

Office of Massachusetts Attorney General

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Face to Face Mediation Program

Standards and Responsibilities

Fiscal Year 2021

Requirements

1. Face to Face Mediation Program (FTFMP) grant funds shall be used only for expenses involved with the intake, resolution, administration of consumer complaints and outreach concerning consumer topics.
 - No funding shall be used for expenses incurred outside of the Commonwealth, including but not limited to conference/convention fees, travel or lodging.
2. FTFMPs will provide service to the designated geographic area as specified in the Scope of Services.
3. Pursuant to M.G.L. c. 12, §8(F)(J), all charitable organizations, except those organized exclusively for religious purposes which are eligible for tax exempt status under 26 U.S.C. §501(c)(3), must register, file annual financial reports, and be up to date with all reporting requirements of the Non-Profit Organization/Public Charities Division of the Attorney General's Office (AGO) in order to be eligible to receive grant funding from the AGO.
4. It is the duty of all grant funded programs to notify the AGO immediately if your organization is the subject of any investigation, complaint, or lawsuit by any federal, state, or local law enforcement or regulatory agency.
5. The AGO requires that FTFMP grant recipients choose the "contributory" rather than the "reimbursable" method of financing unemployment benefits as allowed under the Employment Security Law (151A, §14A). FTFMP grant monies may be used for the quarterly contributions to the unemployment insurance fund. However, under no circumstances can FTFMP grant monies be used to pay unemployment benefits.
6. As a condition of grant award, each Program agrees that representatives of the AGO at any time may review the financials, print and electronic records, and/or filing system of the Program to ensure compliance with the terms of the grant award. Such inspection, review and/or audit by representatives of the AGO may occur at any time, with or without notice to the Program.
7. Failure to comply with any portion of the Scope of Services and Standards and Responsibilities may result in:
 - Forfeiture of grant monies not yet disbursed and/or reimbursement of previous monies awarded; and/or
 - Suspension or termination of grant program.

Relationship to the AGO

1. Any time reference is made to the Program's affiliation with the AGO (in writing or verbally,) use the statement "working in cooperation with the Massachusetts Attorney General's Office."
2. The Program agrees to identify the AGO as a funding source for the consumer mediation program in any printed or electronic materials.
3. The point of contact for the Program at the AGO is Nathan Gardner, (617) 963-2150 or Nathan.Gardner@mass.gov.

Minimum Standards of Performance

1. Each Program is responsible for providing a minimum of 30 hours per week of operations. Operations may include but are not limited to mediations both in court and/or in office and outreach events. Additionally, each Program must have an answering machine or voicemail system to receive calls outside of hours of business. When a call cannot be answered during business hours, calls must be routed to an answering machine or voicemail system.
2. Notice of all office closings must be submitted to Nathan Gardner, Nathan.Gardner@mass.gov, at least fourteen (14) days in advance.
 - Closings include but are not limited to: scheduled vacations, office holidays and events (outside of Federal holidays), and planned outreach and trainings.
 - In the event of an office closing, the office's voicemail must indicate that the office is closed, when the office will reopen, and a number for immediate assistance.
 - In the event of an unanticipated closure, i.e. storm closure, utilize best judgment as to whether the office will be open. If the decision is to close, please send notification to the email addresses listed above.
3. No Program or office shall close for 2 or more consecutive business days without advance written notice to and approval from the AGO. Moving full operations to a remote work environment will not constitute a closure.
4. At least one representative from the Program must attend any regularly scheduled in-person or telephone conference calls scheduled by the AGO.
5. Each Program agrees to accept for its service area mediation referrals from the AGO and complaints filed directly with its office regardless of the location of the parties. These complaints should be mediated or referred to another agency as appropriate, with consideration being given to the consumer's request regarding the geographic location.
6. Each program shall develop, implement, maintain, and monitor a Written Information Security Program (WISP) designed to safeguard the personal information of residents of the Commonwealth contained in the records of the complaints and referrals. This WISP must be as protective as the Attorney General's in accordance with M.G.L. c. 93H and 940 CMR 27.00.
7. If a program is unable to meet the Minimum Standards of Performance due to disruptions caused by COVID-19, the Program must contact Nathan Gardner at Nathan.Gardner@mass.gov.

Education and Outreach

1. Programs are required to organize at least four (4) education, training, or outreach activities in their communities with the funds they receive from the FTFMP per grant year. Remote education, training, or outreach activities will count towards this requirement as long as program staff are able to verify that the activities are attended by remote participants.
 - Programs may not charge any fee for the activities.
 - Activities must be available to the public.
 - Knowing that groups may work with other community organizations that are targeting a specific cohort, these events are typically advertised in a community publication and thus open to the public.

- Scheduling events in schools or similar establishments is encouraged and understood to not be necessarily open to the public.
 - Attendance at AGO trainings or quarterly meeting do not count towards outreach.
- 2. In the outreach or education efforts, Programs may discuss only the process of mediation and general consumer related topics. Under no circumstances are the Program staff members to discuss specific details pertaining to mediations, companies, or consumers.

Press Inquiries

1. All inquiries from the press related to information concerning consumer complaints and/or practices of a business must be referred to the press office of the AGO. The press staff may direct the media to the Programs as appropriate but will first notify the Program director and will discuss the nature of the request and the type of information he/she is at liberty to discuss.
 - Program Directors may not talk to the media about complaint-related information until they have received clearance from the AGO press office or other Attorney General staff. The AGO's Press Office can be reached at 617-727-2543.
 - Upon approval from the AGO's Press Office, the Program may discuss generally with the press the type of service it provides and the kinds of complaints the program typically handles.
 - In any press contact, the Program should mention that it is a recipient of a FTFMP grant and that it works in cooperation with the AGO.
 - If a Program has a regularly scheduled appearance on or in the local media, the AGO shall be notified as soon as each occurrence is scheduled and the topic to be discussed. A prescheduled list of occurrences, topics, and dates is also acceptable.

