer of this agency was engaged in police misconduct or behavior that was perceived by the complainant as inappropriate under the circumstances. Police misconduct is defined by Public Safety Article, §3-101, Annotated Code of Maryland as a pattern, a practice, or conduct by a police officer or law enforcement agency that includes:

(1) depriving persons of rights protected by the constitution or laws of the State or the United States;
(2) a violation of a criminal statute; and
(3) a violation of law enforcement agency standards and policies.

NOTE: a disagreement over the validity of any citation, e.g. a traffic/vehicle code citation, parking violation, criminal citation, etc., is not grounds for the initiation of a complaint; that is a matter for adjudication by the court of jurisdiction; however, a complaint can be filed about the conduct of the officer issuing the citation.

CONFIDENTIAL MATERIAL: refers to any communication occurring during a mediation session that could be/has the potential to be used in a judicial, administrative or other proceeding involving a party to the mediation, as set forth in CP § 3 – 1803.

IMPASSE: an outcome of a mediation session in which neither party is willing to compromise any further on an issue.

INDEPENDENT MEDIATION PROVIDER [IMP]/LOCAL MEDIATION PROVIDER: an organization, separate and apart from a law enforcement agency that can provide mediators to conduct mediation sessions between complainants and law enforcement personnel. The Maryland Police Training and Standards Commission (MPTSC) in collaboration with community-based mediation resources shall establish and maintain a listing of qualified mediation providers located within the State.

LETTER CONSENT TO MEDIATE: means a document signed by the parties in mediation indicating each party's voluntary participation in mediation, and witnessed by the mediator.

LETTER OF CONCLUSION: means a document signed by staff of the independent mediation provider that is delivered to a law enforcement agency indicating that a mediation session was held between a complainant and police officer.

MEDIATION: means a process in which parties in a dispute work with one or more impartial mediators who assist the parties in reaching a voluntary agreement for the resolution of a nonviolent dispute or conflict.

MEDIATION- <u>ELIGIBLE</u> COMPLAINT:

(1) A nonviolent complaint of a minor nature is eligible for mediation if it falls into one of the following categories:

(a) Violation category A, as stated in COMAR 12.0410.04 D(2); or

(b) Violation category B, as stated in COMAR 12.04.10.04 D(3).

(2) A law enforcement agency shall review the nature of the complaint and determine if mediation is appropriate, based on the following factors:

(a) Type and severity of the alleged violation;

(b) Circumstances of the alleged police misconduct; and

(c) Work history and past disciplinary record of the involved police officer.

(3) Even if a complaint is eligible for mediation, the agency head or designee has the authority to decide, for any reason, that a case may not be assigned for mediation.

MEDIATION-<u>INELIGIBLE</u> COMPLAINT:

(1) A complaint of police misconduct that involves any level of force is not eligible for mediation.

(2) A complaint is not eligible for mediation if it falls into one of the following categories:

(a) Violation category C, as stated in COMAR 12.04.10.04D(4);

(b) Violation category D, as stated in COMAR 12.04.10.04D(5);

(c) Violation category E, as stated in COMAR 12.04.10.04E(6); or

(d) Violation category F, as stated in COMAR 12.04.10.04D(7).

MEDIATION SESSION: the discussion between a complainant and officer that takes place in the presence of a mediator in a private, neutral setting;

MEDIATOR: is a trained, impartial third party, affiliated with an independent mediation provider, who will facilitate a mediation session between parties to assist them in reach a voluntary resolution to their dispute.

POLICE MISCONDUCT: is defined by Public Safety Article, §3-101, Annotated Code of Maryland as a pattern, a practice, or conduct by a police officer or law enforcement agency that includes:

(1) depriving persons of rights protected by the constitution or laws of the State or the United States;

(2) a violation of a criminal statute; and

(3) a violation of law enforcement agency standards and policies.

VI. LEGAL REFERENCES:

Public Safety Article § 3 – 207 (D) (1-3):

(D) The Commission SHALL:

(1) establish a Police Complaint Mediation Program to which a law enforcement agency **MAY** refer**,** subject to the agreement of the complainant, a **NONVIOLENT** complaint made against a police officer out of the standard complaint process;

(2) refer a complaint referred to the program to **VOLUNTARY** mediation conducted by an **INDEPENDENT** mediation service**;** and

(3) adopt regulations to implement the program**,** including criteria concerning eligibility for referral of complaints.

COMAR (Code of Maryland Annotated Regulations) 12.04.11 Police Complaint Mediation Program

Authority: Public Safety Article, §§3-207 and 3-208, Annotated Code of Maryland

.01 Purpose.

A. This chapter establishes a police complaint mediation program that provides an alternative method to address minor, nonviolent police misconduct complaints outside of the standard complaint process.

B. A law enforcement agency may refer a nonviolent complaint made against a police officer, subject to the agreement of the complainant and the involved police officer, to an independent mediation provider.

.02 General Provisions.

A. Mediation is a process for settling minor police misconduct disputes based on the voluntary participation of the disputing parties.

B. If eligible, voluntary mediation between community members and police officers may be used in place of the traditional administrative complaint process and administrative charging committees (ACC).

C. The mediation process can bridge the communication gap and create a greater understanding and appreciation between community members, police officers, and employing law enforcement agencies.

Courts and Judicial Proceedings Article § **3-1803 et al.:**

§ **3-1803.** Duties of mediator and participants:

(a) Mediator and participants requested by mediator. -- Except as provided in § 3-1804 of this subtitle**,** a mediator or any person present or otherwise participating in a mediation at the request of a mediator:

(1) Shall maintain the confidentiality of all mediation communications; and

(2) May not disclose or be compelled to disclose mediation communications in any judicial, administrative or other proceeding.

(b) Parties or participants requested by parties. -- Except as provided in § 3-1804 of this subtitle:

(1) A party to a mediation and any person present or otherwise participating in the mediation at the request of a party may not disclose or be compelled to disclose mediation communications in any judicial, administrative, or other proceeding; and

(2) The parties may enter into a written agreement to maintain the confidentiality of all mediation communications and may require any person present or otherwise participating in the mediation at the request of a party to maintain the confidentiality of all mediation communications.

§ **3-1804.** Requirements and exceptions

(a) Written agreement of confidentiality required. -- A document signed by the parties that records points of agreement expressed by the parties or that constitutes an agreement reached by the parties as a result of mediation is not confidential unless the parties agree otherwise in writing.

