

## Tips and Tricks for Online Mediations

As a Volunteer and Training Coordinator, and a trained mediator, I have had the unique experience of co-mediating online mediations almost every day the past few weeks. Due to Stay at Home restrictions put in place in March, the Dispute Resolution Center of Montgomery County, Inc. (DRC-MC) moved to online mediations so that we could continue to serve the community and remain safe. After a crash course from Mac with instantmediations.com (true pioneers of the online mediation movement), testing Zoom capabilities with staff and volunteers and then providing individual training for volunteers, the DRC-MC transitioned to online mediations within DAYS. The DRC-MC has been in the forefront of the online mediation frontier since that time, and I have learned some tips and shortcuts from doing so many online mediations with our volunteers.

The DRC-MC utilizes Zoom as its online mediation platform. There are numerous programs and articles available which address what platform to use and the recommended security settings for those platforms, so I will not address those issues in detail here. Instead, I am focusing on sharing tips and short cuts that I have learned from participating in many Zoom online mediations.

Based on my experience, I am convinced that mediation online is just like mediating in person if you utilize some of Zoom's specialized settings and/or features. The following are some of my recommendations:

1. **Waiting Room**- This feature is located under the Zoom Settings Function and I highly recommend that you get familiar with it and use it for the following purposes:
  - a. **Administrative Matters**: If someone comes into the DRC-MC office for an in-person mediation, they will first stop in the Waiting Room to sign in and complete administrative matters before they are allowed into their mediation room. I use the Zoom virtual Waiting Room to do the same type of things. When parties come online for the mediation, I admit them, one at a time, into the virtual Zoom Waiting Room which I established prior to the mediation. Then I have each party sign any necessary papers, such as our Agreement to Mediate, and pay outstanding fees, if any.
  - b. **Technical matters** - Once a party is admitted from the virtual Zoom Waiting Room, I, as the mediator and host of the Zoom mediation, address any technical issues the party may have. I have noticed that people who are not used to using Zoom, often have difficulty with the audio setting. If the party is attending an online mediation via computer, they need to let Zoom know whether they will be using their computer's audio function or their phone's audio for the mediation. Alternatively, if the party is using a mobile phone for the mediation, they will need to give Zoom permission to use their phone's audio. I admit one party at a time from the Zoom virtual Waiting Room to ensure that they have checked off the proper audio settings on their computers or phones prior to the mediation. It is important to note that they will not be able to hear you until they connect to audio.
  - c. **Attendance monitoring**- A virtual Waiting Room allows the mediator to see who has joined the mediation or is attempting to join the mediation. When a party uses a phone to access an online mediation, the mediator only sees the newly arriving party's phone number or type of phone. When the mediator has set up the Waiting Room prior to the mediation, the mediator will be able to find out who is trying to enter the mediation and rename them before anyone on the call gains access to their phone number. The mediator can then place the newly joined party into the Waiting Room while the mediator brings another party into the mediation. If the parties have already been admitted to the mediation, and the mediator sees a new name pop up of someone who is not scheduled to be in the mediation, the mediator can either ignore them or remove them from the Waiting Room.
  - d. **Separation of the parties**- When the Zoom virtual Waiting Room setting is enabled, parties cannot interact with other parties until the mediator admits them into the mediation room. This is an extremely helpful feature for separating the parties when there is a protective order in place, or when the parties are less than amicable. This also ensures that an attorney or mediator will not accidentally speak to a party who is represented by an attorney who has not yet joined the mediation.

