

## Draft Case Processing Protocol

### **Domestic Relations Cases with Emphasis on those Involving Young Children (0-3)**

#### **Stage 1: Orientation**

*Court expectations, mediation orientation and assignment, Cope, judge assignment.*

Parties to a domestic relations case involving children are required to attend an orientation one to two weeks from the date the answer is filed. The weekly orientation is coordinated through the Family Law Referee's office and held in a courtroom where a referee or judge will give them a "pep talk" setting expectations for behavior during the litigation. In addition, the court will emphasize the benefits of mediated outcomes in child custody cases, highlight the importance of early brain development for those parents with children age zero to three, and point out that parent's who restrict access risk a negative outcome if the court has to decide who gets custody.

#### ***Preparation for Orientation***

The referee's office gathers the files for the orientation and checks OJIN for related cases enabling cases involving the same family to be coordinated, if necessary, according to the Integrated Family Services Plan. If a related case is already assigned to an individual calendar judge, the referee's office contacts the affected judge's office in advance to discuss assignment issues. Arrangements are made for courtroom security during the orientation. A Spanish language interpreter is ordered for every other orientation and cases are scheduled accordingly. Cope brochures are sent, along with the Order to Appear at Orientation. Last, staff makes sure copies of the Uniform Support Affidavit are available to distribute at the orientation.

#### ***Cases with Young Children***

Parties are responsible pursuant to SLR 8.005 to place the notation "YOUNG CHILD INVOLVED" in the case caption of the first pleading if the case involves a child aged zero to three, including an unborn child. Early entry into mediation will help the parents work out temporary parenting time arrangements so the child may maintain a healthy attachment to both parents. This will head off efforts of either parent to restrict access to the other parent without court supervision.

Proper tone about expectations during litigation will be also set through an introductory letter from the judge (see attached sample) along with information about existing services in the community tailored to parents of young children. At this stage, the court offers information and resources. Parents will also view a 30 minute video, *The First Years Last Forever*, at the end of orientation, and will have the option of staying for an additional 30 minutes to view *Discipline: Teaching Limits with Love*.

### ***Mediation Orientation and Mediator Assignment***

Parents will view the mediation orientation video in the courtroom. They will have the option to bring a prepared order appointing a mediator, or they can choose a mediator at the orientation. Information about mediators will be developed and available to parties in print and on the court's website. A mediator will be assigned, and if a mediation order is not submitted, a party or the assigned judge's office will prepare it in accordance with the referral order. The first appointment may also be set at the time of the orientation. A method will be developed to notify the mediators of their case assignments.

### ***Cope***

The parties will be directed to sign up for Cope prior to their appearance at orientation. They will be asked to submit a certificate of completion or, if the class has not been completed, the assigned class date, at the time of orientation. Parties who have not signed up for Cope will be signed up at orientation. The YWCA will work with court staff over the telephone to pick a firm class date for each parent. A check or credit card information will be collected and forwarded to the YWCA.

### ***Judge Assignment***

A judge assignment will be provided and the next status conference date, about six weeks out unless another preference is indicated by the judge, will be set. Cases involving pro se parties on both sides will be assigned to the Family Law Referee, unless there are difficult issues which warrant a judge assignment. Since attorneys will not be required to attend the orientation, the court may want to discuss further how to handle recusal issues.

### ***Available Resources:***

- ▶ Letter to Parents (0-3) and Written Resources for Parents
- ▶ Order to Appear at Orientation
- ▶ Cope Brochures
- ▶ Judge's Script
- ▶ Order/Referral (related cases, mediator assignment, Cope, judge assignment)

## **Stage 2: Temporary and Emergency Hearings**

Generally speaking, the first status conference will be held six weeks after the orientation. The court anticipates that temporary parenting time issues will be resolved during mediation. However, if the parties have issues which need court attention, they may request an earlier hearing with the assigned judge or referee.

