

## **MASIC-S SCORING FORM: Score of 10 or higher AND a report of severe or permanent injury and/or current fear**

Save this as a new document named “MASIC-S Scoring Form” and include internal case number and which party (1<sup>st</sup> or 2<sup>nd</sup>, or Mo or Fa, etc.)

**Reminder: Do not input any actual case numbers into this form, nor any identifying information about the case or the parties in the case, including names, birth dates, social security numbers, locations, and the like.**

- **A MASIC-S score of 10 or higher AND a report of severe or permanent injury and/or current fear** means this party is reporting very concerning information about their situation, for example, current or recent severe physical violence, threats of severe violence, sexual violence, stalking, fear, and/or severe or permanent injury.
  - In this case, the screener should refer the party to a domestic violence (DV) advocate or program. We strongly recommend that referrals be made to DV advocates or programs that are trained in the Danger Assessment (see Comprehensive Guidance), so that the party will be assisted with an assessment of their risk of harm from the other party along with safety planning. When you make a referral, encourage the survivor to discuss with the DV advocate whether mediation is advisable or appropriate in their circumstances, and if so, whether the survivor should **bring a DV advocate, attorney, or a support person** to the mediation.
  - In this type of case, consider carefully the various accommodations that are set out below (as well as any other accommodations that might be appropriate in the particular circumstances).
  - Accommodations may also be appropriate based on other, non-DV concerns disclosed in the MASIC-S screening process.

### **PART I – REFERRAL TO DV ADVOCATE**

#### **Suggested language for referral to DV advocate (directly to party):**

*“Based on your responses, you may be in danger from the other party. I/we understand that this may be distressing to hear. **Before mediation takes place, I/we encourage you to contact an advocate at [PROVIDE THE NAME AND CONTACT INFORMATION FOR DOMESTIC VIOLENCE PROGRAM OR ADVOCATE], to discuss whether mediation is advisable or appropriate for you, if it would be helpful for you to have an advocate support you during mediation and/or in court hearings, and to prepare a safety plan if necessary. Be sure to tell the advocate that your responses to my/our screening questions for mediation indicated that you may be in danger of harm to your physical safety, and you were referred to their program after screening conducted for mediation. As a reminder, we will not share the information you provided in screening with the court or the other party.**”*

**Suggested language for referral to a DV advocate (through a party’s attorney):**

*“Based on your client’s responses to my questions in their mediation screening interview, they may be in danger from the other party in this case. I/We understand that this may be distressing for your client to hear. **Before mediation takes place, I/we encourage your client to contact an advocate at [PROVIDE THE NAME AND CONTACT INFORMATION FOR DOMESTIC VIOLENCE PROGRAM OR ADVOCATE], to discuss whether mediation is advisable or appropriate for them, if it would be helpful for them to have an advocate support them during mediation and/or in court hearings in their case, and to prepare a safety plan if necessary.** Your client should be sure to tell the advocate that their responses to my/our screening questions for mediation indicated that they may be in danger of harm to their physical safety, and they were therefore referred to their program. As a reminder, we will not share the information your client provided in screening with the court or the other party.”*

**Notes to Screener:**

- In addition to making a referral to a DV advocate or program, consider related accommodations for the party, including bringing a DV advocate, support person, or attorney to mediation.
- In all cases, remind a survivor: ***If you are in immediate danger or fear for your physical safety, call 911.***

**PART II – WHETHER TO MEDIATE**

*Based on this party’s report, do you believe the case is appropriate for some form of mediation?*

Yes, this case is appropriate for some form of mediation – **If YES TO THIS QUESTION, PROCEED DIRECTLY TO PART III BELOW.**

No, this case is **not** appropriate for any form of mediation – **If No to this question, answer Questions (A), (B), and (C) below as applicable.**

