



State Court Administrative Office
Office of Dispute Resolution

Using Zoom to Conduct Online Mediation: Considerations and Resources for Community Dispute Resolution Program Centers

Version 1: April 2020



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Introduction to Online Mediation

This guide is intended to help mediators extend their skills in mediating with parties face-to-face to the online environment. After outlining a few new aspects in mediating in the online environment, several resources in Zoom usage are suggested, followed by a checklist for use in managing an online mediation. Several examples of language appear, for example in moving into caucus, and then several examples of “helpful hints” in using Zoom are presented.

This document will be revised from time to time, and we encourage mediators to share their recommendations for improving it. Please send any recommendations for inclusion to cdrp@courts.mi.gov.

Online Mediation Considerations

Many things remain the same whether mediating in person, over the phone, or using a video conferencing system, but there are differences. Here is a quick overview of some of the main differences.

What is different?	What could it impact?	What you can do?
Less control over physical environment.	Mediator’s ability to control and direct conversation.	Mediators should be comfortable muting, unmuting, and moving parties and themselves between private rooms and the main session.
	No control over participant’s environment.	Confidentiality & Eavesdroppers.
No control over participant’s environment.	Emergency response protocol.	Determine course of action if a mediator observes a remote party having an emergency.
	Reliance on technology to communicate.	Balancing the Table: Parties may have disparate access to technology (audio only vs video), or levels of comfort with it.
Computer, network or phone issues could disconnect a party or prevent one from joining, lag issues can make it hard to understand each other.		Provide a contingency plan with alternate methods of contact in meeting invite; explain virtual waiting room and agree to a window of time to wait for parties to join.
Creating, transmitting and signing agreements remotely.	Volunteer mediators may not have typical office software at home (Microsoft Word, Adobe Acrobat DC)	Free options are available such as Google Docs, or if staff have an Office365 account, word documents can be uploaded and then shared and edited online via an e-mailed link.
	Parties’ perception of their involvement in writing the agreement.	If using video, share the agreement on screen. Ask parties how they would like to sign. Mediator can e-mail the document to staff to convert to PDF and distribute for signature using an electronic service or facilitating other means.
Tracking and Reporting	Out of sight – out of mind; mediations not logged in case management software.	Zoom reports will allow you to see limited information about past meetings including the topic name, participants and length of session. Consider including a reference number in the Zoom meeting topic for use reconciling the Zoom report with case tracking systems.

Resources for Mediators

[Sample Online Mediation Checklist](#)

[Sample Mediation Scripts](#)

Zoom 1-Minute Introductory Videos

[Meeting Controls](#)

[Breakout Rooms](#)

Example Online Mediation Videos

[What Online Mediation Looks Like](#)

48-min video recording of an online mediation simulation of a family case. The mediator was in England, connected with a Mac. The parties were in the USA, connected with a PC and an Android smartphone.

[ARS Mock Mediation](#)

Video recording of an online mediation simulation where parties are each represented.

Other Articles and Resources

[Tips for Online Mediation in the Age of Social Distancing](#)

[10 Essentials for Looking and Doing Your Best in Video Conference Calls](#)

[Online Mediator Resources](#)

Resources for Parties

Zoom 1-Minute Introductory Videos

[Joining a Meeting](#)

Sample Online Mediation Checklist

Scheduling the Mediation

- Communicate privacy and confidentiality expectations to all participants. Encourage parties to keep their meeting link and password secure.
 - Confirm waiting room is enabled, "Join Before Host" is off. Consider setting up a personalized message with instructions to participants.
 - Confirm breakout rooms enabled, consider naming for easy identification.
 - Disable "Local" and "Cloud" based recording if not already
 - Use a unique and private meeting number for each mediation. Require participants to use a password to enter the meeting.
 - Provide a contingency communication plan with alternate methods of contact, e.g. conference line or parties' phone numbers.
 - Explain what a virtual waiting room is and agree to a window of time to wait for parties to join the session. Discuss what will happen if all parties are not logged on by the agreed time.
-

Before Session Begins

- Test audio and video on the devices. If using a mobile device, ensure it is fully charged and/or connected to a charging cable.
 - Silence other devices, turn off notifications, and check your background.
 - Secure your workspace from interruptions. Inform any persons in the vicinity that you will be unavailable and in a private/confidential meeting during the time scheduled.
 - Prepare all materials you may need, including blank "Ground Rules" document.
 - Confirm chat setting to allow parties to message each other privately is disabled.
-

Mediation Session

- Housekeeping.** Lock the meeting once all participants have joined. Confirm that all parties can hear and see each other. Ask the parties to have a pen and paper in front of them to jot down thoughts. Remind parties of **Contingency Communication Plan** and alternate methods of contact.