(b) Disclosures allowed. -- In addition to any other disclosure required by law, a mediator, a party, or a person who was present or who otherwise participated in a mediation at the request of the mediator may disclose mediation communications:

(1) To a potential victim or to the appropriate law enforcement authority to the extent that the mediator, party, or person reasonably believes the disclosure is necessary to prevent bodily harm or death to the potential victim;

(2) To the extent necessary to assert or defend against allegations of mediator misconduct or negligence;

(3) To the extent necessary to assert or defend against allegations of professional misconduct or malpractice by a party or any person who was present or who otherwise participated in the mediation at the request of a party, except that a mediator may not be compelled to participate in a proceeding arising out of the disclosure; or

(4) To the extent necessary to assert or defend against a claim or defense that, because of fraud, duress, or misrepresentation, a contract arising out of a mediation should be rescinded or damages should be awarded.

(c) Disclosure by court order; limitations. -- A court may order mediation communications to be disclosed only to the extent that the court determines that the disclosure is necessary to prevent an injustice or harm to the public interest that is of sufficient magnitude in the particular case to outweigh the integrity of mediation proceedings.

§ **3-1805.** When communications subject to discovery:

Mediation communications that are confidential under this subtitle are not subject to discovery, but information that is otherwise admissible or subject to discovery does not become inadmissible or protected from disclosure solely by reason of its use in mediation.

Maryland Rule 17-104, Basic Mediation Training Programs:

To qualify under Rule 17-205 (above) or 17-304, a basic mediation--training program shall include the following:

a. conflict resolution and mediation theory, including causes of conflict, interest-based versus positional bargaining and models of conflict resolution;

b. mediation skills and techniques, including information gathering skills; communication skills; problem-solving skills; interaction skills; conflict management skills; negotiation techniques; caucusing; cultural, ethnic and gender issues; and strategies to:

1) identify and respond to power imbalances, intimidation, and the presence and effects of domestic violence, and

2) safely terminate a mediation when such action is warranted;

c. mediator conduct, including conflicts of interest, confidentiality, neutrality, ethics and standards of practice; and

d. simulations and role-playing monitored and critiqued by experienced mediator trainers.

VII. POLICY STATEMENT:

It is the policy of the **AGENCY NAME** to offer **voluntarily mediation** both to a community member who has filed a complaint involving certain types of conduct against a member of the agency and to the member about whose behavior the complaint has been filed. The mediation session will be conducted by a trained, neutral mediator affiliated with a recognized Independent Mediation Provider [IMP], at a neutral location at a time convenient to both parties.

The **AGENCY NAME** will identify certain behaviors/conduct in this policy and procedure as being normally "mediation eligible."

The **AGENCY NAME** will, whenever possible at the time of the initial complaint, explain the mediation process to the complainant and provide the complainant with a copy of its ***CITIZEN COMPLAINT RESOLUTION BROCHURE*** that contains a summary of the voluntary complaint mediation program as well as an explanation of the traditional investigative complaint process used by the **AGENCY NAME.**

The **AGENCY NAME** will also publish and maintain a copy of this policy and procedure as well as its brochure on its website.

The **AGENCY NAME** will treat all mediation sessions as confidential as defined in CP § 1804 of the Code of Maryland. As such, the **AGENCY NAME** will require the mediators affiliated with the Independent Mediation PROVIDER to obtain a signed Agreement/Consent to Mediate Letter from each of the involved parties and any other attendees at the session. The Agreement /Consent to Mediate Letter will be witnessed by the mediator, prior to the mediation session taking place.

It is the policy of the **AGENCY NAME** not to consider an officer's acceptance of or declination of mediation in any subsequent disciplinary matters. However, the **AGENCY NAME** will limit the number of times any officer can participate in mediation during a **[TIMEFRAME TBD BY AGENCY]** to no more than **[# TBD BY AGENCY].**

VIII. POLICE COMPLAINT MEDIATION PROGRAM:

The **AGENCY NAME** Police Complaint Mediation Program has been developed with the input from a number of key agency personnel including members of the command staff, supervisory staff, rank and file officers as well as representatives from the labor organization. Likewise, representatives from the community and of **NAME OF INDEPENDENT MEDIATION PROVIDER** have also been involved in discussing critical issues regarding mediation and developing this program.

The **AGENCY NAME** Police Complaint Mediation Program conforms to the standards and regulations established and provided by the Maryland Police Training and Standards Commission and the recommendations of the **NAME OF INDEPENDENT MEDIATION PROVIDER**.

IX. COMPLAINT MEDIATION PROGRAM ADMINISTRATION:

The **AGENCY NAME** commander is designated as the administrator for the agency's Police Complaint Mediation Program and has the authority and responsibility to:

- ► provide administrative oversight for the agency's Police Complaint Mediation Program as required:
  - ■ develop and implement any internal procedures for record keeping and other administrative duties, etc., as relates to the mediation of complaints;
- ► act as agency liaison with the **NAME OF INDEPENDENT MEDIATION PROVIDER** regarding Police Complaint Mediation Program;
- ► develop and conduct complaint mediation training for agency personnel as required;
- ► review and evaluate community member complaints and select those that are mediation-eligible as described in this policy and procedure:
  - ■ consult with the agency head regarding questions about a complaint's mediation eligibility when necessary;
- ► contact the officer involved in the mediation-eligible complaint to determine if he/she wishes to mediate the complaint;
- ► ensure that mediation –eligible complaints and complainant contact information are forwarded to the **NAME OF INDEPENDENT MEDIATION PROVIDER** as soon as practical **after an officer has agreed to mediation** so the **NAME OF INDEPENDENT MEDIATION PROVIDER** can contact the complainant with an offer to mediate his/her complaint;
- ► maintain Closure Letters of all mediation sessions conducted by mediators affiliated with **NAME OF INDEPENDENT MEDIATION PROVIDER;**
- ► with the assistance of the **NAME OF INDEPENDENT MEDIATION PROVIDER** compile an annual report of /about the use of and citizen-agency personnel satisfaction with the agency's complaint mediation program for the agency head;
- ► periodically review and update as necessary this policy and procedure;

► post a current copy of this policy and procedure as well as the **AGENCY NAME** Complaint Resolution Brochure on its website.

X. SELECTION OF COMPLAINT FOR MEDIATION:

X – A. GENERAL:

Pursuant to COMAR 12.04.11.06, the Mediation Program Administrator will carefully review and evaluate each complaint and the circumstances reported in that complaint prior to determining if mediation should/should not be offered to the parties involved in the incident.

In addition, prior to making a decision as to whether a particular complaint is eligible/not eligible for mediation, the Mediation Program Administrator shall also weigh the potential benefits of an offer of mediation as they apply to the complainant, the community at large and the agency against the potential exposure to harm, i.e. potential civil liability and potential damage to the ability of the agency to protect the community.

To provide guidance to all agency personnel, the **AGENCY NAME** has determined that, in general**,** depending on the particular circumstances surrounding the complaint, mediation **may** be offered to resolve a complaint that appears to be based on:

a. a lack of communication or miscommunication between a community member and officer involved in an incident;
b. a misunderstanding about an officer's authority to act;
c. a misunderstanding about an officer's application of an agency standard operation procedure or other professionally accepted practice.

