



International Mediation Institute

www.IMImediation.org

Criteria for Approving Programs to Qualify Mediators for IMI Inter-Cultural Certification

IMI set up a Task Force in April 2010 to develop criteria for inter-cultural mediator training and IMI Certification. The Task Force's goals were to develop criteria that are succinct, flexible, and feasible to implement by trainers and QAPs (Qualifying Assessment Programs).

These Criteria are the result of the Task Force's work, which was part-funded by the General Electric Foundation. It involved, during 2011, online public consultation and pilot programs in Paris, Brisbane and Singapore, with participants from across the globe who provided active and direct input into this initiative, for which IMI is very grateful.

Training, professional and provider organizations wishing to offer IMI Inter-Cultural Certification are invited to submit their applications to become Inter-Cultural Qualifying Assessment Programs (ICQAPs) to the Chair of the IMI Independent Standards Commission (ISC)¹. Once approved, ICQAPs will be displayed at: <http://imimediation.org/find-an-icqap>. This link will enable mediators seeking this certification to easily find approved ICQAPs offering training programs.

These Criteria will be regularly reviewed by the ISC and may be modified in the future.

All comments and suggestions are welcomed. Please send all comments and suggestions to icqaq@imimediation.org

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Criteria Summary

IMI Inter-Cultural Certification is available to any experienced mediator who is qualified by an Inter-Cultural Qualifying Assessment Program (ICQAP) that has been approved by the IMI Independent Standards Commission (ISC). ISC will approve any ICQAP that meets the following criteria:

I. GENERAL REQUIREMENTS

- A. Methodology**
- B. Transparency**
- C. Integrity**
- D. Diversity**

II. SUBSTANTIVE CRITERIA

A. Knowledge

1. Cultural Framework(s)
2. Self-Awareness
3. Multi-Cultural Perspectives

B. Skills

4. Communication
5. Preparation
6. Managing Process

Appendix 1 - Cultural Focus Areas (CFAs)

These Criteria are described in more detail below:

I. GENERAL REQUIREMENTS

Any ICQAP must meet the following general criteria in order to be able to qualify mediators for IMI Inter-Cultural Certification:

A. Methodology

All ICQAPs must implement a performance-based assessment methodology for assessing whether each candidate's performance meets each of the Substantive Criteria in Section II below.

Comment: The assessments may be based on written material, role-play or live action evaluations, other suitable method, or any combination, and may include videotaped and online assessments such as web dramas, self-assessments, interviews, peer reviews, user feedback and other in-practice skill evaluations.

B. Transparency

The benchmarks and criteria applied by an ICQAP must be published and be openly accessible on the organization's website.

Comment: Details of all approved programs will be listed on the IMI web portal www.IMImediation.org and will include a direct link to each credentialing organization's website for that program.

C. Integrity

Each Assessor must have substantial experience of evaluating the performance of mediators and in working in inter-cultural situations. At least one of the Assessors on each Program must be independent of the ICQAP training faculty for Inter-cultural Certification.

D. Diversity

The ICQAP must be accessible on an equal basis to experienced mediators regardless of their professional affiliations, gender, race, ethnicity, age, religion, sexual orientation or other personal characterization. This should be clearly stated on each ICQAP's website.

II. SUBSTANTIVE CRITERIA

Any training program that offers IMI Inter-Cultural Certification must meet these minimum substantive criteria when teaching mediators the following inter-cultural elements:

A. Knowledge.

1. Cultural Framework(s): Ability to apply at least one recognized cultural theory for identifying Cultural Focus Areas relevant to facilitating inter-cultural mediations (see Appendix 1). The theory and approach shall include an appreciation of similarities and differences among cultures.

Comments:

(a). Any selected framework should provide suggestions as to how to use culture and possible Cultural Focus Areas derived from the framework, while avoiding stereotyping when setting up and participating in mediations. Although there are many recognized and respected theories, the goal is not to learn comparative theories about culture or to master a particular theory. The goal is to be able to apply a selected theory or theories about culture in such a way as to help mediators consider appropriate issues when setting up and facilitating an inter-cultural mediation.

(b). Understanding culturally shaped norms and expectations can help explain parties' different perspectives and possible impasses that these perspectives may create. However, it is important to avoid considering culture as an overly inclusive concept to try to explain all behaviours that individuals may manifest, which may not always be group-related but also can be linked to individual considerations (e.g., age, gender, residence, etc). Mediators should strive to apply their understanding of culture as a tool to foresee possible patterns of behavior while considering mediation as a social process that can help people from different cultures to communicate optimally with one another.

(c). Any discussion of culture in the context of mediation needs to consider how the concepts of "parties", "participants", "conflict", "resolution", "mediation", "conciliation" and "process" can have different meanings in different cultures.

2. Self-Awareness: Ability to recognise one's own cultural influences and their possible effect on the mediation.

Comments:

(a). Mediators should be conscious of their own culturally influenced practices including how culture may form lenses through which mediators can view and interpret the behaviour of others.

