

Institute for the Study of Conflict Transformation

Mediator Certification Frequently Asked Questions

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The Institute for the Study of Conflict Transformation (ISCT) offers a voluntary Mediator Certification program for practitioners of Transformative Mediation. This program is based on research and applied work on the transformative framework that has been conducted by ISCT members for over a decade, which is summarized and explained in two academic Working Papers on “Summative Assessment” prepared for the ISCT by Della Noce, Antes & Saul (2002, 2003). Here, we address the most frequently asked questions mediators have about the Mediator Certification program.

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MEDIATOR CERTIFICATION: FREQUENTLY ASKED QUESTIONS

What does certification mean for me?

A mediator who has successfully completed the ISCT summative assessment process may use the designation Certified Transformative Mediator™ on all professional correspondence and advertising materials. This mediator may also be listed on the ISCT website as a Certified Transformative Mediator™, which makes the mediator accessible to people throughout the country (and the world) who are looking for competent transformative mediators. Finally, certification is a prerequisite for mediators who wish to join any mediator rosters sponsored by the ISCT for corporate or governmental clients.

What is "summative assessment?"

“Summative assessment” is a term used for an evaluation conducted at a specific point in time by people who need to draw specific conclusions about competence. “**Summative assessment**” is generally distinguished from “**formative assessment**,” a process that is oriented to supporting learning and development.

We use the term “summative assessment” to describe the evaluation process that is used for purposes of certification. However, our “summative assessment” process has *both* summative and formative dimensions. Summatively, the process allows the ISCT to draw specific conclusions about a mediator’s competence in the transformative framework at a specific point in time. At the same time, the process provides targeted developmental feedback to the mediator, which many mediators find extremely valuable in itself. The formative value of the process is comparable to that of an individualized coaching session with an expert in the transformative framework.

Why is summative assessment important to the ISCT?

Although the ISCT remains committed to supporting ongoing mediator development through the production of educational materials and the sponsorship of mediator training programs, among other things, we also see a need for a summative assessment process. There are many reasons for this:

- (1) We want to be responsive to, and support, the many program administrators who have consistently voiced a need for summative assessment approaches to support their own local quality control efforts.
- (2) We want to protect the integrity of the transformative model, and minimize the potential for confusion among various models, by providing a means for assessing whether practitioners and programs going by the name “transformative” are truly engaged in transformative practice.

- (3) We want to support the possibility of valid and reliable research into the effects of transformative mediation, by providing a way to assess whether the mediators who are research subjects actually are engaged in transformative practice.
- (4) We want to protect the ability of mediators to use the transformative model, by offering an assessment alternative for those programs that are currently using assessment processes based solely on the problem-solving model. While the developers and administrators of such programs may not intend to exclude transformative mediators from their ranks, they sometimes exclude transformative mediators nonetheless because they adopt assessment processes that capture only problem-solving competencies.
- (5) The ISCT has been approached by organizations that seek access to a roster of mediators who are competent in the transformative approach. It is within the ISCT mission of supporting the field, and supporting mediators who wish to engage in transformative practice, to develop such rosters, and this requires a thoughtful process for determining practice competence.

How does summative assessment relate to certification?

The ISCT summative assessment process is a rigorous method for determining the competence of mediators in the transformative framework. Because of its rigor, we believe that a mediator who undertakes this process, and completes it successfully, should be designated a Certified Transformative Mediator™. This signals to the mediator, and to the public, that this mediator has met a high standard of achievement in understanding, applying, and demonstrating competence in the transformative framework.

What is “transformative mediation”?

Transformative mediation is a particular approach to practice that was described and explained in detail by Robert A. Baruch Bush and Joseph P. Folger, in their 1994 book, The Promise of Mediation. Since 1994, numerous scholars and practitioners, in association with Bush and Folger, have continued to elaborate the theory and the practice of transformative mediation..¹

The goal of transformative mediation is **conflict transformation**, that is, to help parties in conflict **change the quality of their conflict interaction**, by supporting the parties’ own efforts at **empowerment and recognition**, as those efforts appear in the unfolding conversation during the mediation session. This means that a transformative mediator practices with a **microfocus**. Simply put, the mediator

- closely follows the parties’ unfolding conversation in the mediation session,
- identifies opportunities for empowerment and recognition as those opportunities appear in the parties’ own conversation, and

- responds in ways that allow the parties to act on those opportunities, if and how they choose to do so.