When deciding whether to consider any complaint for mediation as an alternative to a traditional investigation, the Mediation Program Administrator will consider, at a minimum, the following:

1) the type and severity of the alleged violation and the particular circumstances involved in the complaint;
2) the work history and disciplinary record of the officer involved including previous mediation history;
3) whether mediation will potentially:
    a) result in greater complainant satisfaction;
    b) improve citizen understanding of police procedures and actions;
    c) result in improved officer conduct; and
    d) contribute to improved citizen-police relations.

While the **AGENCY NAME** recognizes that there are several potential benefits for the community member, officer, agency and community at large that can accrue through a successful mediation, the **AGENCY NAME** understands that there is **no right to mediation,** either expressed or implied in this policy, for any party involved in a complaint**.** The **AGENCY NAME** reserves the right to decline to offer mediation for any complaint filed by a community member.

Additionally, circumstances may prompt the **AGENCY NAME** to withdraw/rescind the mediation option from either the community member or the officer before a mediation session takes place.

X – B. MEDIATION ELIGIBLE COMPLAINTS:

As part of its established complaint resolution process, the **AGENCY NAME** has determined that community member complaints that fall within the following categories are "ELIGIBLE" to be considered for mediation. As described above, the circumstances outlined in the initial complaint will be reviewed by the Mediation Program Administrator and the several objective eligibility factors listed in this policy and procedure will be factored into the decision as to whether to offer mediation.

1. Conduct that has or may have a minimal negative impact on the operations or professional image of the agency (COMAR 12.04.10.04 (D)(2) – Category A:

Examples:

- ► **Plainclothes Officer – Failure to Identify Self as Officer;**
- ► **Failure to Provide Name and Badge Number on request;**
- ► **Traffic Violation by Officer/Emergency Vehicle Operation complaint;**
- ► **Discourtesy/Rudeness.**

2. Conduct that has or may have a negative impact on the operations or professional image of a law enforcement agency; or that negatively impacts relationships with other officers, agencies, or the public (COMAR 12.04.10.04 (D)(3) – Category B**:**

Examples:

- ► **Responsibilities to Serve Public;**
- ► **Displaying an Impartial Attitude;**
- ► **Discourtesy – Language or Behavior;**
- ► **Department Vehicle Operation;**
- ► **Failure to Make, File or Complete Official Report.**

X – C. OTHER ELIGIBILITY FACTORS TO BE CONSIDERED:

The **AGENCY NAME** recognizes that all complaints that appear, at first glance, to be potentially eligible for mediation by type of behavior may not be, in reality, good candidates for mediation. In addition to the severity of or the minimal nature of the consequences caused by the behavior alleged in the complaint, the agency will also use the following additional objective factors to determine if a complaint should be offered to the officer and complainant for mediation. Those objective factors include an officer's:

- ► Complimentary history:
  - ■ awards/commendations/positive public recognition or acknowledgment;

- ► Prior work history:
  - ■ positive performance evaluations and/or voluntary, advanced, job-related training; or
  - ■ recommendation of supervisor(s)/command officers within chain of command;

- ► Disciplinary history:
  - ■ minimal or lack of prior disciplinary history relative to the officer's years of service:
    - ● nature and seriousness of any prior sustained violation(s);
    - ● number of prior sustained violation(s);
    - ● length of time between prior sustained violation(s) and current case;
    - ● **[number of prior complaints TBD by agency]** of any type in past 12 months;
    - ● prior complaint mediation experience:
      - ♦ participation in **[# TBD by agency]** mediation sessions during past **[timeframe TBD by agency]**;
      - ♦ participation in a mediation session for the **same** type of complaint in past **[timeframe TBD by agency]**;
    - ● relationship between any prior violation(s) and the present alleged misconduct;
    - ● whether the officer's prior history demonstrates a continuation or pattern of the same or similar misconduct; and
    - ● whether the prior history demonstrates continuous misconduct evidencing a failure to conform to rules or to correct inappropriate behavior.

Whenever a question arises as to the mediation–eligibility of a complaint, the Mediation Program Administrator will consult with senior command staff within the chain of command before making a determination as whether or not to offer mediation. The local Police Accountability Board should also be consulted.

X – D. INELIGIBLE COMPLAINTS:

While the **AGENCY NAME** has concluded that there is significant benefit in mediating certain complaints against its personnel, it also realizes that complaints alleging certain types of misconduct normally require a thorough administrative investigation in order to resolve a complaint from a community member. Such administrative investigations are intended to protect the interests of the public as well as the agency. Administrative investigations occur when complaints involve actions or behavior that, if true, would have a significant adverse effect on either a community member, the public at large and/or the ability of the **AGENCY NAME** to provide lawful, fair/equitable and professional law enforcement services to the community.

Conduct that falls into one of the following violation categories shall not be considered for mediation:

COMAR 12.04.10.04(D)(4)- Category C. Conduct that involves a risk to safety or that has or may have a pronounced negative impact on the operations or professional image on the law enforcement agency or a member, or on relationships with other officers, agencies, or the public.

COMAR 12.04.10.04(D)(5)- Category D. Conduct substantially contrary to the values of the law enforcement agency or that substantially interferes with its mission, operations, or professional image, or that involves a serious risk to officer or public safety, or intentionally violates law enforcement agency policy.

COMAR 12.04.10.04(D)(6)- Category E. Conduct that involves misuse of authority, unethical behavior (not involving false reporting or false statements), or an act that could result in an adverse impact on an officer or public safety or to the professionalism of the law enforcement agency or a violation of any misdemeanor.

COMAR 12.04.10.04(D)(7)- Category F. Any violation of law, policy, rule or regulation which: foreseeably results in death or serious bodily injury; or constitutes a willful and wanton disregard of the law enforcement agency's mission, vision, and values; or involves any act or omission which demonstrates a serious lack of the integrity, ethics, or character related to an employee's fitness to hold their position; or involves egregious misconduct substantially contrary to the standards of conduct reasonably expected, to include those whose sworn duty is to uphold the law; or involves conduct which constitutes the failure to adhere to any condition of employment required or mandated by law, including and 18 U.S.C. §922(g) (Lautenberg) violations. (These cases will result in termination).

> **NOTE:**
> **Whenever a question arises as to the mediation–eligibility/ineligibility of a complaint, the Mediation Program Administrator will consult with senior command staff within the chain of command before making a determination as whether or not the complaint is mediation eligible. If a clear determination cannot be made at this point, then the complaint will be forwarded to the agency head or his/her designee for a final decision as to whether to offer mediation or not to the complainant and officer involved.**

XI. NOTIFICATION OF PARTIES – OPTION TO MEDIATE:

Pursuant to COMAR 12.04.11.07 (A), once a complaint has been initially reviewed by the agency to determine its mediation eligibility, the parties involved in the complaint will be notified of the option to mediate in the order and manner described below:

XI – A. OFFICER:

The officer against whom the complaint has been lodged will be contacted by the Mediation Program Administrator [electronically or in writing] to determine if he/she chooses to ***voluntarily*** participate in mediation with the complainant. The officer will have **# of days [TBD by agency]** to make a decision and to notify the Mediation Program Administrator

If the officer voluntarily agrees to mediation of the complaint, the **AGENCY NAME** will contact the complainant to determine if he/she will voluntarily participate in mediation.

