



# MULTICULTURAL MEDIATORS

– COMPETENCE AND SKILLS OF A MULTICULTURAL MEDIATOR



Our report has identified competence and skills required by Multicultural Mediators to effectively conduct Multicultural Mediation sessions and successfully carry out their job role. This report forms a recommendation for the profession of a Multicultural Mediator. The report is based on desk research (DR) gathered, studies of the profession and questionnaire results conducted by Fundacja Rozwoju Społecznego i Profilkatyki "DIALOG" Poland and AUTPOST LIMITED Ireland as part of the MEDIATOR PROGRAM – the future of education co – funded by the European Union.

## MINIMUM STANDARDS—CERTIFIED MULTICULTURAL MEDIATORS

**Multicultural Mediator Experience** – A multicultural mediator must possess substantial level of experience as a multicultural mediator— this is typically 200 hours of a topic around multicultural mediation which has to be included in their portfolio.

**Mediation Knowledge** – A multicultural mediator wanting to specialise in multicultural mediation must have a strong understanding of multicultural theory and practice. These may be assessed using methods such as written tests, essays, reports, theses, or interviews.

**Mediator Skills** -- A multicultural mediator must be effective using the multicultural mediation process and techniques. Evaluations/assessments may be based on roleplay 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.

## MULTICULTURAL MEDIATION - GENERAL KNOWLEDGE REQUIREMENTS:

**The following areas of practical skills are required for effective multicultural mediation practice. The list is offered as a recommendation:**

- Ability to assess when multicultural mediation may not be a suitable process to address issues subsequently identifying the mediation practice that will be suitable to resolve the issues presented by parties.
- Ability to identify procedural options and preferred processes for reaching optimal outcomes in multicultural mediation.
- Substantial level of knowledge surrounding hybrid multicultural dispute resolution and their potential advantages and drawbacks in different circumstances.
- Understanding and applying the best timing for each multicultural dispute resolution process.
- Understanding of the nature, theory, procedure, practical application, methodology, appropriateness, benefits and disadvantages of the prevalent types of multicultural mediation.
- Relevant knowledge of negotiation and solution-generating processes in multicultural mediation.
- Substantial knowledge of party and participant dynamics, as contextualised by the choice of relevant multicultural mediation process.
- Understanding of the role of a multicultural mediator and the scope of multicultural mediator methodology, psychology, core training, and practices.
- Substantial knowledge of relevant laws affecting multicultural mediation practice including structure and enforceability of multicultural mediation agreements.
- Knowledge and good practice of confidentiality and privilege /professional secrecy, and structure of multicultural mediation process.

- Knowledge surrounding enforceability of agreements in multicultural mediation - Familiarity with methods of formulating solutions, including assessing alternatives (BATNA, WATNA, PATNA, RATNA) in multicultural mediation.
- Ability to prepare multicultural client and self for multicultural mediation meetings.
- Ability to assist multicultural parties in separating interests from positions.
- Ability to seek and understand the motivations behind individual positions as distinguished from the issues in multicultural mediation.
- Familiarity with techniques like questioning, summarising, (active/effective) listening, framing and re-framing of questions, reflecting and paraphrasing in multicultural mediation.
- Ability to make strategic choices that can help strike a balance between positional claims that support the clients' interests and create values based on clients interests in multicultural mediation.
- Familiarity with multicultural and cross-cultural settings and dynamics.
- Understanding of cross-border and multi-cultural mediation paradigms.
- Ability to adapt procedural parameters when dealing with multi-party or multicultural complex cases involving numerous participants as part of multicultural mediation.
- Understanding of professional and ethical standards and behaviours in multicultural mediation.
- Understand and be able to apply ethics in generating, informing and/or setting norms in multicultural society - Ability to draft settlement agreements as discussed by the parties in multicultural mediation.
- Ability to understand and interpret settlement agreements and procedural options in multicultural mediation.

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- Knowledge of problem-solving, interest-based negotiation techniques in multicultural mediation.
- Knowledge of the distributive approach to negotiation, in addition to the problemsolving (interest-based) approach and knowing when and why to apply each of them in multicultural mediation.
- Effective use of avoidance and knowledge how to counter unhelpful adversarial attitudes, behaviour and language in multicultural mediation.
- Knowledge of the use of techniques for productively supporting multicultural parties, their representatives, the multicultural mediator and the process.
- Knowledge surrounding the use of the multicultural mediator as a tool to aid the mediation process effectively in order to generate a mutually accepted outcome as part of multicultural mediation.
- Ability to effectively communicate with the multicultural mediator, prior to, during and after the multicultural mediation sessions.

