



International Mediation Institute

PROFESSIONAL MEDIATION WORLDWIDE

Promoting Consensus and Access to Justice

www.IMImediation.org

COMPETENCY CRITERIA
FOR
MEDIATION ADVOCATES AND ADVISORS

Table Of Contents

I.	Introduction	3
II.	Criteria.....	4
	1. General Requirements	4
	2. Substantive Criteria	4
	1. General Requirements	5
	A. Methodology.....	5
	B. Transparency.....	5
	C. Integrity	5
	D. Ongoing Monitoring of Program.....	5
	E. Diversity.....	5
	2. Substantive Criteria	6
	A. Experience of the Mediation Process	6
	B. Knowledge of Mediation Advocacy	6
	C. Practical Mediation Advocacy Skills.....	6
III.	Nomenclature – Mediation Advocate/Mediation Advisor	8
IV.	Annexes.....	9
	Annex 1 Mediation Advocacy General Knowledge Requirements.....	9
	Annex 2 Mediation Advocacy Practical Skills Requirements	11
	1. Pre-Mediation Stage.....	11
	2. Selection of neutral and preparation stage.....	12
	3. Mediation stage:	14
	4. Closing and Implementation	17

I. Introduction

Mediation is most successful when the parties' advocates/advisors are knowledgeable and skilled in the principles of the mediation process and negotiation theories. Mediations can fail when party representatives act as if they were in a courtroom rather than in a negotiation.

Mediation presents unique problem-solving opportunities in which representatives can assist their clients to reach faster, cheaper and/or better outcomes with the assistance of a mediator. They can help their clients achieve outcomes that may be unattainable in a courtroom or arbitration tribunal. But to do that, they need a different set of knowledge and skills.

II. Criteria

IMI has designed Criteria for programs qualifying competent Mediation Advocates/Advisors in order to establish a professional and technical basis for enabling disputing parties to identify professionals experienced in advising and representing clients in the resolution of disputes through mediation and related dispute resolution processes¹. The Criteria are presented in two broad categories: General Requirements for the programs and Substantive Criteria for Mediation Advocates/Advisors Competency:

1. General Requirements

- A. Methodology
- B. Transparency
- C. Integrity
- D. Ongoing Monitoring of Program
- E. Diversity

2. Substantive Criteria

- A. Experience
- B. Knowledge (+ List of General Knowledge Requirements – Annex 1)
- C. Practical Skills (+ List of Practical Skills Requirements – Annex 2)

Any educational or professional institution may prepare a Mediation Advocacy Qualifying Assessment Program (MA-QAP) that meets these Criteria. Once approved by the IMI Appraisal Committee², professionals who pass the assessment of that MA-QAP will be qualified for IMI Mediation Advocacy Certification and may have their Profile included on the [IMI Find a Mediation Advocate/Advisor](#) Search Engine.

¹ The term Mediation Advocacy have been used throughout these Criteria for ease of reference. However, please see section 3 for specific guidance on the appropriate use of the designations “Mediation Advocate” and “Mediation Advisor”.

² For more information on the IMI Appraisal Committee please see:

<https://imimediation.org/about/who-are-imi/appraisal-committee/>

The Committee was preceded by the [IMI Independent Standards Commission \(ISC\)](#), which established the criteria, standards and related materials for IMI Certification. Its 70+ members, who are all thought leaders in the mediation field in their own right, contributed their time and expertise in their personal capacities.

1. General Requirements

Any MA-QAP must meet the following general criteria in order to be able to qualify professionals for IMI Mediation Advocacy Certification:

A. Methodology

All MA-QAPs must implement an assessment methodology for assessing whether each applicant's performance meets each of the Substantive Criteria in Section 2 below.

Comment: The assessments may be based on written material, role-play or live action evaluations, other suitable methods, 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. Assessors must be experienced in representing clients in mediations and/or teaching/assessing mediation advocacy skills.

B. Transparency

The substantive criteria (i.e. assessment benchmarks applied by an approved MA-QAP) must be published and be openly accessible on the organization's website.

Comment: Details of all approved MA-QAPs are listed on the IMI Find a Program Page and include a direct link to each credentialing organization's website for that program.

C. Integrity

Each Assessor must have substantial experience of mediation advocacy and/or teaching/assessing mediation advocacy competency.

D. Ongoing Monitoring of Program

The MA-QAP must include a process for the ongoing monitoring of the performance and practice of the Assessors. IMI will liaise closely with all recognised program organizers to maintain a sustainable quality control system.