(b). Mediators should consider how their culturally shaped preferences or behaviour might be viewed and interpreted by participants.

(c). Mediators should learn to recognize signs of their own surprise, discomfort, or cognitive dissonances when facing cultural differences, and develop adaptive strategies for re-establishing balance, coping with cultural ambiguities, and managing unfamiliar or contrary practices.

3. Multi-Cultural Perspectives: Ability to recognise each participant's culturally-shaped perspectives of behaviours or events. Ability to understand and appreciate participants' similar and different cultural perspectives, and possible imbalances between them. Ability to manage ambiguities and mistakes that may emerge in multicultural situations. Ability to use the mediator's understandings of these possible differences and similarities to create a workable environment for all participants, including an environment that optimizes communication among them.

Comments:

(a). Mediators should be sensitive to the participants' possible perceptions of the behaviour of the mediator and the behaviour of other participants, and sensitive to participants' preferences in handling procedural issues or substantive topics.

(b). Mediators should not react negatively when faced with different ways of doing things, unless the behaviour violates the mediator's fundamental personal values.

(c). When working with multiple cultural perspectives, mediators should learn to deal with possible uncertainty, ambiguous information or circumstances, unintentional mistakes (e.g. cultural malapropisms), and possible unconscious biases or behavioural scripts of participants.

(d). Mediators should consider the best styles and processes for dealing with issues related to multiple perspectives, including whether to address different perspectives in caucuses or joint sessions or directly or indirectly with the participants, as well as how to generate procedural options that all participants can work with.

(e). When managing multiple cultural perspectives, mediators should consider how and whether to co-mediate with neutrals from other cultures or involve interpreters as cultural consultants when preparing for and participating in mediations.

B. Skills

4. Communication: Ability to adjust one's own communication style to the styles of participants from other cultures, and to help participants communicate optimally with each other, including establishing suitable processes to facilitate communications.

Comments:

(a). Mediators should be able to employ suitable inter-cultural communication skills when interacting with participants as well as with co-mediators from other cultures. For example, under one theory, selecting the suitable communication style for mediators may involve identifying a point on the direct-indirect communication continuum relevant to a participant, a point that can be influenced by a number of other cultural parameters such as the power distance index and relationship orientation of the participant.

(b). Mediators need to check for compatible communication styles among the participants and consider whether, how and when to assist participants in communicating in the event of possibly incompatible communication styles.

(c). Mediators should be able to assist participants in understanding how information may be conveyed in different ways across cultures.

(d). Mediators may need to help participants adjust the way they communicate with each other based on such parameters as the participants' comfort in displaying emotion, their ability to empathize or understand others' perspectives, their comfort with face-to-face discussion of sensitive topics, and their preference to pursue delicate matters through indirection (e.g., to avoid "loss of face"). Mediators may need to be prepared to help the participants render explicit what may have been implicit in their behaviour, or to state less explicitly what a participant may prefer to learn implicitly. Mediators also might help the participants generate a new set of behavioural norms for the purposes of the mediation.

(e). Mediators need to learn to assess if, when, and how to use caucuses with participants to facilitate communications.

5. Preparation: Ability to prepare for a mediation by identifying possible cultural patterns and preferences (e.g., identifying specific Cultural Focus Areas for each mediation) and designing appropriate processes and possible interventions.

Comments:

(a). Mediators should learn to prepare for inter-cultural mediations by researching and anticipating possible culture affects and by figuring out what process may work best for the participants based on any Cultural Focus Areas that the mediator may have identified. When preparing for a mediation, mediators should consider holding preliminary interviews with the participants, designing culturally appropriate procedural rules for behaviour and interaction, and formulating interventions to help parties recognize and address any culturally-influenced communications, interests, or impediments.

(b). The aim of this preparation should be to construct hypotheses for how to proceed initially given what a mediator may know about the participants, their representatives and their wider constituencies, and plan how to test and adapt these hypotheses as the mediation progresses. It should be remembered that preparation only gives rise to hypotheses, and mediators should not assume that their hypotheses can be relied on.

(c). When identifying interests, mediators should consider the possibility that there may be wider interests at stake than only those of the participants at the table. Those interests may include the interests of other constituencies or stakeholders (e.g., family members, elders, communities, tribunals, affiliates, and regional, national or political groups or entities). This analysis also should consider whether there may be impediments due to the participants' different sense of status or different needs for procedural certainty, autonomy, fairness, or relatedness.

(d). Mediators should be flexible and open to re-assessing and modifying their procedural preferences and styles of intervention, as illustrated by the following examples:

- i. Whether to convene a pre-mediation meeting with each party, certain parties only, or their representatives.
- ii. Whether to request prior written submissions and the type of submissions that may be helpful.
- iii. Where the mediation should take place, who should attend, and what food, dietary needs, external resources, social activities or welcoming rituals should be considered.