- Explain that with this **Technology**, there may be instances of lag. It is difficult to politely interrupt someone with lag, and lag may cause everyone to accidentally interrupt each other. Ask them to be patient and understanding should this happen. Instruct everyone to address one another by name, so that it is clear whom is being spoken to.

- Review **Confidentiality**. State no one else may be in the room, or within listening distance. Have parties verify and confirm no one else is in the room or that could overhear the conversation. State no recording of the session of any kind is permitted.

- Explain **Caucus** and how it will work, what that process looks like, and what to expect: separate private virtual rooms, can still communicate with mediators via “chat” function, mediator will bring parties back together in the main session if and when appropriate.

- Use "Share Screen" to show the **Agreement to Mediate** document for all parties to review. Read the Agreement to Mediate aloud for all participants

- Confirm Signatures** prior to parties’ opening statements. If not received in writing, obtain verbal consent, one by one, that the parties agree to the terms of the Agreement to Mediate and sign “with verbal consent” for each participant on the form. Mediator(s) will write the parties’ name in each spot, and write “with verbal consent.”

- Establish **Ground Rules**. Include all parties in creating the ground rules together. Share the screen so all parties can see the document as it is created in real time. Keep available to refer back to throughout the mediation as necessary.

- Begin **Information Sharing** with Petitioner and/or attorney. Restate and check for understanding with the Petitioner, then continue with Respondent. Move on through the mediation process: agreeing on the issues to be address; brainstorming options, selecting the best options, etc. Take notes off screen (not shared with parties) AND/OR use share screen/white board to capture points. Keep a running list of agreements on a separate document.

- Caucus** with the parties and their attorneys by using the breakout rooms. The mediator (Host) will assign participants to the breakout rooms and can join the breakout rooms with the participants and move from room to room. Parties can be returned to the main session at the close of caucus.

- Settlement Agreement Writing.** Share the template agreement on screen and enter the parties’ settlement terms. Continue working with the parties in the shared document to ensure that their terms are written into the agreement.

- Review Draft Agreement.** Read the terms of the Mediated Settlement Agreement out loud for all participants. Ask for any corrections, updates or revisions to the language. Ask for consent from each participant to approve the terms of agreement.

- Remind parties of **Method for Signing Agreement**. Staff can facilitate the process determined by the center.

- Conclude the Session.** Let participants know the next steps, such as sending documents to the court or scheduling a follow-up session. Thank the parties for participating and end the session. If an agreement was not reached, advise what other dispute resolution processes may be available. Finally, debrief the process with the center staff.

Sample Mediation Scripts

Opening Remarks

[Example 1]

Welcome [Party One] and [Party Two] to mediation.

Can you both see and hear me?

Can you see and hear each other?

Good, and I can see and hear both of you as well. When we are using this type of technology, sometimes things happen and we might lose the connection. If that happens, please [reiterate contingency plan such as dialing a phone number.]

The purpose of this mediation is for the two of you to talk to each other to try and figure out a solution for the issues that you're having. Whether we meet in person at an office or are using technology to communicate like this, it is important to remember that the mediation process is confidential and to think of this as a private conversation between the two of you. I want to ask you both to check that there is no one in the room with you. [Wait for affirmation from both parties].

I also want to remind you that none of us are able to record this session.

When we are communicating like this, it becomes even more important that only one person speaks at any one time or none of us will be able to really understand each other. Ok, I want to start by asking why you both are here today and what it is that you would like to sort out.

[Example 2]

Welcome everyone to the online mediation platform where we will have our facilitated dialogue. Thank you for joining us today from your respective locations.

There are a couple items to get out of the way before we can begin so let's briefly review the mediation guidelines sent prior to today's session. Does everyone have access to a copy?

Great. I want to draw your attention to the phone number in the top right corner of the page. This is a number that can be used to contact me directly if you are disconnected from the session.

