

About the ABA Dispute Resolution Section Task Force

Elder Abuse and Neglect Screening Guidelines for Mediators

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In 2017 the American Bar Association (ABA) Dispute Resolution Section Council authorized the creation of a task force to develop guidelines to assist mediators in screening for elder abuse and neglect. There were already many similar screening tools in use within other professions, but there was no elder abuse screening tool specifically for mediators. Because mediators have far different interventions than other professions, the questions for mediators needed to be different as well.

The Task Force created the following mission statement:

The mission of the Task Force on Elder Abuse Screening is to create guidelines that include purpose, implementation, and mediator responses. The purpose of the guidelines is to assist mediators to identify the signs of elder abuse (physical, mental, financial exploitation, social, emotional, sexual, and neglect) by developing guidelines to screen for abuse which will serve to educate mediators to improve identification of the appropriateness of mediation, recognize when to include additional professionals in the mediation process, and how to empower elderly parties participating in mediation.

To achieve the Mission, the following objectives were generated:

- 1. Create guidelines to assist mediators to identify signs of possible elder abuse which could compromise the mediation process.*
- 2. Provide a framework defining the nature of specific abuses contemplated to identify signs of elder abuse, both physical and mental inclusive of exploitation and neglect.*
- 3. Develop elder mediation intake procedures and guidelines including communications with other involved parties.*
- 4. Develop a procedure to facilitate identifying engagement of qualified persons with the necessary licensing, training or experience when the possibility of elder abuse is identified, including reporting.*
- 5. Identify factors when mediation may be inappropriate.*
- 6. Develop and implement an assessment for abuse screening guidelines (to include purpose, implementation, and mediator responses) with an implementation plan on how the assessment results will be gathered, summarized, and revised.*

Designing the Screening Guidelines

The Task Force consulted screening tools for elder abuse and neglect used by other professions, including health care, social work, and eldercare to guide their process. The Task Force reviewed these screening tools with the help of professionals in these fields and read numerous articles to educate themselves on different types of elder abuse and neglect.

The Task Force eventually focused on the following categories of abuse:

- Physical
- Sexual
- Emotional/Psychosocial
- Financial Exploitation
- Neglect.

At first the Task Force listed all possible questions that could be asked when screening for abuse, but in the end believed that a few well-constructed questions to address each area of abuse is more effective. In addition, the Task Force designed the guide with the goal of having screening interviews proceed more like conversations than working through a checklist. The screening tool provides a few general questions meant to help develop a relationship with the person being screened, and then start the discussion. While crafting the Elder Abuse Screening Tool for mediators, the Task Force stressed the limited role of the mediator, emphasizing that they are not investigators or decision makers. The major task of the mediator is to determine if mediation is appropriate. In keeping with this goal, the Task Force created a narrative on how to use the Tool and actions to take after screening.

Using the Screening Tool

The purpose of the Elder Abuse Screening Tool is to provide resources that improve awareness and inform determination of the appropriateness of elder mediation. When using the Elder Abuse Screening Tool, the mediator needs to perform their regular screening for the appropriateness of mediation in addition to the abuse and neglect screening. Thus, questions that apply specifically to abuse and neglect need to be seen in the context of the other questions that the mediator may want to ask potential mediation participants, such as who should be at a mediation. The mediator also has a responsibility to continually make sure that mediation is the appropriate forum for the family beyond their initial intake. If at any point the mediator discovers that mediation is not appropriate, the mediator should consider referring the family to other resources.

There is consensus among elder mediators that all mediation participants should be individually interviewed prior to a joint mediation session. These screening interviews provide opportunities for the elder, family members, and others involved to give the mediator feedback about what will make the session successful and to determine whether additional accommodations need to be made to make the mediation safe, comfortable, and accessible for all participants. To help initiate and facilitate these interviews, the guidelines within the Screening Tool include questions for the mediator to ask the elder, family members, and other mediation participants.

Screening for abuse and/or neglect should not end with the initial interview. Mediators are obligated to perform ongoing screening throughout mediation. In instances where a

mediator deems it appropriate, they may use some of the same questions in the tool again at a later session or between sessions. The mediation should not proceed under the influence of coercive power and control. If at any point safety becomes an issue, the mediator may need to call other professionals and safely terminate the mediation.

The Screening Tool includes the following sections:

- An introductory section with information related to the pervasiveness elder abuse, the role of the elder mediator, and an overview of the elder mediation process
- A guide to the intake process with lists of emergency and other resources an elder mediator may need to consult
- A guide to identifying signs of abuse, neglect, and exploitation
- A list of questions for family members/others
- Initial questions for the elder
- An interventions action chart outlining how and when to address identified abuses and observations.

It is the hope of the Task Force that the Screening Questions and Guidelines are comprehensive enough for users to be able to easily follow them. Elder mediators are encouraged to use it, apply it to their practice, and continually assess its usefulness. The next steps for the Task Force are to look at where the screening tool is effective and where changes might need to be made. We would appreciate feedback from those using it about problems they have encountered and suggested remedies for those problems.

Questions and feedback should be sent to the Task Force Chair, Zena Zumeta, at zzumeta@iqc.org.

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