If the officer declines to participate in mediation, the complaint will be investigated and resolved pursuant to COMAR 12.04.09 and 12.04.10.

After the complainant has been contacted by the **AGENCY NAME** the officer will be contacted by the Mediation Program Administrator as to whether the complainant has agreed to mediation or not. **AGENCY NAME** shall provide the name of the officer and complainant to the **INDEPENDENT MEDIATION PROVIDER**, who shall contact the officer and the complainant. Failure of the officer to engage with the mediation provider within # of days **[TBD by IMO]** of notification to mediate will be viewed as a withdrawal from the mediation process and the complaint will be investigated and resolved pursuant to existing policy and procedure.

The AGENCY NAME will not consider an officer's decision to mediate or not mediate a complaint during any later disciplinary proceedings.

XI – B. COMPLAINANT:

If the officer voluntarily agrees to mediation of the complaint, the Mediation Program Administrator will contact the complainant to determine if the complainant will voluntarily participate in the mediation process. If all parties to the complaint agree to the mediation process, the law enforcement agency shall contact the independent mediation provider in which there is a current memorandum of understanding and proceed with the process pursuant to the MOU.

If the police officer or complainant decline to participate in mediation, the matter shall be referred back to the administrative complaint process set forth in COMAR 12.04.09.

XII. SCHEDULING A MEDIATION SESSION:

If both parties voluntarily agree to participate in mediation, the **NAME OF INDEPENDENT MEDIATION PROVIDER** will schedule a mediation session at a mutually convenient time for both participants, at a neutral location. If deemed necessary by the **NAME OF INDEPENDENT MEDIATION PROVIDER**, each party in mediation will be provided a written notification of the date and time of the mediation session. The Mediation Program Administrator will also be provided with the date and time of the mediation session.

Personnel who attend a scheduled mediation session while off-duty will be entitled to be compensated as per established agency overtime procedures.

XIII. APPEARANCE AT THE MEDIATION SESSION:

Once the **NAME OF INDEPENDENT MEDIATION PROVIDER** has scheduled a mediation session and contacted the officer, the officer is required to appear at the mediation session as scheduled. The **NAME OF INDEPENDENT MEDIATION PROVIDER** will contact the Mediation Program Administrator as soon as practical if an officer fails to appear at a scheduled mediation session.

An officer's failure to appear for a scheduled mediation session without a justifiable reason and/or without contacting the **NAME OF INDEPENDENT MEDIATION PROVIDER** prior to the session, will nullify the agreement to mediate and result in the complaint being investigated and resolved as per established procedures set forth in COMAR 12.04.09 and 12.04.10.

XIV. VOLUNTARY PARTICIPATION IN MEDIATION:

While the decision to allow mediation is made after careful consideration of the circumstances and characteristics of each case, the **AGENCY NAME** makes the option of mediation available in order to allow the involved parties to decide for themselves whether mediation is an appropriate or desirable way to resolve their concerns and/or differences.

Participation in the agency's Police Mediation Program by the complainant and the officer is **VOLUNTARY.**

Each party to the mediation will be required to agree to and sign a "Consent to Mediate Agreement Letter" provided by the **NAME OF NDEPENDENT MEDIATION PROVIDER** prior to the commencement of the mediation session [See Appendix A].

There is no right to mediation. Even if a complaint is eligible for mediation, any stakeholder/party to the process [the complainant, the officer and/or the agency] may decline to agree that a complaint should be resolved through the mediation process.

No stakeholder/party to the process shall be required to state the reason for declining to participate in mediation or for agreeing to assign a case for mediation.

If a complainant or officer declines to mediate the complaint or withdraws from the mediation process prior to the beginning of the mediation session the complaint will be investigated according to COMAR 12.04.09.

XV. CONFIDENTIALITY OF MEDIATION SESSION:

The **AGENCY NAME** recognizes that **CONFIDENTIALITY** is an essential element of mediation both for the complainant and for the officer involved. For mediation to succeed, both parties must feel free to speak candidly/openly. The **AGENCY NAME** understands that the confidentiality of the proceedings has special relevance for its personnel because they must be assured that any apology or acknowledgment of wrongdoing will not be used against them, either by this agency or by a private attorney in a legal proceeding including a criminal, civil or administrative hearing.

Therefore, the **AGENCY NAME**, along with the **NAME OF INDEPENDENT MEDIATION PROVIDER**, will adhere to confidentiality requirements set forth in the Courts and Judicial Proceedings Article § 3-1803, et al**.:**

§ **3-1803. Duties of mediator and participants:**

(a) Mediator and participants requested by mediator. -- Except as provided in § 3-1804 of this subtitle, a mediator, any person present, or otherwise participating in a mediation at the request of a mediator:

(1) Shall maintain the confidentiality of all mediation communications; and

(2) May not disclose or be compelled to disclose mediation communications in any judicial, administrative, or other proceeding.

(b) Parties or participants requested by parties. -- Except as provided in § 3-1804 of this subtitle:

(1) A party to a mediation and any person present or otherwise participating in the mediation at the request of a party may not disclose or be compelled to disclose mediation communications in any judicial, administrative, or other proceeding; and

(2) The parties may enter into a written agreement to maintain the confidentiality of all mediation communications and may require any person present or otherwise participating in the mediation at the request of a party to maintain the confidentiality of all mediation communications.

§ **3-1804. Requirements and exceptions**.

(a) Written agreement of confidentiality required. -- A document signed by the parties that records points of agreement expressed by the parties or that constitutes an agreement reached by the parties as a result of mediation is not confidential unless the parties agree otherwise in writing.

(b) Disclosures allowed. -- In addition to any other disclosure required by law, a mediator, a party, or a person who was present or who otherwise participated in a mediation at the request of the mediator or a party may disclose mediation communications:

(1) To a potential victim or to the appropriate law enforcement authority to the extent that the mediator, party, or person reasonably believes the disclosure is necessary to prevent bodily harm or death to the potential victim;

(2) To the extent necessary to assert or defend against allegations of mediator misconduct or negligence;

(3) To the extent necessary to assert or defend against allegations of professional misconduct or malpractice by a party or any person who was present or who otherwise participated in the mediation at the request of a party, except that a mediator may not be compelled to participate in a proceeding arising out of the disclosure; or

(4) To the extent necessary to assert or defend against a claim or defense that, because of fraud, duress, or misrepresentation, a contract arising out of a mediation should be rescinded or damages should be awarded.