Next, I want remind you of my role in this process. I will serve as an impartial, third party to facilitate the conversation, both in this joint session and in private meetings. Each of you have brought an advocate so I will not be serving in this capacity nor will I be making any judgements on who is right or wrong. It will be

up to you who will make decisions on any type of settlement agreement at the end.

As a mediator, I am bound by confidentiality and these rules are explained in the mediation guidelines. None of us are able to record this session and I would like to take this opportunity to ask each of you to check that there is no one in the room with you now or that could overhear this session.

Thank you.

During this process, each side will have an opportunity to meet privately and confidentially with me. So we will all see each other when we are in the main room, but while I am in the caucus with you, the other side will visibly disappear. We will not be able to hear them and they will not be able to hear us so we can talk freely. I will do this with both sides so it is a great tool that each side can use during the mediation process.

Are there any questions before we begin?

Breaking into Caucus

It is quite common in mediation for me to spend some time talking with each of you separately. I'll start with [\[Party One\]](#) and we are going to move to another virtual room where we can only hear and see each other. [\[Party Two\]](#) if you need anything during this time you can send me a chat message. While I am talking with [\[Party One\]](#), feel free to take a stretch break.

Switching Rooms

Ok, now what I'm going to do now is to meet with [\[Party Two\]](#) in the same way I've just spoken to you on your own now. I will speak with [\[Party Two\]](#) for about the same amount of time so please take a stretch break. If you need me, you can send me a chat message.

APPENDIX 1

SCAO has provided Zoom licenses for all CDRP centers. The following are settings and tutorials that may be relevant to center staff administering Zoom accounts.

Helpful Zoom Settings for Admins

- Waiting Room or “Virtual Lobby”
 - Enable the waiting room and disable “Join Before Host” to allow the mediator to control when parties join the session
 - [Customize your waiting room with instructions for participants](#)
- [Disable Local and Cloud-based recording](#)
- [Configure participant and host chat settings](#)
- Break-Out Rooms
 - [Zoom Help Center: Enabling Break-Out Rooms](#)

Recorded Training Sessions by Zoom

[Getting Started with Zoom](#)

This 30-minute training session with live Q&A will provide a high-level tour of Zoom and cover the basics you need to get up and running.

[Zoom Meetings Training](#)

This 60-minute training session with live Q&A will review features applicable to Zoom Meetings and using the Zoom Client software. We will discuss scheduling and hosting your meetings.

Additional Resources from Zoom

[Zoom: Support during the COVID-19 pandemic](#)

Other ODR Resources Online

[Your ADR Practice and Zoom](#)

(ODRZoom.com Slides)

[Mediation with Zoom](#)

(Mediate.com Article)

