

ADR CENTER MEDIATOR ACCREDITATION CRITERIA AND ASSESSMENT PROGRAM

EXTRACT

The ADR Center Accredited mediators are assessed around the following core competency areas and skills:

Conflict analysis

1. Identifying relevant information to understand the situation
2. Using conflict analysis tools and the relevant information to prepare and mediate

Relationship building

3. Developing communication and trust with the parties and other stakeholders
4. Maintaining a neutral position between the parties and avoiding bias

Process facilitation

5. Working with parties to develop a mediation approach and process ground rules
6. Managing the process to help parties create progress in negotiations

Substance management

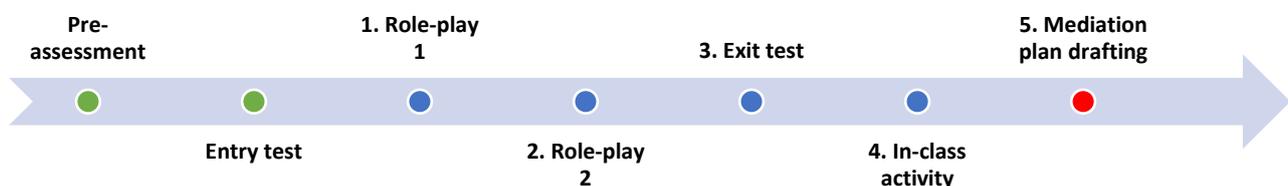
7. Assisting the parties in structuring issues, mapping needs, and exploring options collaboratively
8. Facilitating negotiations and moving the parties toward agreements

The above-mentioned competency areas and skills are needed throughout all stages of the mediation process. They are assessed before, during, and after in-class training. The assessment tools used for the ADR Center Mediator Accreditation include written sampling, multiple-choice tests, observation during discussions, simulated mediations, and other practical activities.

The assessment levels for each of the skills and knowledge described above are:



The assessment program includes the following activities:



In order to receive the ADR Center Mediator Accreditation, each candidate must score minimum 3 on average for Role-Play 1, Role-Play 2, Exit Test, Participation in sessions, and final Mediation plan.

The competencies, the skills, and the tools presented in this document are an ideal standard that is unlikely to be fully demonstrated during in-class training. Instead, they represent a goal for practicing mediators that develop flexibility and experience as they develop through their career.

CONFLICT ANALYSIS

1. IDENTIFYING RELEVANT INFORMATION TO UNDERSTAND THE SITUATION

- Identify the parties involved and their apparent interests
- Check the biases of other stakeholders, their interests, and potential impacts on the conflict
- See if there aren't gender and other cross-cultural factors that need to be better understood and considered
- Seek information to understand the perspectives of all parties and stakeholders
- Understand the timeline of the conflict and pinpoint the relevant moments in time
- Organize bilateral meetings and conference calls or ask for mediation briefs and relevant documents to understand the situation
- Investigate previous attempts to build consensus and focus on the main areas for disagreement, their root causes, and potential lessons learned by the parties
- Check for underlying issues, hidden interests, and agendas

Mediation tools: **Face to face bilateral meetings, conference calls, exchange of briefs**

Mediator qualities: **Humane, responsible, upright, professional**

2. USING CONFLICT ANALYSIS TOOLS AND THE RELEVANT INFORMATION TO PREPARE AND MEDIATE

- Discuss with the parties and see if mediation is the most appropriate method at a given time
- Understand the dynamics and the level of communication between the parties
- Explore and map the substantive, the psychological/emotional, and the procedural interests of the parties and potential other stakeholders
- Use the information collected to engage the question of how to respond to the situation
- Define/adapt your strategic approach (road map) to mediation and a mediation plan with a timeline and actions. Keep the strategic approach flexible as the conflict analysis evolves.
- Integrate gender perspectives into the conflict analysis process throughout
- Build agreement around the participants in the mediation process and their roles. It includes joint or individual specialized support, necessary to ensure that the parties can understand and process legal or specialized information and make informed choices.
- Agree with the parties for a timeline for mediation, discuss costs with the parties, and agree on the communication environment (i.e. in person, video-conference)
- Manage properly all the formalities needed (if any) based on mediation rules, internal policies, or domestic legislation
- Make sure that the parties are very well prepared for the mediation process (can engage in mediation). Build capacity or encourage this goal, as appropriate.
- Set up the meeting environment (mediation room) in consideration for the conflict analysis