(c) Disclosure by court order; limitations. -- A court may order mediation communications to be disclosed only to the extent that the court determines that the disclosure is necessary to prevent an injustice or harm to the public interest that is of sufficient magnitude in the particular case to outweigh the integrity of mediation proceedings.

§ 3-1805. **When communications are subject to discovery:**

Mediation communications that are confidential under this subtitle are not subject to discovery, but information that is otherwise admissible or subject to discovery does not become inadmissible or protected from disclosure solely by reason of its use in mediation.

Mediation confidentiality includes **ALL** mediation communications, which include speech, writing, or conduct made as part of a mediation session.

The parties to a mediation session may mutually agree to document in writing an agreement signed by the parties because of mediation. This document is **not** confidential unless the parties agree in writing otherwise.

Confidentiality should **not** be construed to prohibit the effective monitoring, research, or evaluation of a mediation program by responsible persons approved by the **AGENCY NAME** and **NAME OF INDEPENDENT MEDIATION PROVIDER.** Under appropriate circumstances, researchers and mediation evaluators may be permitted to obtain access to statistical data and, with the permission of the parties, to individual case files, mediation sessions, observations, and interviews with participants.

XVI. THE MEDIATION PROCESS:

To ensure neutrality, mediation will be provided by the **NAME OF INDEPENDENT MEDIATION PROVIDER** [such as Community Mediation Maryland] that is not affiliated with the **AGENCY NAME** or any advocacy group.

The mediation process will be one that focuses on dialogue, relationships, and building understanding. There are a number of examples of mediation approaches that fit this criterion including inclusive mediation, transformative mediation, narrative mediation, and some types of facilitative mediation. The **NAME OF INDEPENDENT MEDIATION PROVIDER** will determine the type of mediation protocol to use for each mediation session.

At the discretion of the **NAME OF INDEPENDENT MEDIATION PROVIDER,** one (1) or two (2) affiliated mediators will be referred to each scheduled mediation session.

The mediation session will take place in a neutral location, with all participants in a room together. A private session [caucus] will only occur when there is a concern for safety or fear of retaliation and the mediators need to explore whether to end the session.

The **NAME OF INDEPENDENT MEDIATION PROVIDER,** relying on its experience in facilitating community member-police complaint resolution sessions, has informed the agency that it normally uses either the Inclusive Mediation Framework or the Transformative Mediation Framework to conduct police complaint mediation sessions. Both of these two mediation frameworks are described below:

XVII. SELECTION OF MEDIATOR:

The **NAME OF INDEPENDENT MEDIATION PROVIDER** is responsible for selecting and referring all mediators who will participate in the **AGENCY NAME** Police Complaint Mediation Program. Mediators are affiliated with the **NAME OF INDEPENDENT MEDIATION PROVIDER** and are individuals who are:

- ► Impartial [no conflict of interest];
- ► Trained in the Art of Mediation;
- ► Experienced and Competent;
- ► Able to Maintain Procedural Fairness during Mediation Sessions;
- ► Able to Maintain Confidentiality;
- ► Culturally Neutral.

XVII – A. QUALIFICATIONS:

They will meet the basic qualifications for a **court** appointed mediator as outlined in **Maryland Rule § 17-205 [Chapter 2],** ***Qualifications of Court-Designated Mediators:***

1. be at least 21 years old, unless waived by both parties;
2. have completed at least 40 hours of basic mediation training in a program meeting the requirements of Rule 17-104 (outlined below), or for individuals trained prior to January 1, 2013, former rule 17-106;
3. be familiar with the rules, statutes and practices governing mediation in circuit courts;
4. have mediated or co-mediated at least two civil cases;
5. complete in each calendar year four (4) hours of continuing mediation-related education in one or more of the topics set forth in Rule 17-104; and
6. abide by the mediation standards adopted by the Court of Appeals.
7. ~~submit to periodic monitoring of court-ordered mediations by a qualified mediator designated by the county administrative judge; and~~
8. ~~comply with procedures and requirements prescribed in the court's case management plan filed under Rule 16-202 b relating to diligence, quality assurance and a willingness to accept, upon the request of the court, a reasonable number of referrals at a reduced fee or pro bono.~~

XVII – B. TRAINING:

In addition to the basic qualifications outlined above, each mediator must successfully complete a basic mediation training program as outlined in Maryland Rule § 17-104 [Chapter 1], *Basic Mediation Training Programs* that includes*:*

a. conflict resolution and mediation theory, including causes of conflict, interest-based versus positional

bargaining and models of conflict resolution;

b. mediation skills and techniques, including information gathering skills; communication skills; problem-solving skills; interaction skills; conflict management skills; negotiation techniques; caucusing; cultural, ethnic and gender issues; and strategies to:

1) identify and respond to power imbalances, intimidation, and the presence and effects of domestic violence, and

2) safely terminate a mediation when such action is warranted;

c. mediator conduct, including conflicts of interest, confidentiality, neutrality, ethics and standards of practice; and

d. simulations and role-playing monitored and critiqued by experienced mediator trainers.

NOTE: **In addition to the above listed qualifications, mediators affiliated with the NAME OF INDEPENDENT MEDIATION PROVIDER have also participated in an advanced twenty-four (24) hour police complaint mediation skills training program.**

XVIII. ROLE OF THE MEDIATOR:

Mediators affiliated with the **NAME OF INDEPENDENT MEDIATION PROVIDER:**

- ► typically use either **INCLUSIVE** mediation or **TRANSFORMATIVE** mediation:
- ► do not set ground rules for the mediation session;
- ► focus on listening for values, feelings, and topics and reflect these back to the participants, checking to make sure that the participants feel the reflection is accurate:
  - ■ while not providing information, making suggestions, or persuading strategies;
- ► attempt to understand each participant, thus making it more possible for them to understand each other;
- ► follow a defined process that includes:
  - ■ time for participants to share the situation;
  - ■ build clarity as to what is important;
  - ■ identify topics participants want to resolve;
  - ■ identify the goals each participant has for each topic;
  - ■ brainstorm options;
  - ■ consider each of the generated options in terms of which would meet all participants' goals; and
  - ■ determine areas of agreement, if any;
- ► rarely use caucuses:
  - ■ usually in situations where mediators need to check if mediation is a good fit for the conflict;
- ► if agreement is reached, write down the agreement based on the direction of the participants:
  - ■ review and confirm the agreement with the participants;

XIX. RESOLUTION:

A. When the mediation process has concluded, the outcome shall be determined by the independent mediation provider to be:

(1) A successful resolution if all parties agree with the resolution; or

(2) An impasse if one or more parties to the complaint cannot agree to a satisfactory resolution.