E. Diversity

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

2. Substantive Criteria

Any program qualifying candidates for IMI Mediation Advocacy Certification must meet the following minimum substantive criteria with respect to all applicants:

A. Experience of the Mediation Process

The MA-QAP must include a methodology for ensuring that Applicants have demonstrated to the satisfaction of the Program's Assessors experience of mediation as a mediation advisor/advocate in at least five mediations. The QAP must include clearly identified criteria on this requirement.

Exemptions:

- IMI Certified Mediators
- Mediators having acted as the sole mediator in at least 10 cases/200 hours, in countries where there are no Qualifying Assessment Program for IMI Certification

B. Knowledge of Mediation Advocacy

The MA-QAP must include a methodology for determining that Applicants have demonstrated a strong understanding of general mediation advocacy theory and practice. Written tests, essays, reports, theses and interviews may be used to determine such knowledge. Applicants are expected to be tested on and exhibit a comprehensive understanding of Mediation Advocacy theory derived from the leading international textbooks on the subject (as listed in the annotated bibliography³). MA-QAPs may use the listing of Core Competency Knowledge Elements set out in Annex 1.

C. Practical Mediation Advocacy Skills

The MA-QAP must include a methodology for the assessment of performance as a mediation advocate against a variety of benchmarks that together demonstrate a high degree of mediation advocacy competency. The assessed benchmarks may be based on role-play or live action assessments, and may include videotaped and online assessments such as web dramas, self-assessments, interviews, peer reviews, user feedback and other in-practice skill evaluations. The ISC expects that the methodology used by MA-QAPs will address all the Core Competency Practical Skills sections and sub-sections in Annex 2 and will be sufficiently detailed (in the view of the ISC) to attest to an applicant's demonstrated high level of

³ See: <https://imimediation.org/mediation-advocacy-bibliography>

competency as a Mediation Advocate. However, it is not expected that all detailed Core Competency Practical Skills listed in Annex 2 will be assessed in the same depth, and MA-QAPs will be free to assess other practical skills not listed in Annex 2.

III. Nomenclature – Mediation Advocate/Mediation Advisor

Mediation is a form of facilitated negotiation which does not necessarily take place as part of a judicial or other adjudicative process. Because mediation is an extra-legal process, not all professionals who may advise, represent and assist disputing parties in mediation are necessarily legally qualified.

In many countries, the term “advocate” and language equivalents of that word denote or imply that a person is a qualified lawyer and should not (and in some cases could not) be used by a person not legally qualified. In some countries, however, that connotation does not arise. Nomenclature is therefore largely a jurisdiction-specific issue.

A Mediation Advocacy Qualifying Assessment Program needs to clearly identify in the application which qualification will be accorded to successful candidates: IMI Certified Mediation Advocate or IMI Certified Mediation Advisor.

IV. Annexes

Annex 1 Mediation Advocacy General Knowledge Requirements

The following areas of practical skills are required for effective mediation advocacy. This list is intended as guidance to MA-QAPs in designing knowledge assessments. The list is not necessarily exhaustive or mandatory and is offered as guidance.

1. Knowing when mediation may not be a suitable process to address particular issues.
2. Identifying procedural options and preferred processes for reaching optimal outcomes.
3. Knowledge of hybrid dispute resolution processes (e.g., Arb-Med, Med-Arb, Arb//Med, Med-Con, Med//Con, MEDALOA) and their potential advantages and drawbacks in different circumstances.
4. Understanding and applying the best timing for each Dispute Resolution process.
5. Understanding of the nature, theory, procedure, practical application, methodology, appropriateness, benefits and disadvantages of the prevalent types of mediation, schemes or programmes, procedural rules and pertinent costs.
6. Knowledge of negotiation and solution-generating processes, as well as party and participant dynamics, as contextualised by the choice of mediation process/vehicle.
7. Understanding of the role of a mediator, and the palette of mediator methodology, psychology, core training, and practices.
8. Knowledge of relevant laws affecting mediation practice including structure and enforceability of mediation agreements (where relevant), confidentiality and privilege /professional secrecy, and structure and enforceability of settlement agreements.
9. Familiarity with methods of formulating solutions, including assessing alternatives (BATNA, WATNA, PATNA, RATNA⁴ & preparing client and self for joint/caucus mediation meetings.
10. Ability to assist parties in separating interests from positions.

⁴ BATNA = Best Alternative to a Negotiated Agreement; WATNA = Worst Alternative to a Negotiated Agreement; PATNA = Probable Alternative to a Negotiated Agreement; RATNA = Realistic Alternative to a Negotiated Agreement.