Public Records Requests/Records Retention

1. As grantees of the AGO, Face-to-Face Mediation Programs are expected to adhere to the provisions of the Massachusetts Public Records Law (PRL).
 - A record is defined as any document or data, whether in electronic or paper format, and includes complaints, correspondence, emails, memos, notes, and other materials that are included in or related to a case file.
 - Requests for inspection or copying of records must be responded to in a timely manner, i.e. within ten (10) business days of the initial receipt of the request.
 - The PRL requires a response to written requests. These requests, which include those made by regular mail, e-mail, facsimile, or in-person should be reviewed and responded to in compliance with the PRL.
 - The Supervisor of Records (within the Office of the Secretary of the Commonwealth) maintains a website containing further guidance on the PRL requirements. This guidance may be accessed by clicking on "Information on the Public Records Law" at: <http://www.sec.state.ma.us/pre/preidx.htm>
2. Face-to-Face Mediation Program grantees are also expected to follow Records Retention Policies.
 - Records must be maintained for a certain period of time before they can be destroyed.
 - Please consult the Administrative Office of the Trial Court for the applicable retention schedules and further information regarding records retention.

Reporting Requirements

1. On a quarterly basis, grantees must submit reports in the forms requested by the AGO. All reports must be submitted electronically to Nathan Gardner at Nathan.Gardner@mass.gov.

2. Programs must submit the financial and programmatic reporting forms by the established due dates.
3. Documentation (such as vouchers, pay stubs, receipts or copies of receipts) should not be attached to a financial reporting form, but must be made available to the AGO upon request.

Computer Standards

1. Each Program must have a functioning computer with internet access, word-processing, PDF, spreadsheet capability, a printer, and access to a scanner.
2. The computer must have an Antivirus and a Firewall program(s) installed and updated regularly.
3. Each Program must have a valid email address for communications with the AGO.
 - o Email is not an acceptable form of mediation therefore mediation should not be conducted in this manner.

Legal Representation

The AGO is not permitted to provide legal representation to Programs, volunteers and/or paid staff of Programs who are sued, subpoenaed, or deposed with respect to mediations handled pursuant to these awards.

Disbursement of Funds to a Grantee

Disbursements of grant award funding will be made on a quarterly basis. These disbursements are contingent upon meeting the report due dates noted above in the “Reporting Requirements” section.

Confidentiality/Conflict of Interest

1. Information the Program gains through its affiliation with the AGO is a record.
2. Under no circumstances may any Program elicit or attempt to elicit any information from the consumer, other than that pertinent to the resolution of the consumer’s complaint.
 - o Face-to-Face Mediation Programs must also comply with M.G.L. c. 233 § 23C (work product of mediator confidential; confidential communications; exception; mediator defined)
3. Program staff/volunteers will not disclose any information related to or obtained in the course of mediation to any person other than the participant without the explicit authorization of the participants.
4. Conflict of Interest: M.G.L., Chapter 268A (Conduct of Public Officials and Employees) may be applicable in some cases to the Program.

Administration of Standards and Responsibilities

The AGO may make changes, additions, or deletions to these Standards, may dispense with them entirely, or may waive specific provisions as it deems necessary.

FTFMP’s Minimum Standards of Performance

1. Face to Face Mediation Programs (FTFMPs) must adhere to “The Uniform Rules on Dispute Resolution” as set forth by the Trial Court Standing Committee on Dispute Resolution.

2. FTFMPs may not charge for any cases mediated via this grant, including those referred by the AGO, LCP or Court.
3. Mediation should be made available to disputants at times other than the standard hours of operation.

Face-to-Face Mediation Process

1. Once a referral is made, staff should contact the parties by phone or letter to provide an explanation of the face-to-face mediation process.
 - *A case should be counted as a "referral" if at least one party has actively contacted the program.*
2. An "Agreement to Participate" form must be signed, in accordance with M.G.L. c. 233, § 23C of the General Laws, by all parties before mediation.
3. All referrals should receive an I.D. # and be entered into a master log.
4. Terms of agreement should be clearly written on an agreement form; each party should receive a copy. One copy should remain in the case folder. Staff should follow-up on the settlement until all the terms are completed if possible. If no agreement is reached, the parties should be sent back to the referring agent or to small claims court.
5. At the conclusion of each mediation, mediators and clients should fill out post mediation evaluation forms.
6. An agreement should be reported as upheld on the monthly report form if the majority of the term(s) are met.
7. A mediation case folder should be assembled. The mediation case folder should contain:
 - an intake form;
 - a *signed* Agreement to Participate form;
 - In a remote work environment, digital signatures may be accepted. Digital signatures must have strict verification standards such as those provided by DocuSign or Adobe certificate-based digital signatures;
 - a client contact sheet with dates/content of actions taken and intake notes;
 - post mediation evaluation forms;
 - a signed copy of the mediated agreement if in writing;
 - notes confirming that the agreement has been upheld and completed (if applicable)
8. Complete case notes shall be kept in the case folder for each complaint. Personal opinions of the mediator or any staff shall not be recorded.