



## Domestic Violence Protocols

### PURPOSE

We at the Dispute Resolution Center of Kitsap County place a high priority on the safety of our staff, volunteers and clients. In order to do so, we have established protocols that help us to effectively screen for, prepare for and offer mediation to clients that have experienced Domestic Violence of some kind. These protocols are outlined below.

### DEFINITION

The Dispute Resolution Center of Kitsap County defines “domestic violence” as the use of power and control between household members or dating partners that can include: physical harm and threats of physical harm, sexual assault, stalking, mental or emotional abuse, and economic abuse.

### PROTOCOLS

#### **Intake**

Using the Conflict Assessment Tool (CAT), trained and experienced Intake specialists will determine whether the DRC can proceed to the next stage of screening. All allegations of abuse are taken at face value.

Although each case is unique, Intake will be looking to determine whether the incidents of domestic violence are so recent or have been so severe and traumatizing that the sum of the circumstances have resulted in one of the parties being

- fearful of meeting with the other party;
- fearful of the potential consequences as a result of mediating with the other party; or
- fearful of the other party manipulating the outcome.

During this conversation, a DRC Intake specialist will:

- Attempt to demystify the mediation process;
- Probe for a party’s fears and ability to make decisions;
- Give a party time to process whether mediation is desirable (such as call back at a later date, as appropriate);
- Explore ways of structuring the mediation, such as phone or courthouse mediation.
- Make sure parties are aware of other services that are available;
- Communicate to parties that they may call back with further questions, or with information on further developments involving the other party or the issues;
- Inform the parties that they each may bring a support person. If either party rejects the other’s support person, the rejecting party may opt out of the mediation. (This differs from our non-DV process in which mediations are allowed to go forward without the disputed support person.) In this case, neither party will be informed of the reason mediation is not going forward;
- Request copies of any existing Restraining Orders. If there has been any criminal conviction or a criminal action is underway and/or there is any Court Order Restricting Contact in place, the DRC will not proceed with mediation unless the order makes a specific exception for contact

through the DRC. (This exception is not required for restraining orders that do not limit contact). The DRC has a specific screening process to help ensure that all existing orders restricting contact are reviewed by staff prior to mediations moving forward.

If mediation is not to take place for any reason and the other party needs to be notified, Intake will deliver that message. The reason cited for not going forward is attributed to DRC policies and not anything that the parties did or said.

### **Scheduling the Mediation**

When the DRC proceeds with scheduling the mediation, the following exceptions to the standard process will be observed:

1. Both mediators must be a Level 2 mediator or above. At least one of them must have the YWCA AND DRC (8-hour) DV Awareness training or equivalent.
2. Mediation will be scheduled either at the courthouse or by phone at the DRC.
3. Intake will inform mediators why the mediation is being handled the way it is (e.g. restraining order, safety concerns, etc.).
4. In general, Intake will schedule no more than two consecutive sessions per case. If clients want to schedule more than two sessions, Intake will consult with the ED first.

### **During the Mediation**

1. Conduct Pre-mediation caucus after Mediator Opening Statement. Key information to gather from BOTH clients during this pre-mediation caucus:
  - How will a client signal if they need to stop or need a break
  - What pressures either client may be under to mediate with the other party
  - If either party is afraid of consequences of not mediating, or do not give the other party something they are asking for
  - What their relative access to legal help is compared to the other party
  - What is their worst case scenario coming out of mediation
  - Whether one of the parties is exhibiting controlling, provocative or manipulative behaviors that would overwhelm the mediator's capacity to deal with power imbalances
  - Whether the parties have the capacity to recognize the separate needs of the other party
  - Whether one party is using mediation only to have contact with the other party or whether there are substantive issues to be resolved through mediation
2. During pre-mediation caucus, share resources, as appropriate.
3. Modify clarifying phase of mediation to avoid all exploration of relationship interests.

### **Terminating Safely**

The mediation may be terminated any time that the process appears unsafe or counterproductive. If the mediators determine that a face-to-face mediation should be terminated, courthouse departure procedures will be followed. These procedures, excerpted from the Mediation Team Confirmation Notice are as follows:

*A staggered departure with a mediator or observer escorting the perceived victim outside the building first is necessary due to courthouse protocol. Please wait 10 minutes before allowing the other party to leave. Please inform the parties that this will be occurring as standard courthouse procedure during your mediator opening statement.*