## MINIMUM STANDARDS— MULTICULTURAL COMPETENCE SPECIALISATION

Six key areas have been identified as the minimum recommended standard in the practice of a multicultural mediator as well as the effectiveness of carrying out their job role. Those six key areas are namely: knowledge, self-awareness, multicultural perspectives, communication skills, preparation and managing the process

### KEY AREA 1 - KNOWLEDGE

**Cultural Framework:** Ability to use at least one acknowledged multicultural and cultural theory to identify relevant Multicultural Focus Areas for supporting multicultural mediations. Both theory and strategy must acknowledge the similarities and contrasts between cultures.

1. Any chosen framework should include recommendations on how to effectively use potential multicultural Focus Areas while avoiding stereotyping. Organising or taking part in multicultural mediations.
2. The objective is not to acquire comparative theories about culture or to become a multicultural mediation expert in a specific theory, even though there are many wellknown and respected ideas. The objective is to be able to use a chosen theory or theories about culture in a way that will assist multicultural mediators in thinking through relevant issues while setting up and leading a multicultural mediation.
3. Understanding culturally determined norms and expectations can assist explain parties' various viewpoints and think about possible impasses that these perspectives may produce.
4. When attempting to explain all possible behaviours that individuals may exhibit, which may not necessarily be tied to culture but may also be linked to individual factors (e.g., age, gender, residency, etc.), it is crucial to avoid seeing multiculturalism as an overly inclusive notion.

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5. Multicultural mediators should try to use their cultural knowledge as a tool to comprehend and anticipate potential behavioural patterns while keeping in mind that multicultural mediation is a social process that aids in cross-cultural communication.
6. Any discussion of multicultural mediation must consider how various cultural interpretations of the terms "multicultural": "parties," "participants," "conflict," "resolution," "mediation," "conciliation," and "process" may exist.

## KEY AREA 2 - SELF-AWARENESS

**Self-awareness:** Understanding one's own multicultural influences and how it could affect the multicultural mediation process.

1. Multicultural mediators should be aware of their own cultural influences, particularly how their culture may shape the way in which they see and analyse other people's behaviour and conflict. Remember to stay neutral
2. Multicultural mediators should think about how participants might perceive and interpret their culturally influenced choices or behaviour.
3. Multicultural mediators need to acquire adaptable techniques for regaining equilibrium, dealing with cultural ambiguities, and handling contradictory practises. They should learn to recognise their own surprise, discomfort, or cognitive dissonances when confronted with cultural differences.

## KEY AREA 3 - MULTICULTURAL PERSPECTIVES

**Multicultural Perspectives** – Ability to understand many cultural viewpoints through which each person views actions or occurrences as well as understand participants' diverse perspectives—both similar and different—as well as any potential imbalances.

1. Multicultural mediators must have the capacity to handle misunderstandings and errors that may occur in multicultural contexts.
2. Ability to construct a working environment for all participants, especially one that fosters communication between them, by using the multicultural mediator's grasp of these potential differences and similarities.
3. Multicultural mediators must be attentive to participants' impressions of their own behaviour, other participants' behaviour, and their preferences for how to handle procedural or substantive concerns during multicultural mediation process.
4. Multicultural mediators should not respond negatively to other people's methods of doing things or try to change the methods of others during multicultural mediation process.
5. If other individual's methods and viewpoints are not in line with the multicultural mediator's core principles, the multicultural mediator should not take on such clients or end the mediation process as this can have a negative impact on the multicultural mediation process.
6. Multicultural mediators should understand how to cope with ambiguity, confusing information or circumstances, unintended errors (such as cultural malapropisms), and potential unconscious biases or behavioural scripts of participants while working with diverse cultural viewpoints.

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7. Multicultural mediators should think about the appropriate approaches and procedures for handling disputes involving various points of view. This covers how to come up with procedural choices that everyone can use, whether to address them in caucuses or joint sessions, directly or indirectly with the participants during multicultural mediation.
8. When managing multiple cultural perspectives, multicultural 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 multicultural mediation.

## KEY AREA 4 – COMMUNICATION SKILLS

**Communication skills** - Ability to modify one's own communication style to fit the preferences of participants from other cultures and to support participants in having the best possible communication with one another, including through creating appropriate methods to assist conversations and multicultural mediation process.

1. Multicultural mediators should be able to communicate effectively across cultural barriers while working with both participants and co-mediators from different backgrounds. According to one theory, for instance, determining a particular point on the direct-indirect communication continuum, which can be influenced by a variety of other cultural factors like the power distance index and the relationship orientation of the participants or co-mediators, is a communication style appropriate for multicultural mediators.
2. The communication styles of multicultural mediation should be compatible. Multicultural mediators should think about whether, how, and when to help people from different cultures to communicate.
3. Participants should be able to grasp how information may be expressed differently across cultures with the help of multicultural mediators.
4. Based on factors like the participants' comfort level with expressing emotion, their capacity for empathy or understanding others' perspectives, their comfort level with face-to-face discussion of sensitive topics, and their preference to pursue delicate matters indirectly (e.g., to avoid "loss of face"), multicultural mediators may need to assist participants in changing the way they communicate with each other.
5. The ability to choose if, when, and how to engage with mediation centres to promote dialogue and understanding of different cultures outside of multicultural mediation process.