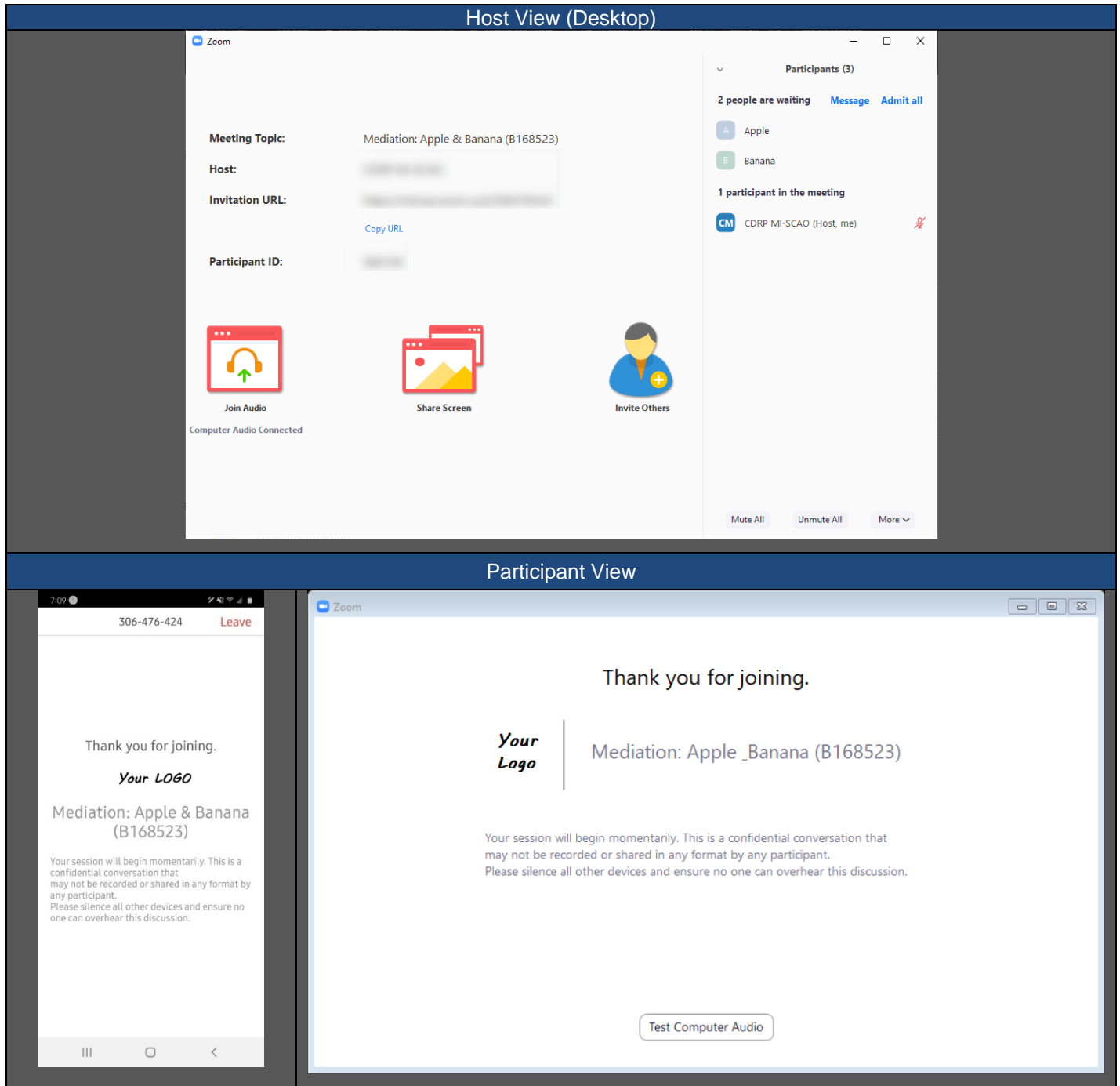
Personalize Virtual Waiting Room

The Waiting Room feature allows the host to control when a participant joins the meeting.

Note: You will need to enable the waiting room before you have the option to customize it.

Go to **Settings > In Meeting (Advanced) > Waiting Room**

[Zoom Help Center: Waiting Rooms](#)



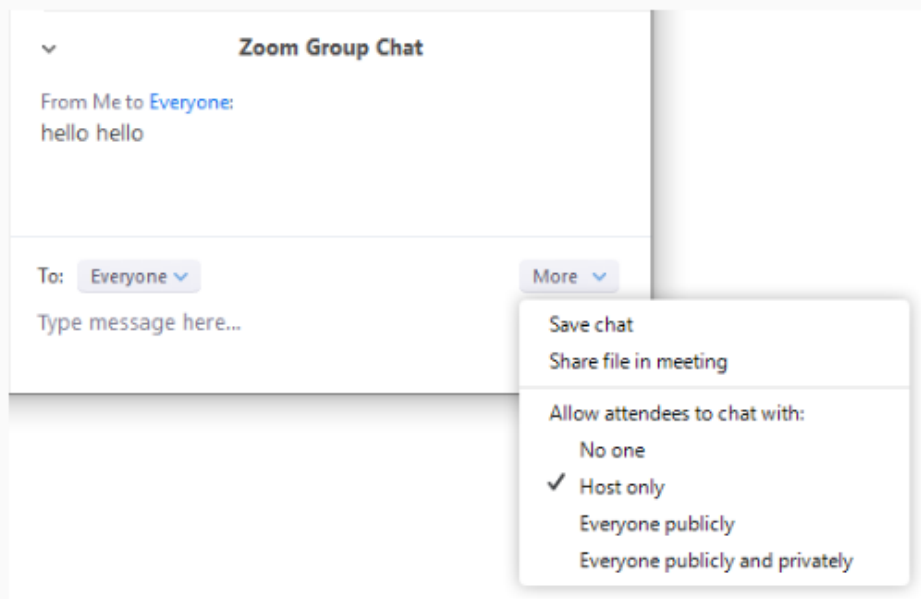
Disable Private Chat

You can configure the chat settings to allow attendees to chat with the host only, everyone publicly or everyone publicly and privately.

