

Mediator skills training: assessment competencies

Assessment will be made against eight competencies:

Relationship skills

1. Creates an environment conducive to mediation
2. Develops communication and interaction with the parties

Process skills

1. Establishes and maintains an effective working structure
2. Manages the process and phases of mediation

Content skills

1. Facilitates the parties in creating solutions and moving towards settlement
2. Facilitates momentum and progress through active engagement with the parties

Written Assignments

1. Able to document areas of agreement between the parties
2. Able to learn through awareness of own strengths and weaknesses.

Relationship, process and content skills are assessed by CEDR faculty members through the observation of candidates in simulated mediation situations. The remaining competencies are assessed through written work submitted after the completion of day 5 of the course.

The guidance under each competency identifies activities, skills and approaches that may be used to demonstrate competence. The guidance under each competency is exactly that - guidance. It is unlikely that a candidate will have the opportunity to exhibit all the points listed. The list is not exhaustive.

The assessment categories are as follows:

- Outstanding = the mediator demonstrates great ability in this competency
- Competent = the mediator is competent
- Working towards = the mediator achieves some attributes and is working towards the required level of competence
- N = the mediator does not achieve the competency
- I/E = insufficient evidence. There was no opportunity for the mediator to exhibit competence in this area

Assessment competencies

Relationship skills

1 Creates an environment conducive to mediation

Sets the scene and sets the tone

- appears relaxed, alert and confident with the process
- makes good use of the physical environment
- is attentive to parties' comfort and needs
- conveys energy, enthusiasm and personal warmth

Builds confidence and trust

- establishes the mediator's authority
- communicates in an assured, open manner, verbally and non-verbally
- demonstrates neutrality through equal treatment of the parties and use of non-judgmental language
- presents information and explanation in ways that influence the parties positively
- uses humour effectively
- has prepared well and appears well-prepared
- alert to issues of discrimination and power imbalance

Key Personal Attributes: humanity, integrity, alertness and verve

2 Develops communication and interaction with the parties

- establishes rapport quickly with the parties and others present
- listens attentively and responds
- motivates parties and representatives to participate actively and co-operatively
- encourages, accepts and values contributions from all parties
- demonstrates understanding of each party's situation and their feelings about it
- acknowledges the significance to parties of problems and issues
- allows parties to vent emotions in order to enable progress
- recognises and responds to different individual and corporate cultures
- is sensitive to team dynamics and manages party-team relationships
- uses silence positively
- paraphrases, reframes and reflects back
- asks relevant questions, particularly open questions, to encourage parties to talk

Key Personal Attributes: humanity and imagination

Process skills

1 Establishes and maintains an effective working structure

Takes responsibility for the process: the principles

- is familiar with the procedure, structure, ground rules and responsibilities within the mediation process
- explains roles, responsibilities and procedures to the parties
- remains in charge of the process throughout
- respects confidentiality
- handles challenges to the process or the mediator calmly and with authority
- is alert to ethical dilemmas and handles them safely
- manages the process without determining content

Key Personal Attributes: integrity and responsibility

2 Manages the process and phases of mediation

Takes responsibility for the process: the practicalities

- opens the mediation well
- makes decisions about the order of presentations and the use of private and joint meetings, consistent with progress
- manages transitions between sessions and keeps all parties informed regarding the process
- helps parties to use the time productively when not with mediator, by tasking parties or creating working groups
- summarises and checks before moving on
- keeps notes, as necessary, unobtrusively
- manages time well
- manages own pace, time for reflection, breaks between meetings, energy level and feelings
- manages relationship with assistant mediator to enhance the process
- adopts a pace which is responsive to the needs of the parties whilst working through the process fully

Key Personal Attributes: humanity, stamina and verve

Content skills

1 Facilitates the parties in creating solutions and moving towards settlement

- motivates parties and representatives to take responsibility for the outcome of the mediation
- explores previous settlement offers
- generates an atmosphere of creative problem solving
- works on options, implications and consequences, and avoids premature commitment to solutions
- picks up areas for possible further attention
- remains aware of commercial or other practical factors that will need to be taken into account for a solution to be workable
- establishes common ground and finds novel but practical ways to interrelate parties' goals
- helps parties draw any lessons from the causes of the dispute that may affect the proposed settlement terms
- draws together options into a coherent settlement package
- encourages parties to make their own decisions
- helps parties to think broadly about possible additional elements in the settlement package
- tests that a proposed solution is practical

Key Personal Attributes: determination, stamina, imagination and commerciality

2 Facilitates momentum and progress through active engagement with the parties and content

- identifies and **probes issues**
- vigorously **explores positions** for understanding of **underlying interests** and priorities
- picks up on and pursues **verbal and non-verbal cues** to promote progress
- **challenges and tests reality** to encourage movement whilst retaining the trust of the parties
- enables parties to see the situation from a **broader perspective** including the other party's point of view
- uses strategies to **overcome deadlock**
- recognises and manages different **negotiating styles** and tactics
- uses **own negotiating skills** to progress the mediation
- manages **information exchange** tactically to good effect
- turns parties from emphasis on rights to **future focus on interests and options**
- helps parties to **analyse risks and benefits** of particular outcomes
- uses techniques to help parties **save face**
- is **alert to tensions** and able to diffuse unhelpful tension and to harness constructive tension
- encourages the parties to **review their expectations**
- encourages the parties to **re-evaluate** their own and each other's position

Written assignments

The following competencies are assessed on the basis of a written assignment that the participant sends to CEDR following completion of day five of mediator training.

1 Able to document areas of agreement between the parties

- covers relevant areas in detail
- reflects the spirit of the mediation in choice of language
- produces a written agreement which is clear, concise and unambiguous in terms of language.

2 Able to learn through awareness of own strengths and weaknesses

In relation to mediation:

- is willing to assess own strengths and weaknesses realistically
- identifies specific learning from past experience (personal and professional)
- gives one or two examples of how learning has led to changes in behaviour
- comments on specific feedback received during the course (from colleagues and/or faculty)
- identifies specific learning from the experience of being the mediator on the course
- identifies other specific learning that has heightened awareness of own strengths and weaknesses.