11. Ability to seek and understand the motivations behind individual positions as distinguished from the issues in dispute.
12. Familiarity with techniques like questioning, summarizing, (active/effective) listening, framing and re-framing, reformulating, reflecting and paraphrasing.
13. Ability to make strategic choices that can help strike a balance between positional claims that advocate the clients' interests and creating value based on interests.
14. Familiarity with cross-cultural settings and dynamics.
15. Understanding of cross-border and multi-cultural mediation paradigms.
16. Ability to adapt procedural parameters when dealing with multi-party or complex cases involving numerous participants.
17. Understanding of professional and ethical standards and behaviours, and the use of ethics in generating, informing and/or setting norms.
18. Ability to draft settlement agreements as discussed by the parties to the mediation.
19. Ability to understand and interpret settlement agreements and procedural options.
20. Ability to explain the nature, theory, procedure, practical application, methodology, appropriateness, benefits, advantages and drawbacks of prevalent types of mediation within or between relevant jurisdictions, court-connected mediation schemes, ad-hoc or institutional procedural rules, applicable costs, and professional applicable professional ethics codes.
21. Knowledge of problem-solving, interest-based negotiation techniques.
22. Knowledge of the distributive (adversarial) approach to negotiation, in addition to the problem-solving (interest-based) approach and knowing when and why to apply each. Knowing how to avoid and counter unhelpful adversarial attitudes, behaviour and language.
23. Knowing how to use techniques for productively supporting the parties, their representatives, the mediator and the process, and using the mediator and the process effectively to generate a mutually accepted outcome.
24. Knowing how to effectively communicate with the mediator, prior to, during and after the mediation sessions.

Annex 2 Mediation Advocacy Practical Skills Requirements

The following areas of practical skills are required for effective Mediation Advocacy. This list is intended to aid MA-QAPs in designing skills assessments. The list is not necessarily exhaustive or mandatory and is offered as guidance.

1. Pre-Mediation Stage

A. Case diagnosis and process selection

1. Conflict diagnosis, including conflict (de)escalation models.
2. Understanding when a neutral third party can add value in a conflict and assessing the quality of that value. Being able to convincingly convey that understanding to the client.
3. Using dispute assessment & risk analysis methodologies.
4. Identification of relevant parties, stakeholders and participants to the process.
5. Identifying the most appropriate process. Skills to assess (contra-) indications, pros and cons, and strengths and risks of each method. Being able to convincingly convey that understanding to the client.
6. Design, customization and implementation of appropriate conflict resolution processes.
7. Considering possible application of hybrids and other process design options.
8. Pre-mediation analysis.
9. Application and interpretation of alternatives analysis, BATNA, WATNA, PATNA and RATNA
10. Whether or not to use norms to set ZOPA⁵ and leverage such analyses.
11. Defining time frames.
12. Understanding different levels of readiness of the client to accept mediation and the ability to address their concerns effectively.

B. Clarifying and initiating process

1. Initiating contact with the other parties or their representatives, and/or with mediation institutions.

⁵ ZOPA = Zone of Possible Agreement

2. Consider whether the parties wish to use norms, subjective interests, or a combination of the two to resolve the dispute, and what norms (if any) to use (e.g., laws, customs, community response).
3. Consider the relevance of past, present or future events, and whether to focus on the past or the future as a basis for seeking resolution of the dispute.
4. Counselling clients, principals, participants and relevant stakeholders, as appropriate to identify and resolve procedural issues and options separately from substantive issues to be mediated, and if so when and how to mediate. Explaining mediation goals and process.
5. Communicating effectively with the other side to bring them to mediation in the right frame of mind.
6. Identifying and overcoming possible misperceptions (e.g., concerns of appearing to be weak if agreeing to negotiate).
7. Collaborating and negotiating with other parties, their representatives and the mediator about process choice and design, logistics and timing. Setting, collaborating and negotiating about mediator selection criteria with the other parties and their representatives and where appropriate, working with the other parties to identify, set and implement each mediation parameter.

2. Selection of neutral and preparation stage

A. Identify, negotiate and select mediation process and mediator

1) Mediation process and mediator

1. Selecting the most suitable mediation procedure, style and approach (e.g. evaluative, transformative, facilitative, narrative, solution focused, eclectic, hybrid forms, co-mediation, joint sessions and/or caucus-based), including consideration of common mediation approaches used locally and elsewhere
2. Determining whether mediation should be administered or self-administered. Applying specific aspects of court-connected mediation processes.
3. Working with the participants and the mediator(s) to determine the need for a mediation agreement (if any), select a venue, identify participants, use opening statements (if any), time allocations (if any), prior written submissions (if any), the mediator(s) role and conduct; discuss the use and frequency of joint sessions and/or caucuses (if any).