B. An impasse shall be referred back to the law enforcement agency of the involved police officer for investigation and handled through the administrative complaint process set forth in COMAR 12.04.09.

C. A successful resolution shall be documented by the independent mediation provider in a written statement, signed by both parties and the mediator.

D. The mediator shall send a letter of conclusion to the referring law enforcement agency indicating the results of mediation.

E. Results of the mediation shall be tracked by the law enforcement agency and forwarded to the local police accountability board.

F. Complaint mediation statistics shall be included in the law enforcement agency's annual reporting of complaints involving the public, and the statistics shall include the:

(1) Total number of complaints handled through mediation;

(2) Number of successful resolutions; and

(3) Number of mediation impasses.

G. If the police officer fails to comply with the actions and deadlines identified in the mediation agreement, a new complaint shall be initiated and the actions of the original complaint of misconduct shall be considered as a potential aggravating factor.

XX. ATTENDANCE OF OTHERS AT MEDIATION SESSION:

While confidentiality seems to suggest that individuals other than the two parties and the independent mediator should be excluded from a mediation session, the **AGENCY NAME** and **NAME OF INDEPENDENT MEDIATION PROVIDER** have agreed that occasionally a third party may need to be included in a mediation session, such as when the complainant is a juvenile or an individual with intellectual/mental health special needs. Those individuals may need to be accompanied in the mediation session by a parent/guardian.

In other instances, one or both parties to mediation may request that another individual accompany them as "support" during the mediation session.

In case a party requests to have another individual accompany them in the mediation session, the **AGENCY NAME** and **NAME OF INDEPENDENT MEDIATION PROVIDER** have agreed that:

1. a request for the presence of an individual to accompany one of the parties to a mediation should be communicated to the **NAME OF INDEPENDENT MEDIATION PROVIDER** at the time that mediation is offered to the party; in any case, the request for a "third" party appearance must be communicated to the **NAME OF INDEPENDENT MEDIATION PROVIDER** prior to the beginning of the scheduled mediation session;
2. the non-requesting party shall have the opportunity to withdraw from the mediation, without prejudice, when informed of the presence of a "third" party; the complaint will then be referred back to the agency for investigation; and
3. ~~the "third" party shall agree to attend the mediation session solely as an observer and will participate in the session only if and when asked to do so by the independent mediator;~~
3. the "third" party shall agree to and sign a Consent to Mediate Letter that includes the confidentiality requirements for attending a mediation session [Appendix A] prior to the beginning of the mediation session.

XXI. PRESENCE OF INTERPRETERS:

If needed, the **NAME OF INDEPENDENT MEDIATION PROVIDER** will supply/arrange for a professional sign language or language interpreter for a mediation session for the complainant. If necessary, the **AGENCY NAME** will defray the costs associated with providing a professional interpreter as per its working agreement with the **NAME OF INDEPENDENT MEDIATION PROVIDER.** The interpreter shall agree to and sign a "Consent to Mediate Letter" that includes the Confidentiality requirements for attending a mediation session [Appendix A] prior to the beginning of the mediation session.

XXII. LETTER OF CONCLUSION:

The **NAME OF INDEPENDENT MEDIATION PROVIDER** will notify, in writing, the Mediation Program Administrator when a mediation session has been completed. This notification will occur within **# of business TBD by IMP and Agency** of the conclusion of the mediation session.

In keeping with the confidential nature of mediation, the **Letter of Conclusion** will contain only the names of the parties involved in the session, the mediator, the agency control/identification number for the complaint, the date and the time of the mediation session, results of the mediation session as either successful or impasse; and the Letter of Conclusion will be accompanied by copies of the signed **Consent to Mediate Letter.**

XXIII. WEARING THE UNIFORM:

The AGENCY NAME and NAME OF INDEPENDENT MEDIATION PROVIDER have agreed that agency personnel shall normally wear the uniform of the day when participating in a mediation session. Appearance in uniform is intended to ensure that the interaction between the two parties to the mediation is an authentic one, based on the reality of how the officer and citizen experienced each other in the past and may experience each other in the future.

An exception is extended to those agency personnel who are in plainclothes/undercover assignments and who's personal appearance is such that wearing the uniform of the day would not be professionally acceptable, i.e. full beard, long hair, body piercings, etc. or who are injured and cannot appear in uniform**.** Individuals who intend to appear at a mediation session out-of-uniform shall first consult with their immediate supervisor to determine if an appearance in uniform is appropriate or not prior to attending the mediation session.

Attendance at a mediation session by those excluded from wearing the uniform of the day shall be in appropriate court appearance business attire.

XXIV. USE OF VIDEO RECORDINGS DURING MEDIATION:

Video recordings of community member-law enforcement officer interactions are increasingly more available for review either because an event has been recorded by a complainant, a witness, an officer, a nearby security camera or other means. The **AGENCY NAME** recognizes that the recording may enable a community member and an officer to have a more enlightened discussion about an event if the recording is played during a mediation session. Therefore, based on the input of the **NAME OF INDEPENDENT MEDIATION PROVIDER** it is an acceptable practice to play video recordings of the interaction in question during a mediation session with the concurrence of the mediator. Mediators will ensure that both parties understand that the use of a video recording is not intended to assign blame to any party but to facilitate discussion between the parties.

Any video/audio recording from an agency body-worn camera or in-car video system shall be obtained as per established policy and redacted as appropriate prior to use during a mediation session. Because each camera video/audio recording is the property of the **AGENCY NAME** it is to be returned to the administrator of the agency's BWC or in-car video program as soon as practical after the mediation session is concluded by the officer who requested the recording.

XXV. SESSION LENGTH:

Given the fact that a mediation session is dialogue-driven, it is typically scheduled to last for two (2) hours by the **NAME OF INDEPENDENT MEDIATION PROVIDER** although a session can be concluded before the end of the 2 hours. Likewise, if additional time is needed as determined by the independent mediator, it can continue upon agreement of the parties or another mediation session can be scheduled.

XXVI. COMPLAINT CLOSURE:

Complaints will be closed pursuant to COMAR 12.04.11.08:
.08 Resolution.

A. When the mediation process has concluded, the outcome shall be determined by the independent mediation provider to be:

(1) A successful resolution if all parties agree with the resolution; or

(2) An impasse if one or more parties to the complaint cannot agree to a satisfactory resolution.

B. An impasse shall be referred back to the law enforcement agency of the involved police officer for investigation and handled through the administrative complaint process set forth in COMAR 12.04.09.

C. A successful resolution shall be documented by the independent mediation provider in a written statement, signed by both parties and the mediator.

D. The mediator shall send a letter of conclusion to the referring law enforcement agency indicating the results of mediation.

E. Results of the mediation shall be tracked by the law enforcement agency and forwarded to the local police accountability board.