Mediation tools: **Individual preparation, checklists, information sharing, capacity building**

Mediator qualities: **Honest, neutral, impartial**

RELATIONSHIP BUILDING

3. DEVELOPING COMMUNICATION AND TRUST WITH THE PARTIES AND OTHER STAKEHOLDERS

- Create an environment that helps the parties feel confident, comfortable, and safe
- Create a private communication space for each party to use as necessary
- Listen with patience, care, show empathy and absorb the parties' perspectives over issues as well as how they feel about them, recognizing emotions and allowing their venting
- Try to determine specific mediator action items that could support the mediation process
- Avoid placing blame on either party, but acknowledge their views regarding responsibility
- Adopt a pleasant and constructive communication style to set the scene for positive talks
- Include open-ended questions, realistic but positive summaries, and other communication tools that appear to be non-threatening for the parties
- Assist the parties in agreeing on ground rules and a communication protocol that suits their preferences and enforce it at necessary
- Take action to ensure that the mediation process isn't harmful to the parties in any way and protect them from threats or disrespectful behavior
- Take mandate from parties before communicating anything outside the mediation process
- Humanize the process as possible i.e. use humour to connect with people and groups
- Appear relaxed but not disengaged and find the right balance between energy and patience

Mediation tools: **Building rapport, active listening, summarizing, questioning, reflecting**

Mediator qualities: **Empathic, approachable, valuable**

4. MAINTAINING A NEUTRAL POSITION BETWEEN THE PARTIES AND AVOIDING BIAS

- Check for potential mediator biases and avoid conflicts of interest
- Show that the mediator is neutral and impartial, with no stake in the outcome
- Encourage active and collaborative participation of all participants in the process
- Avoid letting neutrality reflect the perspective according to which the mediator doesn't care
- When in a joint meeting, create an environment that doesn't put the parties or their advisors on the spot and that doesn't create imbalances between the parties
- Remember that the mediator's neutrality and its perceptions are maintained (and so can be affected) even outside the mediation room
- Use the process design to manage power imbalances i.e. navigate between joint and private meetings, discuss ground rules, and support parties' access to specialized advice to ensure informed choices
- Maintaining the balance between the parties throughout the process and responding with transparency and responsibility to any information or situation appearing to have the potential to impact this balance and the mediator's neutrality and impartiality

Mediation tools: **Reframing, joint and private sessions, information exchange**

Mediator qualities: **Tenacious, flexible, practical**

PROCESS FACILITATION

5. WORKING WITH PARTIES TO DEVELOP A MEDIATION APPROACH AND PROCESS GROUND RULES

- Set the tone and establish a productive environment that welcomes the parties' contribution
- Know various models and structures that could support the parties' conversations
- Seek and understand parties' expectations about the strategic mediation approach, the timeline, and the mediator's expected influence over both process and substance
- Discuss the principles that should guide the mediation process and get the parties' input
- Assist the parties as needed to identify mandated representatives and advisors
- Assist the parties in developing a framework for the mediation process and ground rules
- Discuss how long are the process and the meetings expected to last.
- Discuss with the parties how a successful process would like and under what circumstances can the process be interrupted
- Discuss confidentiality, language, costs, and other factors that ensure a sustainable process
- Involve the parties in the process design to get them to trust its results and own the process
- Formalize as necessary the agreement to mediate, and the parties' joint commitment towards ensuring the confidentiality of all the information exchanged in the process