**(A)** If you determine that the case **is not appropriate for any form of mediation**, record your reason(s) here:

**(B)** If you determine that the case **is not appropriate for any form of mediation** because of concerns about intimate partner abuse or violence, are there any ethical constraints and/or any safety concerns in how you should communicate this decision to the parties and/or the court? Record these concerns here:

**(C)** For the first party only: If you determine that the case **is not appropriate for any form of mediation** immediately after completing the first party’s MASIC-S (typically a female

party), consider whether it would be safe or appropriate to conduct the full MASIC-S interview with the other party. Depending on the reports given by the first party, it may be appropriate only to ask the MASIC-S Section 4 Questions, and perhaps the Section 3 Questions. Again, consider the ethical constraints and/or safety concerns in how you communicate the decision not to mediate to the parties and/or the court. If applicable, record these concerns here:

**After you address A, B, and C, YOU ARE DONE WITH THIS PARTY'S MASIC-S SCORING FORM. SKIP PART III AND PROCEED TO PART IV BELOW. After you have completed the more limited MASIC-S screening with the other party (if that party is the second party screened), you will be informing the referring Court that mediation is not appropriate in this case (assuming that this is appropriate to communicate to the Court).**

### **PART III – HOW TO MEDIATE**

**If case is appropriate for some form of mediation based on this Party's report, then complete the questions below.**

#### **Minimal Accommodations for IPV/A when Mediating this Case Based on this Party's Report:**

\* We recommend that a party with a **MASIC-S score of 10 or higher AND a report of severe or permanent injury and/or current fear** communicate indirectly with the other party through the mediator, i.e., in shuttle mediation in remote (online) or in-person format. Accommodations may also be appropriate based on other, non-DV concerns disclosed in the MASIC-S screening process.

\* A party with a **MASIC-S score of 10 or higher AND a report of severe or permanent injury and/or current fear** should NOT mediate jointly in-person with the other party. If this party and the other party both wish to communicate directly for some or all of the mediation, and the mediator believes that this direct communication is safe and appropriate in the particular case, then any direct communication between the parties should take place remotely (online), e.g., over Zoom or another communication platform.

\* *In this situation, given the high MASIC-S score AND report of severe or permanent injury and/or current fear, we are not providing an option for no accommodations needed.*

#### **Screener Recommended Accommodations Needed for this Party Based on their MASIC-S Report:**

Are any of the following accommodations necessary to help ensure a safe, voluntary, and appropriate mediation process?

**Separation of Parties (check all that are needed):****Remote (Online):**

- No direct communications:** Videoconferencing, telephone, or online mediation with parties in separate locations (that are private and safe) and not communicating directly at any time (the mediator shuttles between the parties in separate breakout rooms for the entire mediation).
- Some direct communications possible (possible but not recommended for this case):** Videoconferencing, telephone, or online mediation with parties in separate locations (that are private and safe), with parties communicating directly for some of the mediation if the mediator is present at all times during the direct communications; parties do not have to communicate directly for all of the mediation (e.g., instead, the mediator could shuttle between the parties in separate breakout rooms for some part of the mediation).

**In Person:**

- No direct communications:** Parties to mediate in separate rooms at all times (shuttle mediation).
- Staggered arrival and departure times** for parties (with the victim, or in the case of two victims, the primary victim [i.e., the party with the higher IPV/A score who you deem to be more at risk], arriving second and leaving first).
- Escort:** This party needs escort to/from car or public transportation.
- Additional precaution:** This party needs way to leave the building without being seen by the other party.

**Security:**

- Secure facility:** Mediation at secure facility, passing through security, presence of armed guards, etc.