4. Finding, selecting and appointing the most suitable competent mediator(s) for this case, these parties and the specific circumstances.
5. Knowing when co-mediation is appropriate and how to select and convene a co-mediation team in collaboration with the other side.
6. Knowing how to select a suitable mediator for a particular case, including, mediation style and skills, and identifying the need for a specialist or generalist.
7. Collaborating and negotiating with other parties, their representatives and the mediator about process choice and design, logistics and timing.
8. Using the IMI Decision Tree online or using a software application or other tools to assist in achieving any of the above.⁶

2) Administrative, formal and legal aspects of coordinating a mediation

1. Negotiating and (where applicable) drafting the mediation agreement.
2. Dealing productively with any obstructive or fencing behaviour of the other party or the party's representatives.
3. Advising on mediation clauses, mediation rules and regulations of mediation providers and professional bodies, ethical guidelines, codes of conduct, complaint schemes, disciplinary processes, liability issues, confidentiality, privacy, refusals to participate, mandates, and authorities to settle.

B. Preparation

1. Composing mediation teams. Identifying/negotiating attendees on each side.
2. Information strategy: when (and when not) to share what information with whom. Determining information that is needed.
3. Identifying the necessary documents to be exchanged with knowledge of applicable confidentiality rules.
4. Timing of the revelation of interests and options.
5. Advising on the roles of client and advocate.
6. Separating interests & positions.

⁶ See <http://181.224.143.12/~imimedia/decision-tree>

7. SWOT analysis skills (own client and, hypothetically, the other party).
8. Preparation of self, client and the mediator.
9. Drafting a Mediation Briefing or Position Statement and a Strategic Mediation Representation plan for cases where such materials are required.
10. Using an IMI Online Evaluation (“OLE!”) form or other tools to assist the participants in their preparations.⁷

3. Mediation stage:

A. General, Monitoring Progress

1. Monitoring progress and checking whether the process needs to be adapted to the circumstances.
2. Awareness of the key factors for success and failure in mediation.
3. Collaboration with own client, the other party and the other party’s representative to facilitate a constructive outcome based on problem-solving techniques.
4. Counselling the client on financial, tax, social, legal, reputational, commercial and other relevant interests.
5. Making an informed choice between several approaches and options for resolving the issues, and knowing when to suggest each approach (including whether and when to terminate the mediation process as necessary).
6. Balancing between (1) claiming value and advocating the client’s interests and (2) creating value and motivating participants to reach a settlement.
7. Acting as client coach and “reality check” to help them gain familiarity and confidence with the process, their relevant roles and whether their positions are compatible with their interests.
8. Collaboration with the mediator, tasking the mediator, ensuring the mediator understands the client’s core interests and constructively designing and implementing the mediation process from the perspective of all parties.

B. Opening statements and Agenda Setting

⁷ See <http://181.224.143.12/~imimedia/ole>

1. Breaking the ice and creating constructive conditions for a productive mediation process. Identifying interests, topics for discussion, information to be exchanged (give and get) and possible impasses to be overcome.
2. Agenda setting and time and expectation management.
3. Coaching clients, where applicable, to prepare and deliver effective opening statements. Opening statements in accordance with the style of mediation or negotiation approach. Understanding what type and style of opening statement to use (e.g., argumentative, persuasive, explanatory, expressive etc.) as may be most effective, what to include and omit, and possibly proposing to defer to a later point in time or dispense with formal statements when this would be more effective. Deciding who should deliver the opening statement.
4. Supporting information exchange by summarizing facts and addressing queries from the other party, the other party's representative or from the mediator.
5. Interpreting the other party's opening statement and identifying key information, interests, opportunities and impediments.

C. *Exploration*

1. Generating effective negotiation approaches, explanations of first offers, package deals, concession strategies and negotiation techniques.
2. Eliciting interests and distinguishing positions from interests.
3. Applying communication skills like active listening, reformulation and non-positional communication skills.
4. Understanding and dealing with emotions, social and status issues, and international and cultural aspects and conveying this understanding to parties.
5. Identifying, analysing and dealing with impasses, breaking deadlocks and knowing how to support the client and mediator on these issues.
6. Dealing with clients' instructions that may be difficult to reconcile with opportunities and options and resolving those inconsistencies.
7. Balancing confidentiality and the need to provide the information necessary for resolving the dispute and reaching the best possible outcome.