Mediation tools: **Process ground rules, agreement to mediate**

Mediator qualities: **Supportive, active, communicative, clear**

6. MANAGING THE PROCESS TO HELP PARTIES CREATE PROGRESS IN NEGOTIATIONS

- Find the right balance between the detail level and the flexibility of the mediation approach
- Take responsibility for the process and its enforcement mechanisms as needed
- Organize the necessary logistics and physical space for the mediation
- Manage time effectively to ensure progress and constructive outcomes of the meetings
- Provide summaries and explanations with regard to the rules agreed to govern the process
- Strive for efficiency, manage spoilers and challenges, and adopt a proactive approach
- Encourage information exchange and parties' contributions to the conversations
- Keep an eye on the appropriate use of bilateral meetings and joint meetings; also, during joint meetings, find the balance between joint and private sessions
- Take good notes, use a flipchart, A/V, and other visuals, keep parties informed, and track down the progress of negotiations; prepare and work efficiently with the co-mediator, if applicable
- Keep the parties focused and engaged in the process even when not meeting the mediator
- Manage the process always with an eye on parties' underlying interests and needs
- Be aware of the specific purpose of each phase, keep and bring back the process on track
- Be self-aware of the mediator's role and manage ethical challenges effectively

Mediation tools: **Shaping the conversations through summaries, reframing, restating etc.**

Mediator qualities: **Enthusiastic, reliable, leading, rational, focused**

SUBSTANCE MANAGEMENT

7. ASSISTING THE PARTIES IN ORGANIZING AND STRUCTURING ISSUES, MAPPING NEEDS, AND EXPLORING OPTIONS COLLABORATIVELY

- Encourage the parties to share their perspectives and to inform the topics for conversation
- Assist the parties in structuring an agenda of issues and organizing the mediation process to address all the issues in the parties' preferred order of importance
- Work with the parties to identify the underlying interests and needs in relation to the issues
- Encourage private discussions with each party as necessary to access confidential information that may not be shared with all parties at a given moment (risk assessment)
- Assist the parties in focusing attention on their most important interests and needs
- Assist the parties in developing their own perspectives on the situation and in generating and exploring new options based on all the information available
- Keep the parties from skipping too early to "surface" negotiations, and instead, provide assistance in understanding the situation better and in focusing on the interests and needs
- Encourage parties to think creatively and to replace gaps that are seemingly impossible to fill with new options that add value to the positions of all parties
- Keep track of the dynamics between the positions, interests, needs and options explored

Mediation tools: **Mapping interests and needs, generating options based on mutual gain**

Mediator qualities: **Creative, objective, good negotiator, organized, dynamic**

8. FACILITATING NEGOTIATIONS AND MOVING THE PARTIES TOWARD AGREEMENTS

- Develop your own understanding of the parties' general approach to negotiation, their negotiation specific strategies for the case (if any), their goals and tactics, and use them to inform the approach to the mediation process, and the other way around
- Help the parties identify the proper balance between *value-creating* and *value-claiming* approaches in their negotiations
- Assist parties in working with multiple options at the same time and, when necessary, to compromise less important interests for more important ones
- Help parties define proposals that are consistent with both their preferred options for agreement and their negotiation strategies
- Assist parties in assessing risks and the alternatives to a negotiated agreement
- Avoid reaching deadlock and roll-out strategies to overcome deadlock as necessary
- Assist the parties in writing a SMART mediation agreement, when necessary
- Close the mediation process at the appropriate time and learn from past experiences

Mediation tools: **Facilitating the negotiations, overcoming deadlock, reality testing**

Mediator qualities: **Visionary, creative, pragmatic.**

EVALUATION FORM FOR THE MEDIATOR DURING THE ROLE PLAY

ADR Center Feedback Form for observing mediators

This form outlines the main competencies against which participants are assessed for ADR Center Accreditation. Other course participants find this form useful to observe mediators and structure their feedback accordingly. Focus on the techniques & challenges observed for each competency in preparation for (white shading) and during mediation - opening joint session, private sessions, closing session (gray shading).

CONFLICT ANALYSIS			
Identifying relevant information to understand the situation		Using conflict analysis tools and the relevant information to prepare and to mediate	
Techniques	Challenges	Techniques	Challenges
RELATIONSHIP BUILDING			
Developing communication and trust with the parties and other stakeholders		Maintaining a neutral position between the parties and avoiding bias	
Techniques	Challenges	Techniques	Challenges
PROCESS FACILITATION			
Working with parties to develop a mediation approach and process ground rules		Managing the process to help parties create progress in negotiations	
Techniques	Challenges	Techniques	Challenges
SUBSTANCE MANAGEMENT			
Assisting the parties in structuring issues, mapping needs and exploring options collaboratively		Facilitating negotiations and moving the parties toward agreements	
Techniques	Challenges	Techniques	Challenges