

SPR 94.08.3.
MANDATORY MEDIATION

(a) Mediation in Contested Cases. Except as provided in Section (b) below, in all cases specified in Section (a) of SPR 94.08.1 having unresolved issues, both parties shall in good faith engage in mediation with a court-approved mediator in an effort to resolve the case. In cases where parenting issues exist, the mediation shall not occur until both parties have completed the parenting seminar described in SPR 94.08.2. Mediation shall be completed at least sixty (60) days prior to the scheduled trial date.

(b) When Mediation is Not Required. Mediation shall not be required as provided in Section (a) in the following cases:

(1) For good cause shown upon motion and approval by the court; or

(2) Where a domestic violence restraining order or protection order (excluding ex parte orders) involving the parties has been entered by a court at any time within the previous twelve (12) months;

(3) Where a domestic violence no contact order exists pursuant to RCW 10.99;

(4) Where the court upon motion finds that domestic abuse has occurred between the parties and that such abuse would interfere with arm's-length mediation. Notwithstanding the foregoing, either party may by motion seek a court order requiring mandatory mediation in a case where it would not be required as set forth in (b)(2), (b)(3) or (b)(4) above if the moving party believes that the parties would be able to mediate their dispute at arm's-length under the particular circumstances of the case.

(c) Settlement Conference. If, after mediation in good faith or where mediation is not required, there remain unresolved issues in any case specified by Section (a) of SPR 94.08.1, the parties may participate in a settlement conference, pursuant to LCR 16(b).

(d) Effect on Court Proceedings. Mediation does not stay or otherwise affect the rights and duties of the parties established by statute, court rule, or court order. The court may enter temporary orders and the parties may conduct discovery prior to or during the mediation process.

(e) Cost of Mediation. Mediators shall be paid by the parties in accordance with the agreement of the parties, or in the absence of agreement, as determined in mediation.

(f) Responsibility for Compliance. The parties shall be responsible for arranging for and completing all mediation requirements established under this rule.

(g) Failure to Comply. Willful refusal to participate in mediation or willful delay in completing mediation may result in a finding of contempt and imposition of sanctions.

(h) Approval of Mediators. Mediators performing mediation services pursuant to this rule must fulfill the minimum qualifications set forth in Appendix K. In order to fulfill the mediation requirements of this rule, the parties must use the services of a court-approved mediator. The court administrator shall maintain a list of approved mediators, either persons or agencies, for distribution to the public. The list shall contain the following information: each mediator's name, organization, if any, address and telephone number, and fee schedule.

(i) Selection of Mediator; Right of Mediator to Decline. The parties may either agree to a mediator from the court-approved list or the mediator will be determined by use of a strike list. A mediator has the right to decline to serve in a particular case. If a mediator declines to serve, the parties shall select a different mediator, using the same selection process by which the preceding mediator was selected.

(j) Authority of Mediator. The mediator has the authority to determine the time, place, manner, and duration of mediation. In appropriate cases, the mediator shall have the authority to terminate the mediation prior to completion.

(k) Attendance at Mediation. The parties shall personally attend all mediation sessions, unless the mediator permits telephonic or other attendance. The mediator shall have the authority to require other persons to attend.

(l) Declaration of Completion. Within seven (7) days of completion of mediation, a declaration that mediation has been completed shall be filed with the court by the mediator. The mediator shall advise counsel and the parties of

the results of mediation in writing. The mediator shall advise the court only whether an agreement has been reached on some or all of the issues.

(m) Confidentiality. The work product of the mediator and all communications during the mediation shall be privileged and confidential and not subject to compulsory disclosure. The mediator shall not appear to testify in any court proceedings. See RCW 5.60.070.

(n) Effective Date. This shall apply to all cases described herein, including modifications filed after September 1, 2012.