1. Start a meeting or webinar as host.
2. Click **Chat** in the Meeting Controls.



3. At the bottom of the in-meeting Zoom Group Chat window, click **More**, and then choose an option for **Allow attendees to chat with**.
 - For meetings, the host can allow attendees to chat with everyone or with the host only.



Recording

Log into your Zoom account and navigate to [Settings > Recording](#) to set options for account.

The screenshot shows the Zoom account settings interface. At the top left is the Zoom logo, followed by navigation links for SOLUTIONS, PLANS & PRICING, and CONTACT SALES. A left-hand sidebar contains menu items: Profile, Meetings, Webinars, Recordings, Settings (highlighted in blue), Account Profile, and Reports. Below the sidebar is a white box with links for Attend Live Training, Video Tutorials, and Knowledge Base. The main content area has three tabs: Meeting, Recording (selected), and Telephone. Under the Recording tab, there is a 'Recording' section header. Below this are three sub-sections: 'Local recording' with a description and one radio button option; 'Cloud recording' with a description and five radio button options; and 'Advanced cloud recording settings' with seven radio button options. The final sub-section is 'Automatic recording' with a description.

zoom SOLUTIONS ▾ PLANS & PRICING CONTACT SALES

Profile
Meetings
Webinars
Recordings
Settings
Account Profile
Reports

Attend Live Training
Video Tutorials
Knowledge Base

Meeting **Recording** Telephone

Recording

Local recording
Allow hosts and participants to record the meeting to a local file

Hosts can give participants the permission to record locally

Cloud recording
Allow hosts to record and save the meeting / webinar in the cloud

Record active speaker with shared screen
 Record gallery view with shared screen [?](#)
 Record active speaker, gallery view and shared screen separately
 Record an audio only file
 Save chat messages from the meeting / webinar

Advanced cloud recording settings

Add a timestamp to the recording [?](#)
 Display participants' names in the recording
 Record thumbnails when sharing [?](#)
 Optimize the recording for 3rd party video editor [?](#)
 Audio transcript [?](#)
 Save panelist chat to the recording [?](#)

Automatic recording
Record meetings automatically as they start

APPENDIX 2

Example Dispute Resolution Center Protocol

Online Mediation Protocol Outline

1. Opening a Case
 - A. Receive referral
 - B. Open the case in Madtrac, generate letters (Domestic cases and Probate cases conduct intake first, then date is selected)
 - I. Contact Information, If no contact info for interested parties, call Petitioner, Attorney or Court for more contact information
 - C. Select a date for mediation (subject to change based on party(ies) availability to attend mediation)
2. Intake
 - A. Call all parties to complete intake
 - I. Case background
 - II. Domestic Violence Screening
 - III. Explain/Educate party about Mediation Process
 - IV. Discuss the online format for virtual mediations
 - a. Explain how conducted via Zoom (Conference Call is an option if Zoom is not an option or not desired)
 - V. Confirm party agrees to participate in mediation
 - VI. Obtain party date/time availability and firm up scheduled mediation date
 - VII. Review next steps and set expectations for timelines
3. Send out pre-mediation homework, if any (Domestic package, etc.)
4. Secure mediator(s) for case two (2) weeks prior to mediation, or as soon as scheduled if scheduled in less than two weeks' time.
5. Confirm the mediation date and time via telephone 2 business days in advance.
 - A. Let participants know that they will receive an email invite and a separate email with the agreement to mediate form to review prior to mediation.
 - B. Send Agreement to Mediate upon confirmation of all parties, requesting signatures and return prior to mediation.
 - C. Send an email invite to all participants the day before mediation is scheduled.
 - D. Send summaries/briefs that have been sent in to mediators day before mediation via email with reminder information is confidential.
6. Day of Mediation Preparation
 - A. Call mediator(s) day of via conference call or zoom, (or day before if early morning) at a time pre-scheduled to brief the mediator(s) on the matters at hand, allow them time to discuss co-mediation arrangements if co-mediating.
 - B. Log in to Zoom ahead of time to open the meeting for all participants and the mediator(s). Admit parties as they arrive to mediation. Staff will assign the mediator as Host of the meeting then Staff will mute themselves and turn off camera. Will only respond for technical support and as needed by mediator.
7. Online Mediation Process
 - A. Mediator(s) will proceed with Introductions and the Opening Statement
 - I. Be sure to review confidentiality.
 - II. Be sure to state no one else may be in the room, or within listening distance. Have parties verify and confirm no one else is in the room.
 - III. Be sure to state no recording of the session of any kind is permitted.
 - IV. Be sure everyone is addressing one another by name, so that it is clear whom is being spoken too.
 - V. Explain that with this technology, there may be instances of lag. It is difficult to politely interrupt someone with lag, and lag may cause

everyone to accidentally interrupt each other. Ask them to be patient and understanding should this happen.