F. Complaint mediation statistics shall be included in the law enforcement agency's annual reporting of complaints involving the public, and the statistics shall include the:

(1) Total number of complaints handled through mediation;

(2) Number of successful resolutions; and

(3) Number of mediation impasses.

G. If the police officer fails to comply with the actions and deadlines identified in the mediation agreement, a new complaint shall be initiated and the actions of the original complaint of misconduct shall be considered as a potential aggravating factor.

XXVII. TRAINING:

The Mediation Program Administrator, with the input and assistance of the **NAME OF INDEPENDENT MEDIATION PROVIDER** will develop agency orientation/training into the mediation process for all agency personnel prior to implementation of the Police Complaint Mediation Program.

Additionally, the Mediation Program Administrator will provide training on the program to new agency personnel as warranted and follow-up training as needed.

Likewise, the **AGENCY NAME** and **NAME OF INDEPENDENT MEDIATION PROVIDER** will offer a reasonable number of public orientation sessions to community organizations, elected public officials, the media and other interested community stakeholders **prior** to beginning the program.

Both the **AGENCY NAME** and the **NAME OF THE INDEPENDENT MEDIATION PROVIDER** will co-produce an information brochure on the ~~the Community Member~~ Police Complaint Mediation Program available for distribution to the public. A copy of the brochure will be posted on each entity's website.

XVIII. EVALUATION – MEDIATION SESSION:

Before the mediation session begins the mediator may ask the complainant and law enforcement officer to complete the Pre-mediation Survey that appears in Appendix B. This survey is intended to determine:

a. the attitude of the complainant towards the agency and law enforcement officers
b. the attitude of the law enforcement towards the complainant and community:
    - prior to the mediation session beginning; and
c. if either party experiences a change in attitude **after** the mediation session is completed.

The survey is for the use of the **NAME OF INDEPENDENT MEDIATION PROVIDER** to gauge the effectiveness of the mediation process. The statistical results developed from these surveys will be shared with the agency as part of the **NAME OF INDEPENDENT MEDIATION PROVIDER'S** annual report.

At the conclusion of a mediation session, the mediator, on behalf of the **NAME OF INDEPENDENT MEDIATION PROVIDER,** will request that each party, including the mediator, complete a brief evaluation of the mediation process [See Appendix C]. Those evaluations will be collected by the mediator and returned to the **NAME OF INDEPENDENT MEDIATION PROVIDER** for review. The results will be shared with the Mediation Program Administrator with the intent of improving the complaint mediation program as part of its annual report.

The **NAME OF INDEPENDENT MEDIATION PROVIDER** will not share the results of any individual surveys or evaluations with the **AGENCY NAME** but will report their findings in an aggregate manner in its annual report about the program.

The **NAME OF INDEPENDENT MEDIATION PROVIDER** will also conduct an evaluation survey using a modified version of the same form [See Appendix D] **one month after** the mediation session has concluded and share those results with the Mediation Program Administrator as part of its annual report.

The Mediation Program Administrator with the assistance of the **NAME OF THE INDEPENDENT MEDIATION PROVIDER** will compile an annual report of mediated complaints with a summary of the type of complaint mediated. This report will be made part of the agency's annual report and distributed as appropriate and will be published on the agency's website.

XXIX. POLICY AND PROCEDURE REVIEW:

The Mediation Program Administrator, in concert with the **NAME OF INDEPENDENT MEDIATION PROVIDER**, will periodically review and have the Police Complaint Mediation Program policy and procedure revised, as necessary. Review and revision will take place according to the established timetable for policy review used by the **AGENCY NAME.**

The revised policy will be posted on the agency's website and provided to the **NAME OF INDEPENDENT MEDIATION PROVIDER.**

APPENDIX A:

Consent to Mediate/Confidentiality Agreement

By signing below, I agree to participate in mediation conducted by this Community Mediation Center. I understand that:

- The discussions in this mediation and those with the mediation program staff will remain confidential. This means that the mediators and staff will not share information gathered during intake or during this mediation session with anyone outside of the program.
- All participants in the mediation, other than the mediator, are free to talk about what was said in mediation with others (other than in a judicial, administrative, or other hearing), unless they agree otherwise in writing.
- The mediators and program staff will not voluntarily share any information from the mediation in any judicial, administrative, or other hearing. We (mediation participants) will not voluntarily share this information in a judicial, administrative, or other hearing. It is our intention to comply with annotated Code of Maryland Section 3-1802 and Judiciary Rule Title 17, which state that mediators and mediation participants "may not disclose or be compelled to disclose mediation communication in any judicial, administrative, or other proceeding."
- Information regarding child abuse, abuse of vulnerable adults or credible threats to do bodily harm are exceptions to confidentiality, and may be disclosed.
- Unless we agree otherwise in writing, any written agreement that comes out of mediation is not considered confidential.
- The mediators signing below have read and, consistent with state law, will abide by the Maryland Standards of Conduct for Mediators during this mediation session. Participants are welcome to request a copy of these standards and a copy can be found at www.mdmediation.org.
- Mediation is a voluntary process and each participant may withdraw from the mediation process at any point during the mediation.
- In the mediation process, I will be responsible for making my own decisions. The mediators will facilitate the process and are prohibited from giving advice or suggestions. Because the decisions made here are mine, I will not hold CMC liable for any decisions made here.

We, the undersigned, consent to mediate. We understand that agreements reached in mediation may be enforceable contracts.

Name:_____

Signature:_____ Date:_____

Name:_____

Signature:_____ Date:_____

1

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Parent/Legal Guardian (for participants under 18)

Name:_____

Signature:_____ Date:_____

Mediator's Name:_____

Mediator's Signature:_____ Date:_____

Mediator's Name:_____

Mediator's Signature:_____ Date:_____

Observer's Name:_____

Observer's Signature:_____ Date:_____

Observer's Name:_____

Observer's Signature:_____ Date:_____

File #:_____

2

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Appendix B:

Police Complaint Mediation Evaluation
COMMUNITY MEMBER: PRE - Mediation

Please evaluate the mediation process by rating the following items in terms of whether you strongly agree, agree, neither agree nor disagree, disagree, or strongly disagree. Your answers will help us to improve our services. Thank you.

BIRTHDATE: _____

	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree
I have respect for the police officer with whom I am about to mediate.					
I have respect for the police, in general.					
I trust the police officer with whom I am about to mediate.					
I trust police, in general.					
Police officers generally respect the communities they serve.					
The officer involved in this incident respects the community they serve.					
If I knew about a crime or incident in the neighborhood, I would share it with the officer with whom I am about to mediate.					

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Police Complaint Mediation Survey
OFFICER: PRE-Mediation

Please evaluate the mediation process by rating the following items in terms of whether you strongly agree, agree, neither agree nor disagree, disagree, or strongly disagree. Your answers will help us improve our services. Thank you.

