



City of Albuquerque Community Mediation Program Guidelines

I. **Applicability:**

- A. The Community Mediation Program is available to all City of Albuquerque residents.
- B. These Guidelines apply to all City of Albuquerque residents.
- C. The Alternative Dispute Resolution Division of the City of Albuquerque may modify these Guidelines as required.

II. **Definitions:**

A. Alternative Dispute Resolution (ADR):

The broad spectrum of techniques available for resolving disputes outside the traditional administrative or judicial decision-making processes.

B. Community Mediation Program (CMP):

A mediation program administered by the City of Albuquerque Legal Department's ADR Division for City of Albuquerque residents to resolve issues and disputes within their community.

C. Mediation:

A process in which a mediator: (1) facilitates communication and negotiation between mediation parties to assist them in reaching an agreement regarding their dispute; or (2) promotes reconciliation, settlement or understanding between and among mediation parties.

D. Mediator:

An individual who: 1) holds himself or herself out as a mediator and who conducts a mediation; 2) the mediation parties agree to use as a mediator and who conducts a mediation; 3) a mediation program designates as a mediator and who conducts a mediation, or 4) is an observer who is permitted by the mediation parties to watch and listen to the mediation for educational or other administrative purposes.

The mediator helps participants overcome communication barriers in order to work toward a mutually acceptable agreement. Participants reach an agreement freely and voluntarily.

The mediator(s) do not serve as decision makers and thus do not determine the outcome of the mediation session. As the "process expert," the mediator(s) helps the participants' converse efficiently and effectively.

E. Mediation Communication:

A statement, whether oral or in a record or verbal or nonverbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing or reconvening a mediation or retaining a mediator.

F. Mediation Party:

City of Albuquerque residents who participates in a mediation and whose agreement is necessary to resolve the community dispute.



City of Albuquerque Community Mediation Program Guidelines

G. Participant Advisors:

Participants may choose, but are not required, to be accompanied by an advisor. A participant is limited to two advisors. Advisors may include a family member, friend, or lawyer.

The advisor's role is to support the participant in weighing options offered during the mediation process. When a participant deems it necessary to consult with their advisor(s) they shall request a caucus to do so. An advisor who exhibits behavior that undermines the integrity of the mediation process will be asked to sit outside the mediation session. Participants can continue to consult during caucus with any advisor asked to leave the mediation session.

Participants, who choose to have an advisor present, shall inform the ADR Division at least 48 hours before the mediation session. All mediation participants must approve of the advisor(s) presence in the mediation session. If participants do not approve of the advisor(s) presence in the mediation session, the advisor(s) can remain outside the mediation session and speak to participants during caucuses.

The advisor(s) shall not interrupt a mediation session. The mediator(s) and the ADR Division have the right to exclude advisors who interrupt the mediation session.

H. Caucus:

A break in the mediation process where the mediator(s) will speak to participants individually and/or the participants will speak with their advisor(s).

I. ADR Coordinator:

An employee of the City of Albuquerque's Legal Department who coordinates the City of Albuquerque's ADR Programs.

J. Community Mediation Program Manager:

An employee of the City of Albuquerque's Legal Department ADR Division who manages the City of Albuquerque's Community Mediation Program.

K. Mediation Packet:

Completed forms that the mediator(s) forward to the Community Mediation Program Manager upon conclusion of the mediation. The forms comprising the mediation packet are: the signed Agreement to Mediate, the Mediation Agreement, the Evaluation of the Mediator(s) and the Mediation Process and the Mediator Invoice.

L. Business Days:

Business days are Monday through Friday, excluding official City of Albuquerque holidays.

III. **Procedures in Providing Mediation Services:**

A. Mediation Referrals:

A City of Albuquerque Department or resident can initiate a mediation request by contacting the ADR Division by telephone, in writing, email, or in person.



City of Albuquerque Community Mediation Program Guidelines

B. Intake/Assessment of Case Eligibility:

The ADR Office will respond to mediation requests within five (5) business days by conducting an intake. Intake consists of contacting and interviewing potential participants to assess the appropriateness of mediation and to identify the goals of the mediation session.

Not all cases are appropriate for mediation. Case eligibility will be assessed based upon the unique circumstances of each individual case. The ADR Division will evaluate cases for eligibility on a case-by-case basis. Evaluation factors considered include, but are not limited to:

1. The safety of a participant,
2. The nature and severity of the issue,
3. Prior mediation experience of the participants,
4. Law enforcement intervention,
5. The participant's willingness to resolve conflict, and
6. The relationship of the participants.

C. Scheduling Mediation Sessions:

1. Within twenty (20) days following intake/assessment, and after determining that mediation is appropriate, the ADR Division will assign mediators, schedule the date and time of the mediation session, and reserve a site to conduct the mediation. All participants must agree to any requested delay.
2. The ADR Division will provide each participant with a copy of "Information About the Mediation Process" and "Tips for Successful Mediation Participation" to ensure that each participant has a basic understanding of the mediation process.
3. The ADR Division will provide written notification of the date, time, and place of the mediation to the mediation participants and the assigned mediator(s). If written notification is not possible, the ADR Division will notify participants by any reasonable means.

