



STUDY EXAMINES EFFECTIVENESS OF VIRTUAL MEDIATION IN PARENTING DISPUTES

Federal Access and Visitation Grant Supports Mediation in Missouri



Access and Visitation (AV) grants are awarded by the U.S. Department of Health & Human Services Office for Child Support Enforcement (OCSE) to states and territories to help increase noncustodial parents' access to and time with their children.¹ The funds typically support programs and services such as mediation, help with parenting plans, education, legal help, counseling, visitation enforcement, and development of guidelines for visitation and alternative custody arrangements.



Mediation Achieving Results for Children (M.A.R.C.H.) is a statewide non-profit in Missouri that provides mediation services to parents to resolve disputes including child support and parenting time.² M.A.R.C.H. is primarily funded by the state's AV grant and provides up to four hours of mediation services and limited scope legal services at no cost for eligible Title IV-D cases.



A 2020 study commissioned by M.A.R.C.H. assessed the effectiveness of virtual mediation via videoconferencing as a supplement to in-person and phone mediation sessions.³ Results from party and mediator surveys, qualitative interviews, and administrative data analysis show that the three mediation formats met the needs of different clientele. Parents and mediators chose formats based on preference and case characteristics, and each equally improved parents' ability to communicate post-mediation. While not generalizable given the small sample size, these and additional findings may help inform parent mediators and the broader parenting court ecosystem of the values and limitations of virtual, phone, and in-person mediation formats throughout the remainder of and beyond the COVID-19 pandemic.

Parent Mediation/ODR Improves Outcomes for Families

Mediation is a process in which a neutral, third-party professional helps two parties resolve a dispute or come to an agreement using an array of techniques.⁴ Mediation plays an important role in the family court ecosystem, providing separated or never-married parents the benefit of settling short- and long-term issues related to custody, child support, and parenting plans. In many parenting cases that have already escalated to court, mediation can serve as a useful intervention to facilitate communication. In others, mediation is a preventative measure by which parents can attempt to resolve issues outside of court. Like online dispute resolution (ODR), mediation can produce residual benefits for public agencies, programs, and the communities they serve by facilitating information exchanges and agreements privately and outside of the courts. Equally important, mediation can provide individuals with a "greater sense of voice, broader remedial options, and flexibility."⁵

Title IV-D Access and Visitation Federal Pass-Through Funds

Title IV-D of the Social Security Act established the Child Support Enforcement program, a state-federal partnership administered by the Office of Child Support Enforcement (OCSE) to provide child support services.⁶ 42 U.S. Code § 669b provides \$10 million annually to OCSE for Access and Visitation grants "to enable states to establish and administer programs to support and facilitate noncustodial parents' access to and visitation of their children."⁷ These funds are allocated to the 54 states and territories states based on the number of children living in single parent households.⁸ Each state receives a minimum of \$100,000, and grant amounts range from \$100,000 to nearly \$1 million.⁹ According to OCSE, mediation was the second most frequently provided Access and Visitation service in FY 2018.¹⁰

Key Findings from M.A.R.C.H. Virtual Mediation Study

Mediation Achieving Results for Children (M.A.R.C.H.), a Missouri non-profit created in collaboration with the Missouri Department of Social Services and Family Support Division, provides parent mediation services to resolve disputes including child support and parenting time. On average, M.A.R.C.H.'s statewide network of mediators completes about 56 mediations per month (half voluntary and half court-ordered), of which about half are no-cost mediations provided to eligible IV-D cases and the other half are fee-for-service mediations.

Mediation in videoconferencing format became available to M.A.R.C.H. clients in March 2020 to prevent COVID-19 transmission. From August to December 2020, a research team from The Justice in Government Project at American University conducted a study to assess the effectiveness of virtual mediation as a supplement to in-person and phone mediation formats for parents in 32 cases. The researchers assessed quality, accessibility, engagement, outcomes, and satisfaction with virtual, phone, and in-person mediation using M.A.R.C.H.-provided administrative data for 64 parties, survey responses from 43 parties and 17 mediators, and interviews with 5 mediators, 5 parties, and 3 parenting court stakeholders.