- VI. Asking parties to have a pen and paper in front of them to jot down thoughts is especially important for online courtesy with one person speaking at a time.
- VII. Explain caucus and how that will work with the breakout rooms. What that process looks like, and what to expect if it happens (Separate “room” in private, can still communicate with mediators via “chat” function, mediator will join parties back together if and when appropriate).
- B. Mediator(s) Staff will use the Share screen to show the Agreement to Mediate document for all parties to review
- C. Mediator(s) will read the Agreement to Mediate aloud for all participants
- D. Mediator(s) will confirm signatures have been completed if returned prior to mediation. If not, mediator will obtain verbal consent, one by one, that the parties agree to the terms of the Agreement to Mediate and to sign “with verbal consent” for each participant. Mediator(s) will sign their name in each spot, writing with verbal consent. If electronic signature format is available, get signatures in advance.
- E. Mediator(s) will facilitate ground rules with all parties, including all parties in creating the ground rules together. One Mediator (who has control of session as Host) will type ground rules on blank document using document sharing tool so all parties can see the ground rules. This page should be created in advance with the header “Ground Rules”, and available to refer back too throughout the mediation as necessary.
- F. Mediator(s) begin the Information Sharing with Petitioner and/ or attorney, restate and check for understanding and continue to Respondent.
 - I. Mediator(s) will take notes on their own paper (not shared with parties) while listening to Information Sharing.
 - II. Mediator(s) may use a blank document and/or the White board on the share screen to capture points and agenda items for all to see to Create the Agenda as a team.
- G. Continue with facilitative mediation process
- H. Continue to use white board and/or blank documents for generating options and evaluating options phases.
 - I. Mediator(s) should keep a running list of agreements on a separate document.
- I. Caucus with parties and their attorneys by using the break out room buttons. Mediator (Host) will manually assign participants to the breakout rooms. Mediator can also set the options for parties to return to the main session on their own or as directed by the Mediator. Mediator will be able to join the breakout rooms with the participants and can move from room to room. Mediator can also bring all parties back to the main session when closing caucus.
- J. During and after caucus, Mediator will encourage parties to communicate any offers or new information to the other party while keeping them focused and moving forward.
- K. Mediation Settlement Agreement writing – Agreement template will be prepared in advance by staff, including names of participants and case number. The Mediator lets the Staff know that they are ready to create an agreement, staff can share this agreement with the share screen and can begin to type up parties’

terms for settlement. Parties will work together to create the verbiage for the Settlement Agreement together as a shared document.

- L. When draft is complete, the Mediator will read the terms of the Mediated Settlement Agreement out loud for all participants and will ask for any corrections, updates or changes to the language. Mediator will also ask for consent from each of the participants to approve the terms of their agreement.
 - M. Mediator/ Staff discuss with all parties how they wish to handle and obtain signatures. Staff can email a copy without signatures to all parties and can help with facilitation of emailed signatures from party to party. If there is electronic signature software available, use that software to obtain signatures.
 - I. When all signatures have been obtained, create copies of signed Mediated Settlement Agreement for everyone and email them to all parties (or mail hard copy).
8. Concluding the Mediation
- A. Staff and Mediators will let participants know the next steps such as sending the status report to the court. Or, if there is a need for a follow up session, they will schedule the next session at that time. Thank them for participating and end the session.
9. Debrief with Mediator(s) and or observer before dismissing them
- A. Ensure all forms have been completed
 - B. Complete the Mediated Case Record, send to Mediators for signatures
10. Closing the case
- A. Staff will enter the case details and disposition information into Madtrac
 - B. Scan/ file the case document in case file
 - C. Staff will send the status report to the appropriate Court

Trouble Shooting Tips

- If anyone is using Zoom on a Smart Phone, the phone should remain plugged in as Zoom uses the battery very quickly.
- One Zoom session can be used at a time per account.
- Utilize the “fake” background option to ensure a professional background if your background is not professional looking.
- Be sure to test your audio and video capabilities prior to the mediation.
- Prior to the mediation, give parties, attorneys, and mediators a contact number to call to reach staff in the event they have issues logging in.
- Keep in mind that people can be so aware of being on camera, they often will exaggerate gestures/animated movements.

