

COMPETENCIES GUIDELINES

This is not an exhaustive list of competencies and is intended as a guideline of generally recognized desirable qualities for competent practitioners.

ADMINISTRATIVE SKILLS

General Definition:

The ability to organize and conduct the practice of ADR in an efficient and effective manner.

1. Ability to organize and maintain office systems
 - appointment system
 - correspondence system
 - engagement file system with monitoring feature
 - time log, billing and disbursements receivable system
2. Ability to work within the system/rules governing the accepting and handling of engagements
 - records details of appointment (terms, conditions and fee)
 - confirms appointment in writing (engagement letter or contract)
 - ensures all pertinent correspondence, sent and received, is provided to both parties
 - demonstrates a clear understanding of the applicable Rules and Ethics
3. Ability to allocate time, effort and other resources
 - expeditiously reviews and deals with documents and information received
 - develops an overall perspective of the engagement
 - draws up timetable for dealing with preparatory matters and conduct of the DR process
4. Ability to organize the required needs of the DR process
 - adequacy of session room to accommodate the parties and others
 - capability to provide privacy for consultations and caucusing (if required)
 - suitability of the location in terms of minimizing external distractions or interruptions
 - capability of session facility to meet special needs of participants
5. Ability to bring the engagement to completion
 - has a good understanding of closure techniques and the settlement process
 - understands the importance of working co-operatively to draft the memorandum of understanding and/or settlement agreement
 - submits fee billing in accordance with terms of engagement or within a reasonable time

PROCEDURAL SKILLS

General definition:

Ability to recognize the nature of the dispute and establish clear understandings concerning the process with and between the parties

6. Ability to determine if the DR process is appropriate to the particular situation:
 - reviews contracts between the parties (if they exist)
 - ensures the issues in dispute are covered by the clause or are suitable for the DR process
 - determine that he/she possesses adequate knowledge of the business or issues encompassing the dispute
 - ensures there is no reason for parties to challenge the appointment
 - ensures that the appointment is consistent with applicable laws or institutional rules
7. Ability to establish clear understandings
 - clearly explains the role of the DR practitioner
 - clearly defines and explains the DR process
 - emphasizes the mutually agreed solution principle
 - emphasizes the right of the parties to withdraw
 - emphasizes the confidentiality principle and explains its limitations
 - determines that participants have sufficient authority
 - reviews the engagement letter/agreement
 - ensures unrepresented parties have addressed legal and expert advice issues
 - in cooperation with the parties, estimates time that will be required for the process
 - formalizes the engagement in writing
8. Ability to supervise any preliminary meeting
 - supervises conduct of the meeting
 - explains the purpose and content of the meeting
 - brings the parties to agreement on procedural matters
9. Ability to deal with preliminary matters
 - holds preliminary meeting if required or requested
 - provides assistance to the parties in preparing for the process
 - determines if legal counsel, witnesses, experts or other parties will be involved
 - ensures all parties have a clear understanding of how the session will be conducted and settlement effected
 - ensures all necessary procedural steps have been completed

RELATIONSHIP SKILLS

General Definition:

The ability to instil and maintain a positive relationship and good communication

10. Ability to maintain a positive relationship

- acts with courtesy, respect and patience and encourages the parties to do the same
- separates personal values from issues of the DR process
- earns trust
- builds rapport
- does not pre-judge the parties on the issues
- is modest in attitude held towards others
- works with strongly held values of the disputants, including ethnic, gender and cultural differences
- devotes appropriate care and attention towards the parties

11. Ability to listen effectively

- listens to both parties in an passive and active manner
- exhibits an understanding of the importance of body language to the listening process
- intervenes selectively to obtain clarification, assist in understanding or maintain order

12. exhibits patience Ability to speak effectively

- uses clear diction and collateral body language
- asks succinct questions when necessary
- is direct but not intimidating
- speaks in a clear audible voice
- uses simple language
- utilizes terminology that is common to the parties' industry

13. Ability to maintain an atmosphere conducive to communication

- uses civil language
- permits humour which is beneficial to the process
- displays understanding of the factual material and submissions
- puts parties and witnesses/collaborating presenters at ease
- avoids distracting body movements or facial expressions
- discourages an excessively adversarial climate

FACILITATION SKILLS

General definition:

Ability to conduct the session using fair, flexible and effective procedures, skills and techniques

14. Ability to conduct a fair session

- maintains neutrality and impartiality
- understands the nature of power imbalances and how to deal with them
- treats parties fairly and equally
- preserves party autonomy
- allows each party an opportunity to examine witnesses/collaborating presenters
- allows parties to make objections and respond fully to objections
- allows parties adequate time to deal with surprises
- deals expeditiously with questions on procedural matters
- keeps interruptions to a minimum
- imparts and encourages courtesy and respect
- accepts criticism in a constructive manner

15. Ability to promote an assertive tone

- speaks in an assertive manner
- encourages the parties to conduct themselves in an assertive manner
- assists the deliberations by rephrasing accusatory or aggressive statements into an assertive form

16. Ability to organize and analyze data

- develops an overall perspective of the engagement
- understands the sequence and nature of events contributing to the dispute
- exhibits the ability to deal with complex factual material
- organizes data into a logical library format
- determines the most effective and efficient way to utilize the data to complement the process

17. Ability to deal with the issues

- possesses an adequate knowledge of the business/industry related to the dispute
- assists the parties to clarify and identify the issues
- isolates those issues that are of no or little relevance
- separates the parties' claims and issues
- assists the parties to establish an objective methodology to evaluate claims
- reconstructs the issues in terms that will assist understanding

18. Ability to advance the process

- separates the people from the problem
- assists the parties to maintain focus and momentum
- assists the parties to evaluate submissions and the relevant material
- is open to suggestions and ideas presented by the parties
- assists the parties to generate creative options
- assists the parties to evaluate their positions using BATNAs and reality checks

19. Ability to bring closure and achieve settlement

- recognizes the optimum moment when the parties express a desire to deal/compromise
- assists the parties to bargain a solution
- utilizes appropriate tools and techniques to achieve closure
- assists the parties to move from closure to settlement
- assists the parties to assess whether proposed settlement terms can be implemented