**Referrals/Representation/Support (check all that are needed):**

- Referral to DV program or shelter** for this party
- DV advocate** to be present for this party
- Attorney** to be present for this party
- Support person** to be present for this party

**Other:**

- Other accommodation (specify):

## **PART IV – FINAL CASE EVALUATION**

**Fill out your final case evaluation in only one of the two MASIC-S Scoring Forms.**

**Typically, you should complete this part of the MASIC-S Scoring Form after the more concerning party MASIC-S report.**

**If this form was completed after the first party's MASIC-S screening, return here after you have screened the second party to finalize your recommendations in this case.**

**If this form was completed after the second party's MASIC-S screening, review the MASIC-S Scoring Form for the first party screened to finalize your recommendations in this case.**

### **Follow these Instructions/Answer these Questions:**

Consider the information obtained from each party's MASIC-S Party Evaluation Form and Scoring Form.

Has your decision about whether some mediation is appropriate changed? If so, please document your reasoning:

If you are recommending that the case is appropriate for some form of mediation, include the accommodations indicated on this Party Evaluation Form and the other party's Party Evaluation Form. If accommodations about the structure of the mediation differ between the two forms (i.e., shuttle or joint), your recommendation should be based on the party who has reported the most concerning responses on the MASIC-S.

### **Conveying your recommendations to the Court (if applicable) and the mediator.**

#### **To the Court (assuming this communication is permitted or expected):**

When conveying your recommendations to the Court, indicate only (1) whether or not mediation is appropriate and (2) whether the mediation should be conducted in shuttle format, either in-person or remote (online), or if some direct communications between the parties would be permissible in remote (online) mediation. If you provide more information than this to the Court, you will breach the confidentiality of the screening process and you may put a survivor at risk of harm. We are not providing a form because mediators and mediation programs will differ in whether and how they communicate with the referring court.

### To the Mediator:

The mediator should receive the recommendation provided to the Court, plus the two MASIC-S Soring Forms (this and the other party's form). Depending on the program, we recommend that the mediator also receive the PDFs with the parties' MASIC-S responses and total score. The mediator should understand the background between the parties when mediating the case.

#### → Reminders:

Unless you have decided that it is unsafe to proceed with the other party, please complete the MASIC-S Party Evaluation Form and Scoring Form for the other party, and then complete Part IV: Final Case Evaluation.

Even if you conclude that the case should be mediated, an identified survivor in this process may later decide to withdraw from the mediation process and have their case heard by the court.

**\*\*Screeners/mediators should always accommodate someone who expresses *fear* of the other party. Accommodation will vary depending on the circumstances, but a mediator should *not* insist that a party start or continue mediating when that party says that they do not want to mediate because of fear of the other party.**

**\*\*It is also not appropriate to require or force a party who self-identifies, or who you identify, as a survivor of intimate partner violence or abuse to participate in the mediation process if they do not want to or do not feel comfortable participating.**

Some survivors of IPV/A may not believe that they are at risk. Although we generally want to empower a survivor who affirmatively wants to mediate, in making the decision whether or not to mediate, we must also consider: (a) the risks involved and (b) what accommodations to provide if we decide to mediate. In addition to safety risks, be sure to consider any other concerns presented in the specific situation, including balance of power issues, the possibility of coercion, the mediator's ethical duty not to facilitate involuntary and/or unconscionable agreements, and the mediator's ethical duty to remain impartial.

It is also important to continue to be alert for IPV/A that was not disclosed in the screening process. This may become apparent after screening, during the negotiation process. Consider the parties' conduct and/or reactions towards each other.

Even with screening before the start of negotiations, there may be times when a mediator learns belatedly of intimate partner abuse or violence. If during the mediation, you become concerned about the possibility of intimate partner abuse or violence, take a break to consider how to proceed. Be sure to keep the parties separate while you determine the appropriate action to take.

**Disclaimer:** The MASIC-S (including the current version and any and all prior, future, and derivative versions) is intended for screening purposes only and does not provide any formal diagnosis of anyone screened or discussed in screening. The MASIC-S authors have no legal liability or responsibility for the accuracy and/or completeness of information obtained through screening done with the MASIC-S, or for evaluations and/or recommendations made based upon information obtained through MASIC-S screening. Users of the MASIC-S, or information

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