APPENDIX 3

Online Domestic Violence Screening

Web-based video or audio, or telephone (electronic) screening is not a preferred way to conduct screening because the screener cannot be certain that the abuser is not present or listening during the screening, and this may compromise safety, confidentiality, or a person's ability to speak freely. Also, comfortable rapport with the parties resulting in disclosure of abuse is less likely to be established via electronic screening.

However, if electronic screening is necessary, the screener should try to determine if the person she/he is speaking with can speak freely. Examples include:

“I realize that it is not always safe for folks to share their concerns about mediation (on the phone, via Zoom, through the web, etc.) so before we get started, I'd like to be sure that it's OK for me to talk to you about mediation in your divorce case.”

“Are you free and safe for the next ____ minutes to honestly talk with me about whether or not mediation is appropriate in your divorce proceedings?”

“If it is unsafe for you to talk right now, is there another time I can call when it will be safe for you to talk freely?”

If there is another time to talk on the phone:

“If talking on the phone is a problem for you, what would be another way for us to discuss mediation in your case?”

If the individual is presently safe, but expresses concerns about danger arising during the call:

“Is there a word or phrase you can say to me during our conversation that will let me know you are unsafe? If that happens, is there another time I can call you later? Is there another way for us to discuss mediation in your case?”

If both parties appear to be able to safely communicate with the mediator, proceed with the following questions.

Ideally, center staff and mediators will use the [comprehensive domestic violence screening questionnaire](#), however if time does not permit, the [abbreviated](#) version may be used.

1. Is there anyone else in the room with you? (Assumes a telephone contact.) Can you speak freely? NO YES
2. Is there currently or has there ever been an order limiting contact between the two of you, for example, a Personal Protection Order, or a No-Contact Order? NO YES
3. If so, has there ever been a violation of the order, whether or not the violation was ever reported? NO YES
4. Is there an open abuse or neglect case involving your children? If so, please tell me about it. NO YES
5. Do you have any concerns about the safety of the children? If so, please describe. NO YES
6. When you and [\[insert name\]](#) disagree, fight, and/or are angry with each other, what happens? NO YES
7. Do you ever feel afraid of [\[insert name\]](#)? What are you afraid of? Tell me more about the time you felt most afraid. Do you think [\[insert name\]](#) has ever felt afraid of you? What do you think he/she may be afraid of? NO YES
8. Has [\[insert name\]](#) ever caused you to feel threatened or harassed by following you, interfering with your work or education, making repeated phone calls to you, using social media or sending unwanted letters, emails, text messages, faxes or gifts? Can you tell me more about it? NO YES
9. Have there ever been any physical confrontations between you and [\[insert name\]](#)? (Follow up with questions as appropriate to determine whether mediation can safely occur: Can you tell me what happened? Have there been any other physical confrontations? Can you tell me what happened?) NO YES
10. During mediation, you and [\[insert name\]](#) may meet in a virtual setting to talk about all the issues and problems that need to be resolved. Do you have any concerns about participating in a video or teleconference with [\[insert name\]](#) or mediating with [\[insert name\]](#)? NO YES
11. If yes, ask the following questions:
 - A. What are your concerns? NO YES
 - B. Would you feel more comfortable if your attorney was present with you during the mediation session(s)? NO YES
 - C. Would you feel more comfortable if video was not used during the mediation session(s)? NO YES
 - D. Would you feel more comfortable if you and [\[insert name\]](#) met with the mediator at separate times? NO YES
12. Do you think you will be able to speak up for yourself in mediation? NO YES

Please refer to the SCAO’s [“Domestic Violence Screening Protocol”](#) for additional resources in conducting domestic violence screening and safely concluding mediation.

For additional information about these materials, please contact:

Office of Dispute Resolution

Michigan Supreme Court

PO Box 30048

Lansing, MI 48909

Telephone: (517) 373-4839

E-mail: cdrp@courts.mi.gov

Web: courts.mi.gov/ODR