## **Stage 3: Mediation**

### ***Temporary Parenting Time***

Mediators receiving a case referral review the order to determine if any of the children are age zero to three. If so, the case is expedited to the first available appointment, and is given special priority if the mediator is notified that one parent is being denied access. The goal of the first mediation appointment is to set up a temporary parenting time arrangement during the litigation. If the parents have not completed Cope, the mediator can determine whether the parents work well enough together that mediation can continue prior to completion of Cope, or whether to schedule the next session after Cope is complete.

### ***Age Appropriate Parenting Plan***

Mediators, lawyers, judges and parents may access the “Sample Parenting Schedules” in the Oregon Judicial Department’s (OJD) “Basic Parenting Plan Guide for Parents” for recommendations regarding age appropriate contact that considers the non-custodial parent’s prior relationship with the child. A “Safety Focused Parenting Plan Guide” is also available for cases involving violence or substance abuse with different time sharing options ranging from supervised parenting time to parenting time with overnights. Appropriate parenting time arrangements should be designed to preserve attachments with both parents.

### ***High Conflict Cases***

Once in mediation, the ability to resolve custody and parenting time issues is a good indicator of the level of conflict between the parties. Parents who do not agree in mediation, or who are otherwise demonstrating high levels of conflict, may benefit from further information about dispute resolution. Options available through the Family Law Department include:

- (A) Video: Don’t Divorce the Children: a 45 minute video that explores the impact divorce and conflict can have on children.
- (B) Books: (available for loan through FLD or through local library)
  - (1) Joint Custody with a Jerk, Raising a Child with an Uncooperative Ex., by Julie Ross and Judy Corcoran
  - (2) Getting Past No, Negotiating Your Way From Confrontation to Cooperation, William Ury

- (c) Online Exercise: [www.uptoparents.org](http://www.uptoparents.org): takes parents through a two hour exercise of developing a set of commitments to their children. Focus is on helping parents see things through their child's eyes, and recognize how conflict can hurt their kids. Many parenting tips are inserted along the way. Parents can do it from any computer and can take breaks as needed without losing information. Although 99 percent of the site is secular, there is at least one document with a reference to God. Due to this, mandatory participation is not recommended.

Domestic violence, drug or alcohol use, or extended parental absence may necessitate a referral to the Parental Access Program. If a mediator thinks a referral is warranted, a joint request for referral to the program may be provided to the parties. Women's Crisis Service is available for safety planning in cases of domestic violence.

***Available Resources:***

- ▶ OJD Sample Parenting Schedules
- ▶ Conflict Resolution Tools Handout
- ▶ Parent Report Form

***Stage 4: Status Conference***

This status is similar to what is currently the practice, however, mediation should be well underway, and Cope should be completed. Judicial staff should check to make sure a Cope certificate of completion is on file, and see if the parties have submitted a Uniform Support Affidavit (this can be downloaded: <http://www.ojd.state.or.us/osca/cpsd/courtimprovement/familylaw/flpacket6.htm#F>). The court may also check on the status of mediation, referring high conflict parents to resources discussed above. If a parent is being denied access to the child, this issue should be addressed, especially if a young child is involved. Other issues, such as child support and discovery are also discussed.

## ***Stage 5: Unresolved Custody Issues***

### ***Parent Education***

The court has authority to refer parents to additional parent education classes if monetary assistance is sought for a custody evaluation, or in lieu of Cope if a post judgment action is filed. SLR 8.013. A class designed for parents of children zero to three, “Make Parenting a Pleasure” is available for free to parents with an open domestic relations case. It is offered every quarter through Family Building Blocks, and runs 8 to 13 weeks. A number of other classes have also been approved by the Presiding Judge for court referral.

### ***Parenting Time Coordination***

If the parents can not work together and are likely to continue their conflict post judgment, a parenting time coordinator may be helpful. Authority for appointment is provided in ORS 107.425(3), and a form order is posted in the MAR Documents database. The parties pay the coordinator directly for the service.

#### ***Available Resources:***

- ▶ Order to Alternative Parent Education Class
- ▶ Approved Class List