Transformative practice has **transformative effects** --- visible shifts in each party's personal clarity, decision-making capacity, and responsiveness to the other --- that are apparent in the unfolding conversation.

What is a “competent” transformative mediator?

Competence in transformative mediation --- the ability to act consistently and reflectively in a way that supports the parties' efforts at conflict transformation --- is a function of the mediator's understanding of the theoretical foundations of the process (including its underlying premises, principles, and purpose), and his or her ability to enact that understanding in the context of unfolding conflict interaction.

Therefore, the necessary competencies of transformative mediators are as follows:

Competency #1

Mediators should **understand** the theoretical foundations of the transformative framework (including its underlying principles, premises, and purpose).

Competency #2

Mediators should be able to **apply** their understanding of the theoretical foundations of the transformative framework (including its underlying principles, premises, and purpose) to specific mediation situations.

Competency #3

Mediators should be able to **demonstrate** with some consistency the moves and strategies associated with competent transformative practice.

What is the basis for the ISCT summative assessment process?

This process is based on research and applied work on the transformative framework that has been conducted by ISCT members for over a decade, beginning with Bush and Folger's landmark book on transformative mediation, The Promise of Mediation (1994, Second Edition 2004).

That work has included: developing clear “pictures of practice” through close analysis of transformative mediation videotapes and transcripts; studying approaches to mediator development and assessment, in order to build mediator competence in the transformative model; incorporating assessment methods into mediator training, especially through close analysis of mediators' interactions in mediation simulations; developing an advanced coaching process based on close analysis, with mediators, of videotaped interactions of those mediators

in mediation simulations; and conducting research on the in-session practices of competent transformative mediators. .²

All of this work has led to the development of a summative assessment process that is based on:

- (1) close analysis of a mediator's practices (verbal and non-verbal communication) in the course of a **videotaped** mediation session, and
- (2) discussion with the mediator about the "how" and "why" of his or her practice.

At the 2002 Symposium of the Institute for the Study of Conflict Transformation, entitled "Assuring Mediator Quality: What are the Alternatives?" at the University of Maryland School of Law in Baltimore, Maryland, we presented a Provisional Summative Assessment Process and invited public comment. Participants at the Symposium were generous with their comments, insights and suggestions, and many of those were integrated into this final summative assessment process adopted by the ISCT.

We thank all who have contributed to the development of this process, including our colleagues at the ISCT, the participants at the 2002 Symposium, and the participants in other projects conducted by the ISCT.

Who conducts the assessment?

Summative assessment is (and should only be) conducted by a well-trained assessor, who is thoroughly:

- (1) familiar with the theory and practice of transformative mediation;
- (2) educated in the foundations of this process; and
- (3) trained by ISCT members in how to recognize, code and analyze markers of competent transformative practice in the ongoing interaction of a mediation session.

How is the assessment conducted?

The Summative Assessment process has two parts:

- (1) Part 1 is the Performance Assessment, and
- (2) Part 2 is the Interactive Component.

We summarize each of these aspects of the assessment process separately in the following paragraphs (and separate linked web pages), but note that we consider both essential to thorough assessment of the three competencies we set forth earlier in this paper. Likewise, the

mediator must “pass” *both* Parts 1 and 2 in order to be deemed competent in the transformative framework.

In **Part 1**, an assessor observes the performance of a mediator in a videotaped session, codes the mediator’s interventions, and uses a rating scale to analyze the quality of the mediator’s performance. The assessor then prepares written feedback for the mediator. First, the assessor prepares a brief narrative keyed to several core mediator “strategies” (see below for discussion of these strategies), noting what the mediator did well and what the mediator needs to improve upon. Based upon this narrative summary, the assessor then rates the mediator’s competence on each strategy as “outstanding,” “satisfactory,” or “unsatisfactory,” according to a scale he or she has been trained to use. Finally, the assessor reviews the ratings assigned to each strategy, in order to make a determination of whether the mediator should “Pass” or be “Deferred” on the Performance Assessment portion. If *all* ratings are “satisfactory” or better, the mediator will “Pass.” If *any* strategy is rated as “unsatisfactory,” the mediator will be “Deferred.”³