IV. **Conduct of the Mediation:**

- A. The mediator(s) conduct and control the mediation process. The mediator(s), and the ADR Division, have the right to exclude persons whose behavior undermines the integrity of the mediation process.
- B. The mediation will be held in a location with low potential for distraction.
- C. Whenever possible, the mediation session will have two mediators.
- D. The ADR Division reserves the right to have an observer attend the mediation session, either in a learning capacity or to evaluate the effectiveness of the mediators or the process. Observers are not necessarily interested in the specific content of the mediation and are bound by confidentiality.



City of Albuquerque Community Mediation Program Guidelines

- E. Mediator(s) will discuss the Agreement to Mediate with participants and obtain participant signatures prior to beginning a mediation session.
 - F. After good faith efforts have been made to mediate, the mediator(s) will honor a decision by participants to conclude the mediation prior to a resolution.
 - G. The mediator(s) will document, on the Mediation Agreement, any agreements reached to resolve the participants' community issue. The participants will have the opportunity to review and sign the agreement and the mediator(s) will give each participant a copy. Any resolution must be in compliance with applicable laws, rules, and procedures.
 - H. The mediator(s) will ask participants to complete the Evaluation of Mediator(s) and Mediation Process form.
 - I. The mediator(s) will forward these completed forms, the signed Agreement to Mediate, the Mediation Agreement and the Mediator Invoice to the ADR Division, within five (5) business days of the final session. These forms comprise the "mediation packet."
 - J. The ADR Division will conduct a six-month evaluation, with each participant, following the conclusion of the mediation session.
- V. Mediation Participant Responsibilities:**
- A. Participants will ensure that individuals with authority to make decisions and create an agreement are present or available by phone.
 - B. Participants must inform the ADR Division of the names of any advisor(s) who will attend the mediation session at least 48 hours prior to a mediation session.
 - 1. Each participant is limited to no more than 2 advisors in the mediation session.
 - 2. All mediation participants must approve of the advisor(s) in the mediation session.
 - 3. If participants do not approve of advisor(s) in the mediation session, the advisor(s) can remain outside the mediation session and speak with participants during caucuses.
 - 4. Participants are responsible for informing advisors of mediation session guidelines and details (i.e. date, time, and location of mediation session).
 - C. Participants must:
 - 1. Notify the ADR Division of cancellation requests at least 24 hours prior to a mediation session.
 - 2. Provide Participant Contact Information to the ADR Division.
 - 3. Agree to keep mediation communication confidential at the beginning of the mediation session and thereafter.



City of Albuquerque Community Mediation Program Guidelines

VI. Participant Advisor Responsibilities:

- A. Advisor(s) shall arrive at the mediation session prior to, or at, the scheduled time. Advisors arriving late to the mediation session shall sit outside the session.
- B. Advisor(s) are responsible for obtaining mediation session details from participants (i.e. date, time, and location of mediation session).
- C. Advisor(s) shall adhere to the Community Mediation Program Guidelines.
- D. Advisor(s) shall agree to keep mediation communication confidential at the beginning of the mediation session and thereafter.

VII. ADR Division Responsibilities:

- A. Assess case appropriateness for mediation.
- B. Convene mediation session.
- C. Inform Participants if Advisor(s) have been requested by either party to be present at the mediation session.
- D. Evaluate Community Mediation Program Guidelines and modify as required.
- E. Safeguard the confidentiality of mediation communication to the greatest extent possible.

VIII. Mediator Responsibilities:

- A. Accept mediation requests only after reviewing and confirming availability.
- B. Accept assignments that allow the mediator to serve impartially, without conflict of interest, and are consistent with the mediator's skill level and competence.
- C. Follow Community Mediation Program Guidelines.
- D. The mediator(s) shall inform the participants about the role of confidentiality in mediation.
- E. The mediator(s) shall contact the ADR Division for additional guidance.
- F. Complete and return the Mediation Packet to the ADR Division.

IX. Confidentiality:

All mediation communications are confidential, not subject to disclosure and shall not be used as evidence in any judicial or administrative proceeding, as set forth in the Mediation Procedures Act, Chapter 11 NMSA (2007 Supp.)

X. Requirements for serving as an ADR Division Community Mediation Program Mediator:

- A. All potential mediators shall meet the qualifications determined by the ADR Division.
- B. Upon the recommendation of the ADR Division's mediation staff, the ADR Division Coordinator appoints the successful applicant as an ADR Division Community Mediator.



City of Albuquerque Community Mediation Program Guidelines

The ADR Division Coordinator may also remove a mediator if removal is deemed appropriate. The ADR Coordinator maintains sole discretion to assess individual appropriateness for an applicant to serve as a Community Mediator.

- C. All mediators will have completed at least 32 hours Basic Mediation Training, abide by these Guidelines, and the Model Standards of Conduct for Mediators adopted by the American Arbitration Association, American Bar Association and Association for Conflict Resolution September 2005.
- D. Mediators agree to conduct at least one community mediation per year, upon request. Mediators should immediately contact the ADR Division if they are unable to fulfill this agreement.
- E. The ADR Division will offer educational opportunities to maximize mediator skills.
- F. The ADR Division will review participant evaluations of the mediator and the mediation process and may make recommendations to mediators as appropriate. ADR Division designees may observe mediations.
- G. The ADR Division will send annual letters of acknowledgement to ADR Division Community Mediators.