## KEY AREA 5 – PREPARATION

**Preparation** - Ability to plan and prepare prior to the multicultural mediation by detecting prospective cultural patterns and preferences (for example, by designating distinct Cultural Focus Areas for each mediation) and by developing possibly suitable procedures and potential interventions during multicultural mediation.

1. Multicultural mediators should learn how to prepare for multicultural mediation by investigating and foreseeing any cultural effects, as well as by determining which procedure could be the most effective for the participants depending on any Cultural Focus Areas that the mediator may have found.
2. Multicultural mediators should think about whether to conduct preliminary, private interviews with the participants, investigate the possibility of creating procedural rules for conduct and interaction that are culturally appropriate, and consider preliminary interventions to aid the parties in identifying and resolving any culturally influenced communications, interests, or obstacles.
3. Given what a multicultural mediator may already know about the participants, their representatives, and their larger constituencies, the goal of this preparation should be to develop hypotheses about how to proceed initially and to prepare how to test and modify these hypotheses as the multicultural mediation develops. However, it must be kept in mind that preparation only results in hypotheses, thus multicultural mediators must not rely only on their own.
4. Multicultural mediators should consider the likelihood that there may be interests at issue that go beyond those of the individuals at the table when determining interests. Other multicultural constituencies or stakeholders' interests (such as those of family members, elders, communities, tribunals, affiliates, and regional, national, or political parties or bodies) may also be represented by these interests. It should also consider any potential obstacles brought on by participants' varying status perceptions or desires for procedural clarity, autonomy, fairness, or relatedness.

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5. As shown by the following instances, multicultural mediators should be adaptable and willing to reevaluate and change their procedural preferences and intervention styles.
6. Ability to select whether to hold a multicultural pre-mediation meeting with all parties, only some parties, or their representatives.
7. Ability to select whether to ask for written contributions in advance and what kinds of submissions would be useful in multicultural mediation.
8. Determining whether to collaborate with the multicultural clients to create a process that satisfies any need for respect for one another, autonomy, affiliation, certainty, or procedural fairness, in which roles and statuses are important (such as dress code, seating arrangements, and forms of address).
9. Helping participants avoid cultural norms that others would find politically or culturally insensitive, as well as preventing them from being persuaded by cultural norms.
10. The best ways for multicultural participants or their representatives to communicate with one another before and during the mediation, including whether or not to specify the multicultural mediator's role (for example, as non-evaluative or evaluative), the need for multicultural co-mediators or interpreters, who may speak and write, the order of any initial presentations, potential deadlines, the length of mediation sessions, and how time should be allocated.
11. How proposals might be presented (for instance, in some cultures, parties might not feel comfortable outlining their ideas, might not be familiar with brainstorming techniques, might not know what is expected of them, and might not want to present because they might come off as unmotivated or weak, lose their social status, or lose the respect of other participants or stakeholders).
12. Successfully identify whether to offer evaluative comments as part of multicultural mediation, and if so, when and how to do so.

## KEY AREA 6 - MANAGING THE PROCESS

**Managing the process** - Ability to detect whether, when and how multicultural considerations (e.g. Cultural Focus Areas) may be impacting on the multicultural 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.

1. Although overseeing the multicultural mediation process is crucial in every mediation, multicultural mediations need for extra care since progress indicators and roadblocks may be harder to spot. Also, suitable interventions may be different.
2. Depending on the requirements or demands of the participants, multicultural mediators may occasionally need to take a more directive or facilitative approach to procedural concerns due to cultural factors.
3. Even if the multicultural mediator and the participants may believe they are moving well, each individual may think they are headed in a route whose conclusion may be culturally influenced and distinct. Multicultural Mediators should be able to gauge the degree to which participants' expectations are aligned, can be reconciled, or can be respected in order to give a check and elicit the spectrum of diverse understandings.
4. In order for participants to feel as though a satisfying resolution has been reached, multicultural mediators may need to assist in helping them define criteria for a final work product or action items post multicultural mediation.
5. Conflicts that precede a multicultural mediation are rarely resolved through an oral agreement alone, and they are not always resolved when a written agreement has been reached.
6. Multicultural Mediators in disputes should be aware of any additional formalities or rituals that might be required to provide parties a sense of control over the resolution of the multicultural conflict.