

CDICR- Citizen Complaint Process Committee Meeting

February 3rd, 2021 5:00 PM- 6:30 PM

Present: Joan Lancourt, Irving Allen, Arthur Conquest, Sandy Batchelder, Mariah Nobrega, Eloise Lawrence, Robert Volk, Deborah Brown

Absent: Mike Offner

Staff: Ann Braga, Lloyd Gellineau

Minutes

Minutes approved for January 13th.

There was discussion to extending the July 2021 deadline for the new Citizen Complaint Process. It was noted that the Town Moderator was consulted regarding the extension warrant. The Town Moderator advised an alternative, simplified version that could be submitted. Essentially deleting the deadline date of July 1st 2021 in the original warrant and inserting the requested date of July 1st, 2022 in its place is all that is needed for resubmission. Committee voted to forward the warrant with the amended deadline to the full CDICR Committee for review and possible vote for its submission to Town Meeting.

There was a review of the discussion from the Committee's last meeting regarding who be responsible for preliminary investigations within the Citizen Complaint Process.

The Committee discussed mediation as a consideration to be used in the CCP during the post-investigation phase. It was noted that it was one of several options that could be available to someone filing a complaint.

There was discussion about receiving consent from the parties involved in a complaint, the right for parties to have representation (Attorneys/Advisors) participating in the process, possible limitations for its use due to Collective Bargaining Agreements, and employee right to confidentiality.

It was noted that the process did not need to have both parties engaged in the CCP. One of its functions is to allow someone to raise a concern in a public forum.

There was some discussion about MCAD. It was noted that MCAD encouraged use all available/relevant local complaint processes to resolve disputes prior to requesting its involvement. (Exhaustion of Administrative Remedies)

Three tracks of a CCP process were summarized: Human Resources; CCP; and State/Federal tracks.

There was discussion whether a non-Town employee complaint against a Town employee should be viewed as a complaint against the Town. It was determined that such complaints were complaints against the Town.

There was discussion on how to provide information to complainants about complaint tract options.

There was some discussion regarding subpoena power, levying of sanctions based on investigatory findings, and the enforcement of sanctions.

The chairperson asked if Committees agreed that the CCP would: investigate a complaint; review findings; render a decision about the complaint; make a recommendation for remedy, provide the Select board a report of the investigation with recommendations for remedy.

The Committee discussed its own process to complete the CCP. The Committee thought having members develop one or two draft plans would perhaps aid in moving its work along.

There was discussion regarding monetary settlements. It was noted that such settlements were the result of court processes and typically were not imposed by CCPs. There was a discussion whether it is possible to include monetary settlements as a remedy in CCP outcomes. It was noted that it not possible to levy damage penalties without going through the courts. It could be possible through a home-rule petition.

There was consensus that mediation or informal settlement is an option to be included CCP.

There was consensus that complaint parties can have advisors and supporting individuals present during the CCP proceedings, but they do not serve as representatives to the involved parties.

There was some agreement that right to counsel and penalty enforcement, did not need to be addressed in CPP by-law.

There was discussion about the effect of levying fines/penalties on reducing discriminatory practices. It was noted that it was dependent on the magnitude of the penalty. It was also noted that it may impact the behavior of the accused, but that it may not discourage others from engaging in discriminatory practices. There was additional discussion about the possibility of empowering the CCP to levy fines, particularly for Fair Housing Violations.

The Committee will discuss the CCP disposition by referral to Human Resources, MCAD and the Select board at its next meeting. The discussion will include answering the following questions:

1. Who makes the determination to where to send the referral?
2. Who reports the proceedings?
3. Can the report be challenged?
4. What are the procedural rules of CCP hearings and rights to cross examination?

5. Whether hearings will be Confidential vs Public?

6. What is the time required criteria for hearing?

Meeting Adjourned.