Key findings include:

- ▶ Parties reported selecting in-person mediation based on the content of discussion and personal preference. With this format, mediators and parties reported ease of communication, nonverbal communication, ease of scheduling, and decreased tensions.
- ▶ Parties who selected video and phone mediation cited convenience and safety as the primary drivers of their choice, and reported increased ease of communication and availability to attend sessions and decreased tension as benefits of virtual mediation. Parties who received phone mediation reported the highest ability to communicate and 73 percent of mediators reported they were “very likely” to use a virtual communication platform for future mediations.
- ▶ The same proportion of in-person and virtual mediations resulted in an agreement with a court order (50 percent). However, a greater proportion of in-person mediations (31 percent) ended in no agreement, compared to virtual mediations (10 percent).
- ▶ Pre- and post-mediation, parents’ perceived capacity to resolve conflict improved across all forms of mediation. This improvement was greatest among phone and virtual mediations. On average, parties’ satisfaction with mediation was the same across the three formats.

"This study shows how integrating technology and innovative methods can advance the field of mediation, help parents and families, and improve the administration of justice. It confirms that M.A.R.C.H. mediators will continue to offer ODR alongside traditional modes of mediation, well beyond the pandemic."

- Dawn E. Kuhlman, M.A.R.C.H. Executive Director

Although not generalizable given the small sample size and other limitations, the study's findings offer useful insights about choice and virtual mediation for the remainder of and beyond the COVID-19 pandemic. By enabling disputing parties to engage in mediated conversations outside of a formal courtroom setting and in a format most convenient and accessible for them, ODR can facilitate satisfactory parenting agreements and case outcomes, accountability between parties, and streamlined function of the courts.

Endnotes

1. See <https://www.acf.hhs.gov/css/grants/current-grants/access-and-visitation-mandatory-grants>
2. See <https://www.marchmediation.org/funding.html>
3. See https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3835515 and <https://mailchi.mp/716dc25c5cff/justresearchapril2021>. See also <https://jccc.yuja.com/IV/Video?v=3134246&node=10591875&a=32272768&autoplay=1> (password: CONFLICT)
4. See https://www.americanbar.org/groups/dispute_resolution/resources/DisputeResolutionProcesses/mediation/
5. Eisenberg, D. T. & Ebner, N. (2020), *Disrupting the Eviction Crisis with Conflict Resolution Strategies*, Mitchell Hamline Law Journal of Public Policy and Practice 41(3), <https://open.mitchellhamline.edu/policypractice/vol41/iss3/2>
6. See https://www.ssa.gov/OP_Home/ssact/title04/0400.htm and Congressional Research Service (January 2021), *Child Support Enforcement: Program Basics*, <https://www.everycrsreport.com/reports/R522380.html>. For a case study about using Title IV-D funds for online dispute resolution in child support cases, see <https://www.american.edu/spa/jpo/toolkit/upload/title-iv-d-and-odr-case-study.pdf>

7. See 42 U.S. Code § 669b, *Grants to States for access and visitation programs*, <https://www.law.cornell.edu/uscode/text/42/669b> and U.S. Department of Health & Human Services, Administration for Children and Families Office of Child Support Enforcement (March 2020), *Access and Visitation Program Update FY 2018*, https://www.acf.hhs.gov/sites/default/files/documents/ocse/av_report_2018_final.pdf
8. Lee D. Morhar, Karen Ann Lash, Katherine Altneder, and Renee Danser (2017), *Self-Represented Litigation Network Resource Guide: Use of Title IV-D Child Support Program Resources For Court Based Self-Help Services*, https://www.srln.org/system/files/attachments/SRLN%20Title%20IV-D%20Resource%20Guide%20Revised%2012%202017_0.pdf
9. *Ibid.* at 10.
10. U.S. Department of Health & Human Services, Administration for Children and Families Office of Child Support Enforcement (March 2020), *Access and Visitation Program Update FY 2018*, https://www.acf.hhs.gov/sites/default/files/documents/ocse/av_report_2018_final.pdf