In **Part 2**, the assessor evaluates the mediator’s understanding of the transformative framework, and ability to apply it, by engaging with the mediator in ways that draw out the mediator’s own descriptions and explanations of his or her practice. Here, the mediator’s own “voice” is introduced into the assessment process through both a written Self-Assessment provided by the mediator and a telephone interview between the assessor and the mediator. If the mediator “Passed” the Performance Assessment portion, the goal of the Interactive Component is to analyze separately the mediator’s understanding of the theoretical foundations of the model and the ability to apply that understanding in practice. This is a key component of assessment, which must be passed independently of the Performance Assessment, because it indicates whether a mediator will be able to engage *consistently* in transformative practice. If the mediator was “Deferred” as a result of the Performance Assessment, this discussion will take place in the context of developmental, personalized coaching, rather than summative assessment per se.

At the conclusion of this interactive process, the assessor will discuss his or her overall impressions with the mediator, particularly impressions related to areas of strength and areas in need of further development. The assessor will also rate his or her overall assessment of the mediator’s understanding of the model and ability to apply it, as “Satisfactory” or “Unsatisfactory.” A “Satisfactory” rating on the Interactive Component, coupled with a “Pass” on the Performance Assessment, indicates that the mediator should be “Approved” as a competent transformative mediator. An “Unsatisfactory” rating on the Interactive Component would require the assessor to reach a decision of “Deferred” on the overall application of the mediator, despite a “Pass” on the Performance Assessment.⁴

What do I have to know to be successful in attaining certification?

To successfully complete the summative assessment process, a mediator must understand the theoretical foundations of transformative mediation, be able to apply those concepts to specific mediation situations, and be able to demonstrate competent practice in a consistent manner. Said another way, a mediator should know *what* to do, *how* to do it, and *why*.

Mediation practice is always more than a simple matter of “skills.” Mediators’ interventions are guided by what the mediator believes about people, about conflict, and about the purpose of conflict intervention. An understanding of “good” practice begins with an understanding of these fundamental beliefs and how they shape practice.

Transformative mediators believe that people have the inherent capacity --- and the need --- to act with both strength of self (empowerment) and quality connection with others (recognition). Conflict is understood as a **crisis in human interaction** that interferes with this need to act with **compassionate strength**. It causes people to become both relatively weak and relatively self-absorbed, thus diminishing their capacity to act with personal clarity, make decisions, or consider other perspectives. Processes that promote **empowerment and recognition** provide the opportunity for people to restore or rebuild their capacity to act with compassionate strength. Hence, the purpose of conflict intervention, in transformative mediation, is to support the parties’ own efforts at empowerment and recognition, as those efforts emerge in the parties’ unfolding conversation in the mediation session.

These beliefs suggest certain assumptions about “good” mediator conduct --- principles that shape a particular way of being present in the midst of unfolding conflict. A mediator who practices from a transformative perspective is comfortable with conflict, including strong emotion and interactions between the parties that appear hostile or negatively charged. The mediator respects the parties and their choices. The mediator is patient with the parties, and is comfortable with a limited understanding of the parties’ conflict. The mediator focuses on the parties’ moment-by-moment interactions, attending to empowerment and recognition opportunities that appear. And, the mediator is willing to relinquish problem solving and control of the process.

In addition to understanding these fundamental beliefs and principles for mediator conduct, the mediator should also understand how these beliefs and principles shape appropriate mediator behavior. In general, this means that the mediator should know how to recognize opportunities for empowerment and recognition in the course of an unfolding conversation, and how to respond in ways that support the parties’ own efforts at empowerment and recognition in the midst of conflict.

What do I have to do on the videotape to be successful in attaining certification?

The successful mediator will demonstrate competent transformative practice during the Performance Assessment. That is, he or she will support party efforts at conflict transformation by attending to opportunities for empowerment and recognition as they arise in the parties’ conversation and responding to those opportunities in ways that highlight them for the parties and allow them to choose what, if anything, to do about them.