- e. **Breaks:** If it is decided that parties need a short break, one of the best ways to do that is for the mediator to move everyone into the Zoom Waiting Room. When the mediator is through with their break, they can simply move the parties from the Waiting Room back into the mediation. Please note however, that a mediator cannot move a party from a breakout room to the Waiting Room. Moves to the Waiting Room for a break are only possible when everyone is in the general mediation room.
2. **Manage Participants** -This Zoom feature is labeled as Manage Participants tab. It can be used for organizational and security purposes.
    - a. **Security Function** - I have heard it said that the mediator should lock the mediation room once the parties have entered the virtual mediation room. I do not agree. Parties sometimes lose their internet connection or accidentally get kicked out of the mediation. Typically, if a party is momentarily disconnected from the mediation, Zoom will automatically reconnect the party to the mediation. If this does not happen, the disconnected party will have to log back in the same way they did at the beginning of the mediation. They will then be in the Waiting Room until the mediator allows them back into the mediation room. Additionally, if someone is trying to illegitimately enter an online mediation to which they are not invited, the mediator can see that person in the Waiting Room and remove them from the mediation.
    - b. **Ending the meeting:** Zoom has an End the Meeting function which allows the mediator, as host of the online mediation, to end the meeting for everyone. However, sometimes there are reasons that the parties do not want to leave the mediation room immediately after the mediation has ended. In some circumstances, use of the Manage Participants option would be better for the parties and/or the mediator. For example, sometimes one of the parties will need to stay in the mediation to receive referrals for parent training or social service agencies but the other parties are ready to leave the mediation room. In cases where the other parties are unable to leave the meeting themselves, the mediator can simply remove the other parties who are ready to leave from the mediation room with the Manage Participants feature on Zoom.
    - c. **Co-Host Functions** – If a mediator who is hosting an online mediation wants to share hosting duties/privileges with someone else (such as a co-mediator, translator or a trusted amicus), the mediator should grant co-host permission to the designee under Manage Participants tab. This is particularly helpful when the co-host is familiar with Zoom and can move themselves in and out of rooms without further assistance from the mediator. However, in order to utilize the co-host function properly, it is important to understand what a co-host can/cannot do and some possible technical difficulties I have experienced with Zoom.
      - i. **What the co-host CAN do:** Once the co-host is in a break-out room, the co-host can move themselves to other rooms or leave a breakout room to return to the main session. A co-host can also place people in the Waiting Room or admit them to the meeting, but they cannot do this to other co-hosts or the host. They can also rename parties.
      - ii. **What the co-host CANNOT do:** A co-host cannot assign others to breakout rooms, move the parties between breakout rooms, broadcast messages to the parties or open and close the breakout rooms.
      - iii. **Technology issues:** There are a few problems that may occur with Zoom Co-Host functions that a mediator needs to consider prior to using the Co-Host function. Sometimes the Zoom Co-Host function does not work; sometimes it only assigns some functions to the co-host; and sometimes it makes the proposed co-host the host. Hopefully, Zoom will fix these technical concerns soon. In the meantime, I recommend that you only share co-host responsibilities with someone that you trust will transfer host duties back to you, such as trusted co-mediator.
3. **Shared Screen** – The DRC-MC has received positive feedback from parties and attorneys for its use of the Zoom Share Screen function.

- a. **Writing the MSA** - We utilize this function to share important documents such as the Mediated Settlement Agreements (MSA). The Shared Screen function saves time because it allows the parties to see the MSA as it is being drafted and to make contemporaneous changes to the MSA before it is finalized. It also increases the parties' and attorneys' confidence and trust in the mediator because they can see that the mediator has heard what they said and is accurately recording what the parties have agreed upon in mediation. Note: although this increased trust is incredibly positive, the parties and their attorneys should still be encouraged to remain in the mediation until everyone has signed the completed MSA. This prevents having to reconvene the mediation to make last minutes changes/corrections to the MSA.
  - b. **Organizational Function**- The DRC-MC uses DocuSign for important online agreements such as the Agreements to Mediate which all parties are asked to sign before the mediation begins. Prior to the mediation, I will typically sign in as the Zoom host, upload the document(s) to be signed into DocuSign and enter all parties and all attorneys email addresses. Once the DocuSign agreements have been sent to and received by everyone, then I utilize the Manage Participants page so that everyone can see in real time as the parties sign the document.
4. **Breakout Rooms**- It is important for a mediator to maintain contact with the parties and tell them what is about to take place and how long that will take. For example, a mediator might say, "Alright, let me pull up the breakout rooms and make room assignments. Attorney A is going into the Petitioners' room with Party A, and it will take me a couple of more steps to get this breakout room assignment in place before I get back with you." Providing this information makes the mediator look efficient and competent, keeps the parties in the loop and eliminates little pauses in communication that would not typically happen in an in-person mediation.

Being able to participate in so many online mediations during the last month has been an extremely rewarding learning experience for me. The DRC-MC will continue to improve online mediations based on feedback from clients, volunteer mediators and comments from the online mediation community.

What has your experience been with any of these Zoom features? Do you agree with what I have shared? Please leave any tips or experiences that you have had in the comments.

*The views expressed in this document are mine and do not necessarily reflect the policies, procedures or views of the board, staff or volunteers of the Dispute Resolution Center of Montgomery County, Inc.*

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