- iv. Whether to work with the parties to design a procedure to meet any needs for mutual respect, autonomy, affiliation, certainty, or procedural fairness, in which statuses and roles are relevant (e.g. dress code, seating arrangements, and forms of address).
- v. Whether to help participants avoid cultural norms that may be deemed politically or culturally incorrect by others, as well as avoid being manipulated by cultural norms.
- vi. How participants or their representatives should communicate optimally with one another prior to and during the mediation, including whether to specify the role of the mediator (e.g., as non-evaluative or evaluative), the need for co-mediators or interpreters, who may speak and write, the order of any initial presentations, possible deadlines, the length of mediation sessions, and how time should be allocated.
- vii. How proposals might be presented (e.g., in some cultures, parties may not be comfortable presenting options, may not be familiar with brainstorming processes, may not understand what is expected of them, and may not want to present because they may appear weak, unfocused, lose face, or lose the respect of other participants or stakeholders).
- viii. Whether, when and how to provide for evaluative feedback.

6. Managing the Process. Ability to detect whether, when and how cultural considerations (e.g., any Cultural Focus Areas) may be impacting on the mediation process as the mediation progresses including abilities to adapt the process accordingly and design appropriate interventions, that also encompass any settlement and compliance phases.

Comments:

- (a). Although managing the process is important in all mediations, this responsibility requires special attention in inter-cultural mediations where signposts of progress and impediments may be less evident. Also, suitable interventions may be different.
- (b). Due to cultural considerations, mediators may need to become more or less directive or facilitative at times on procedural issues, depending on the mutual needs or requests of the participants.
- (c). Even though the mediator and the participants may feel they are advancing well, each individual may think they are heading in a direction whose outcome may be culturally influenced and different. In order to provide a check and elicit the range of different understandings, mediators should be able to assess the extent to which participants' expectations are aligned, can be reconciled, and can be respected.
- (d). Mediators may need to help participants set parameters for a final work product or action items, so that the participants can feel they have reached satisfactory closure.
- (e). Conflicts underlying a mediation are seldom ended by only an oral agreement, nor are they always ended when there has been a signed agreement. In inter-cultural disputes, mediators should be aware of additional procedural or ceremonial steps that may be necessary to enable participants to feel that they can bring closure to the conflict.

Appendix 1

Cultural Focus Areas ²

Examples Relevant to Mediating Intercultural Disputes

Introduction

The IMI Inter-Cultural Task Force identified six Cultural Focus Areas that mediators may want to consider when mediating inter-culturally. Each of these behavioural categories is offered as examples that may be relevant when preparing for mediation, interacting with participants, and bridging differences. Under each CFA, several specific illustrations are included.³

The Task Force does not view this list of CFAs as comprehensive, and therefore encourages the ICQAPs to consider these CFAs, adapt them, and develop other ones based on the theory(ies) of culture or method(s) of mediation they teach. As more experience is gained with the CFAs, these six CFAs may be refined and new examples added.

Cultural Focus Areas (CFAs)

1. Relatedness and Communication Styles

Illustrations: Formal-Informal
Direct-Indirect
Emotional: High-Low
Emotional Expressiveness
Physical-Non-physical
Verbal, Para-verbal and Non-verbal
Personal-Impersonal
Sequential-Circular Reasoning

2. Mindset Toward Conflict

Illustrations: Negotiation Attitude (how participants may prefer to negotiate)
Attitudes to conflict: Positive-Negative
Risk taking: High-Low
Relationship building -Task orientation

3. Mediation Process

Illustrations: Expectations about:

² The term "Cultural Focus Areas" was formulated to label the areas that culture can impact on mediating intercultural disputes. Appendix 1 offers examples of six possible Cultural Focus Areas along with illustrations of each area. Each ICQAP should identify Cultural Focus Areas that apply to the types of mediation the trainees practice.

³After much discussion, a separate CFA was not given to "relationships" because that cultural category is so pervasive that it could not be easily segregated to stand alone. The category relates to several other CFAs, as noted in the illustrations.

Roles of Mediator and Participants
Predictability of Process
Need for an agenda
Social protocols
Separate or identifiable phases during the process
Fairness
Goals or Outcomes

4. Orientation Toward Exchanging Information

Illustrations: Transparent-Non-transparent
Legal or other norms or social conventions
Broad-Narrow
Non specific-Contextual
Fact related -Non fact related

5. Time Orientation

Illustrations: Polychronic -monochronic
Long Term-Short Term orientation
Past-Present-Future
Deadlines, Deliverables, Punctuality
Duration and Frequency (of joint and/or separate meetings)
Expected timelines for reaching outcomes
Time Pressure-No Time Pressure

6. Decision-making Approaches

Illustrations: Individualist, Majority-led or Collectivist
Relationship oriented-Outcome-oriented
Participant driven-Constituency driven
Compromising-Non compromising
Norms based-Subjective interests based
Mediator as norms-generator, norms-educator or norms-advocator
Problem solving-Outcome generating
Structured-Unstructured
General-Specific Forms of Agreement (oral, written, behavioural)
Inductive-Deductive Reasoning
Measurable-Non measurable