8. Dealing with difficult parties, party representatives, clients or inappropriate mediators. Ability to work with the mediator and the other parties and their representatives to overcome impasses.
9. Applying reality-testing techniques to manage the expectations of the client and the other party.
10. Identifying the right time and work with the mediator to call for caucus, time-out, breaks, private client meetings, joint sessions, changes of venue and changes of negotiation team members.
11. Caucus:
 - (1) Ensuring any caucus is handled ethically and confidentially.
 - (2) Working with the client and mediator to provide information useful in resolving the dispute.
 - (3) Exploring options with the mediator.
 - (4) Seeking and providing positive and constructive feedback to/from the mediator.
 - (5) Working with the mediator to identify the possible use of norms to generate, set and/or advocate possible outcomes.

D. Generating Options & Negotiation

1. Preparing the client on how to effectively react to, and consider, unlimited possibilities.
2. Creating and prioritising interests and options.
3. Where appropriate, assisting the client to be an effective negotiator (problem-solving, interest-based, positional, etc.).
4. Formulating first offers.
5. Responding to first offers.
6. Identifying topics for further discussion and information to be exchanged.
7. Ensuring that the mediator presents the options proposed during private caucus accurately and maintains confidentiality.
8. Working with the other party, the client, and the mediator to generate, develop, brainstorm and reality-test options. Ability to engage in and consult on several methods for generating options.

9. Utilizing the processes of negotiation, and party and participant dynamics, as contextualised by the choice of mediation process.
10. Establishing mutually acceptable norms or reference criteria.
11. Identifying objective and measurable criteria by which to assess feasibility and possible implementation of options.
12. Responding to positional tactics.
13. Using mediators for reality testing and/or for evaluative feedback where appropriate.
14. Using mediators to support and lead the parties and/or to help them formulate offers or responses.
15. Identifying and dealing with impediments, and enlisting the mediator's support.
16. Dealing with unexpected surprises or inconsistent negotiation styles.
17. Maintaining momentum and dealing with decision fatigue.
18. Dealing with reactive devaluation.
19. Checking for confirmation bias.
20. Clarifying intentions and motivations.
21. Adapting communication styles and strategies in accordance with progress made and other participants' conduct.

4. Closing and Implementation

A. Closing

1. Securing the best available and workable outcomes that circumstances permit.
2. Deciding whether to end or walk out of a mediation.
3. Formulating final offers.
4. Responding to final offers.
5. Dealing with incomplete settlements or inability to settle.
6. Deciding whether and if so how to request a mediator's proposal.
7. Maintaining positive momentum and leaving a window open.

8. Generating joint or single communication strategies and dealing with possible reporting or reputational impacts.
9. Facilitating the mediation to progress to a comprehensive, substantive, clear, valid and enforceable agreement (as SMART⁸ as possible), preserving such relations as may be desired between the parties.
10. Managing setbacks in the final stage of the mediation if new issues emerge.
11. Sustaining a constructive and amiable atmosphere to promote successful implementation of the agreement (keep the door and communication open).
12. Assisting with the drafting of any publicity statements and contingency Questions & Answers, where appropriate.
13. Dealing with partial settlements and managing contingencies where applicable.
14. Dealing with parallel judicial, administrative, arbitral or other proceedings.
15. Closing documents and ceremonies (if any).
16. Possible rescheduling of additional mediation sessions with the same or different mediator(s), and when or where to conduct such sessions.
17. Considering possible final procedural options, hybrids and proposals.
18. Understanding that not all disputes result in a settlement directly after a mediation and knowing how to identify and establish possible next steps to retain positive momentum and reschedule the matter for future consideration and settlement as and when appropriate.

B. Implementation

1. Considering possible compliance and enforcement requirements.
2. Knowing the relevance of Consent Awards or homologation proceedings, where applicable and possible, as a means to ensure compliance.
3. Monitoring compliance and dealing with any post-settlement issues.
4. Maintaining a good-faith approach towards the mediated settlement agreement and dealing with possible surprises.

⁸ SMART = Specific, Measurable, Achievable, Relevant and Timebound.

5. Ability to deal with and finalize any outstanding post-settlement issues.
6. Dealing with any final settlement formalities and possible contingent documentation.
7. Securing such appropriate court or tribunal recognition for a settlement (e.g., use of consent awards).