

# Frequently Asked Questions

## **Where can I receive more training resources?**

The FMTP website houses our CLE training, the most recent version of this guidance, forms referenced in this guidance. If you have additional questions, please discuss with Legal Navigator.

## **What is the difference between “regular” ADR mediations and FMTP ADR mediations?**

FMTP has contracted mediations that are assigned alphabetically while the “regular” ADR mediations would be assigned by the judge and confirmed with the mediators in advance and mediators do not have a set obligation of cases or contract. The rules, payment, and timeframes are the same for the mediation itself though. FMTP ADR mediations include the MASIC-S with the pre-mediation screenings.

## **Do all mediations require MASIC-S screenings?**

Yes. Every FMTP case assigned the Tailored Pathway and there forth ordered to mediation should complete MASIC screening for both parties.

## **If a party has an attorney, does the attorney need to be present?**

The attorney does not need to be present. Once you are told they have retained an attorney or an attorney has entered an appearance, you should have an attorney waiver if the attorney does not want to attend mediation. Here are examples: for [all Mediation session](#) and [Intake Session](#). They can waive the MASIC, attending mediation negotiation sessions, etc. The judge will also want to see the waiver.

## **Do mediators have to file their report on the 60<sup>th</sup> day? They are used to filing it after.**

It should be on or directly after the 60-day “cooling off” period.

## **Do screenings become a part of the Court’s records? Or are they confidential?**

Mediator conducted screenings will be kept confidential. They are NOT a part of the Court’s records.

## **How do the confidentiality rules apply to support persons? For example, subpoena/witness testimony?**

A: ADR Rule 2.11(A) talks about confidentiality. It is the same rule that applies to everybody and stated that mediation is a confidential process and confidentiality cannot be waived. However, there are a couple of exceptions such as mandatory reporting.

## **Are these assessments being conducted by the mediator during separate sessions that happen prior to the actual mediation date?**

Correct. It has to be done in advance to know how to accommodate the results in the mediation process.

**What if the other litigant feels you've taken the supposed survivor's side, and therefore they doubt that you as the mediator are neutral?**

A: If someone believes you are not neutral, you are able to decline the case and ask the FMTP Legal Navigator Law to reassign it. Unfortunately, under the ADR Rules, Judge Granger will not know why the case was declined.

**If DV POs have already been filed, is the screening still done?**

Yes.

**Will there also be post-dissolution referrals as well?**

Right now, we are just offering for on initial filings. Eventually, we will expand to modifications.

**Do we bill for our time for the pre-mediation screenings as well as the actual mediation session?**

Pre-mediation screenings (initial meeting and MASIC-S) will count as billable hours and are to be tracked on the [MEDIATOR'S ADR PLAN SUBMISSION WITH INVOICE](#).

**Is CPS willing to let you know if a case has been investigated or not? My prior interactions with CPS are such that they won't take my calls or respond to any requests.**

You must get the parties to sign a release or work with parties and CPS over the phone. They're entitled to know what's happening; they should be able to get information about whether the investigation was deemed substantiated or not.

**Do support people need NDAs?**

Yes, it is encouraged to remind the support persons and the parties that support persons should not be hostile parties. Professor Applegate also recommended that all parties be encouraged to have a support person present, if that would be helpful to them.

**Are we allowed to use the online MASIC to practice?**

Absolutely! Practice with a colleague or friend.

**Are we supposed to prepare the Income Withholding Orders (IWO's) and Forms ACR in cases in which there is child support?**

No. IWO's will be referenced in the Agreed Mediated Order, which will specify who is preparing those documents. The Court will refer the parties to the Title IV-D office.

**What happens if a party wants to take the mediation settlement documents to an attorney for review before signing?**

Under the ADR Rules, mediation parties are entitled to have attorneys present and/or review the mediation settlement documents before signing. You should make arrangements for a brief period of review for the mediation party who wants to have this review.

**Can I record mediation sessions for your own record-keeping?**

No, because it is a confidential process. This includes any recordings including transcribing.

**Would researching the case be outside my role as a mediator?**

No, light research is essential to get a sense of who the parties are. When receiving the mediation assignment email, case documents will be attached for easy access/review.

**Will mediation be mostly remote?**

Most parties prefer remote mediation. If a party has a problem with remote mediation, please direct them to work with the Family Law Navigator who can assist them with a spot to access remote mediation in the court. If your preference is in person and parties are comfortable with it as well, that is acceptable.

**What if I am not able to reach one party?**

Mediation is ordered by the Judge. If you have not gotten a response within three attempts in 1-2 weeks, Contact the Legal Navigator (Courtney Etheridge) to attempt to reach the party and remind them that mediation is ordered and to respond to the Mediator assigned to the case at their earliest convenience. If there is still no communication, Mediator can decline/terminate the mediation.

**Where do I go if I have questions about mediation?**

Reach out to Professor Amy Applegate ([aga@iu.edu](mailto:aga@iu.edu)). If several mediators have a similar question, she may have a group meeting to discuss.

**What if interpretation services are needed?**

If parties are ordered to mediation and interpretation services are needed, the mediator can set up the interpreter or have the court facilitate it. If the court facilitates the interpreter, it will be paid out of the interpreter fund. If the mediator arranges the interpreter, they would include the costs on their mediation invoice and it would be paid from the ADR fund. On the Mediator's ADR Plan Submission, the mediator will include the fee amount incurred for interpretation on Length of Method of Resolution / Fee Requested under the 'Other' option.

**Do I have to attend the CLE/CME Training each year to be a mediator?**

Mediators are required to attend one training up front to participate in FMTP. While there will be updated trainings offered for credit, it is up to the mediator to decide if they wish to participate each year.