BIRTHDATE: _____

	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree
The community has respect for the police.					
The person with whom I am about to mediate has respect for the police.					
If the person with whom I am about to mediate knew about a crime or incident in the neighborhood, they would share it with me.					
I have respect for the community I serve.					
I have respect for the person with whom I am about to mediate.					
I trust the people of _____, in general.					
I trust the person with whom I am about to mediate.					

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APPENDIX C:

Police Complaint MEDIATION EVALUATION FORM: POLICE OFFICER

Please evaluate the mediation process by rating the following items in terms of whether you strongly agree, agree, neither agree nor disagree, disagree, or strongly disagree. Your answers will help us improve our services. Thank you.

BIRTHDATE: _____

	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
1) The mediation process was adequately explained to me by the mediators and/or the program staff.					
2) As a result of the explanation of mediation, I understood the mediation process before the session began.					
3) The mediators listened to what I had to say without judging me or my ideas.					
4) I was able to express myself, my thoughts, and my concerns during the mediation process.					
5) Through this process, I think I understand the other people involved in the conflict better.					
6) Through this process, I think the other people involved in the conflict, understand me better.					
7) I would bring other conflicts to mediation in the future.					
8) I would recommend mediation to others involved in conflicts.					
9) As of today, I am satisfied with the process of mediation.					
10) As of today, I am satisfied with the results of the mediation.					

Feel free to elaborate on your responses to any of the above questions.

Did you reach an agreement in the mediation? □ Yes □ No

Do you think your conflict is resolved? □ Yes □ No

Who came up with the ideas for solutions? (check all that apply)

□ I did □ the other participant did □ the mediators did □ n/a did not get to solutions today

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Final Session? □ Yes □ No

See back for Police Complaint Mediation survey.

1

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	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree
The community has respect for the police.					
The person I mediated with has respect for the police.					
If the person I mediated with knew about a crime or incident in the neighborhood, they would share it with me.					
I have respect for the community I serve.					
I have respect for the person I mediated with.					
I trust the people of_____, in general.					
I trust the person I mediated with.					
The mediation helped build mutual respect between the resident and me.					
The mediation helped me gain a better understanding of how my manner of policing affects other people.					
The mediation helped me better understand the actions and thoughts of the resident at the time of the incident.					
Based on what I learned in mediation, I would probably respond differently in a similar situation in the future.					

What did you like best about the mediation process?

What suggestions do you have to improve the mediation process and program?

Anything else?

Revised 1/16

2

Police Complaint MEDIATION EVALUATION FORM: COMMUNITY MEMBER

Please evaluate the mediation process by rating the following items in terms of whether you strongly agree, agree, neither agree nor disagree, disagree, or strongly disagree. Your answers will help us improve our services. Thank you.

BIRTHDATE: _____

	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
1) The mediation process was adequately explained to me by the mediators and/or the program staff.					
2) As a result of the explanation of mediation, I understood the mediation process before the session began.					
3) The mediators listened to what I had to say without judging me or my ideas.					
4) I was able to express myself, my thoughts, and my concerns during the mediation process.					
5) Through this process, I think I understand the other people involved in the conflict better.					
6) Through this process, I think the other people involved in the conflict, understand me better.					
7) I would bring other conflicts to mediation in the future.					
8) I would recommend mediation to others involved in conflicts.					
9) As of today, I am satisfied with the process of mediation.					
10) As of today, I am satisfied with the results of the mediation.					

Feel free to elaborate on your responses to any of the above questions.

Did you reach an agreement in the mediation? □ Yes □ No

Do you think your conflict is resolved? □ Yes □ No

Who came up with the ideas for solutions? (check all that apply)

□ I did □ the other participant did □ the mediators did □ n/a did not get to solutions today

For Office Use Only:

Final Session? □ Yes □ No

See back for Police Complaint Mediation survey.

1

	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree
I have respect for the police officer I mediated with.					
I have respect for the police, in general.					
I trust the police officer I mediated with.					
I trust police, in general.					
Police officers generally respect the communities they serve.					
The officer involved in this incident respects the community s/he serves.					
If I knew about a crime or incident in the neighborhood, I would share it with the officer I mediated with.					
The mediation helped build mutual respect between the officer and me.					
The mediation helped me gain a better understanding of policing, police practices, or police policies.					
The mediation facilitated a greater understanding of the actions of the police officer at the time of the incident.					
Based on what I learned in mediation, I would probably respond differently in a similar situation with a police officer in the future.					

What did you like best about the mediation process?

What suggestions do you have to improve the mediation process and program?

Anything else?

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Appendix D:

Police Complaint Mediation Evaluation

POLICE OFFICER: ONE MONTH LATER

Please evaluate the mediation process by rating the following items in terms of whether you strongly agree, agree, neither agree nor disagree, disagree, or strongly disagree. Your answers will help us improve our services. Thank you.

BIRTHDATE: _____

Revised 1/16

	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree
The community has respect for the police.					
The person I mediated with has respect for the police.					
If the person I mediated with knew about a crime or incident in the neighborhood, they would share it with me.					
I have respect for the community I serve.					
I have respect for the person I mediated with.					
I trust the people of_____, in general.					
I trust the person I mediated with.					
The mediation helped build mutual respect between the resident and me.					
The mediation helped me gain a better understanding of how my manner of policing affects other people.					
The mediation helped me better understand the actions and thoughts of the resident at the time of the incident.					
Based on what I learned in mediation, I would probably respond differently in a similar situation in the future.					

What did you like best about the mediation process?

What suggestions do you have to improve the mediation process and program?

Anything else?

Police Complaint Mediation Evaluation

COMMUNITY MEMBER: ONE MONTH LATER

Please evaluate the mediation process by rating the following items in terms of whether you strongly agree, agree, neither agree nor disagree, disagree, or strongly disagree. Your answers will help us improve our services. Thank you.

BIRTHDATE: _____

	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree
I have respect for the police officer I mediated with.					
I have respect for the police, in general.					
I trust the police officer I mediated with.					
I trust police, in general.					
Police officers generally respect the communities they serve.					
The officer involved in this incident respects the community s/he serves.					
If I knew about a crime or incident in the neighborhood, I would share it with the officer I mediated with.					
The mediation helped build mutual respect between the officer and me.					
The mediation helped me gain a better understanding of policing, police practices, or police policies.					
The mediation facilitated a greater understanding of the actions of the police officer at the time of the incident.					
Based on what I learned in mediation, I would probably respond differently in a similar situation with a police officer in the future.					

What did you like best about the mediation process?

What suggestions do you have to improve the mediation process and program?

Anything else?

APPENDIX E:

AGENCY COMPLAINT PROCESS BROCHURE

Adopted by the Police Training and Standards Commission, July 12, 2023