This is obviously not the proper medium for teaching transformative practice. Competent transformative practice is developed through study, training, practice, and self-reflection. However, we do want to highlight here the types of interventions that the assessors will be looking for as they analyze the videotapes.

Generally, as we noted above, the appropriate goal of mediator intervention in the transformative framework is to support party efforts at empowerment and recognition. Mediator “moves” and “strategies” are concepts that provide a way for the assessor to closely and carefully analyze the communication of the mediation session and determine if the mediator is actually supporting party efforts at empowerment and recognition.⁵ Research shows that certain communication strategies support empowerment and recognition:

- Framing mediation as a constructive conversation
- Supporting the parties’ sense of their own agency
- Supporting the parties’ orientation to each other
- Supporting the parties’ “conflict talk”
- Supporting the parties’ decision making process

Brief descriptions of each strategy follow. In addition, we have attached to this FAQ paper a copy of *An Assessor’s Guide to Moves and Strategies*, in order to illustrate the types of moves that support, or are contrary to, each strategy. We caution, however, that these descriptions and charts are not a substitute for thorough training and education in the transformative framework.

- **Framing mediation as a constructive conversation**

Transformative mediators use the metaphor of “constructive conversation” as a way to describe the mediation process. This metaphor can be heard in many different ways as mediators work with the parties, and it functions to support party efforts at both empowerment and recognition. It is an empowering metaphor, because conversation is something that people know how to do. Conversation also implies dialogue and participation, reinforcing parties’ connection to each other. In addition, because there are many successful outcomes to a conversation, the metaphor allows for definitions of success that go beyond reaching an agreement. Finally, mediators who concentrate on helping the *parties* have a constructive conversation are better able to keep a microfocus on opportunities for empowerment and recognition.

- **Supporting the parties’ sense of their own agency**

In the transformative framework, mediators support the parties’ sense of their *own* agency --- that is, their own potential ability to exert power or achieve certain goals in the mediation session. Directly tied to empowerment, this strategy keeps the parties’ role central to the mediation process, rather than the mediator’s role. It is characterized by language that signals the *parties’* ability to act and to decide, if they so choose. A mediator is utilizing this strategy when he or she conveys to the parties that “this is all about you,” rather than “this is all about me.” An important marker is pronoun usage, i.e., more “you” talk than “I” talk. In addition, a mediator using this strategy tends to use moves that “get out of the parties’ way” rather than moves that take control or get in the parties’ way.

- **Supporting the parties' orientation to each other**

Mediators who practice in the transformative framework also support the parties' orientation to each other --- or, said another way, their awareness of the presence and connection of both (or all) concerned parties. Through this strategy, mediators provide a foundation for the possibility of inter-party recognition, without forcing recognition. This strategy provides opportunities for the parties to build interpersonal understanding *should they choose to do so*. An example of a move in this strategy is allowing direct party-to-party talk.

- **Supporting the parties' "conflict talk"**

This strategy marks a key difference between transformative and problem-solving mediators. "Conflict talk" is oppositional talk --- it may consist of a series of opposing exchanges between the parties or a single party describing the other in oppositional terms. Conflict talk is important, because it is as the conflict unfolds in the room that parties can learn new information, present themselves in new ways, create new understandings and make informed decisions. Because the capacities for decision-making (empowerment) and interpersonal understanding (recognition) are built through conversation, transformative mediators allow conversation to happen, even when it gets hot. The mediator "follows" that unfolding conversation, listening for places of "difference," "contention," or "heat," where choices can be highlighted or possibilities for building greater interpersonal understanding emerge.

- **Supporting the parties' decision-making process**

For the transformative mediator, the emphasis on party empowerment requires that the mediator highlight all possible decision-points and offer them to the parties. The mediator understands that "process" and "content" are inherently linked and offers decisions about both to the parties. Parties are making decisions throughout mediation --- whether to stay, who should talk when, what to say, what not to say, whether to listen, how to listen, how to talk, what to do, etc. A mediator true to this strategy: (1) avoids making any decision that could be made by the parties, and (2) notes possible decision-points and offers them to the parties, without forcing decisions upon them.

In summary, to succeed on the Performance Assessment, the mediator should submit a tape that demonstrates competent transformative practice. The assessor will assess the tape by closely observing the mediator's interventions in the session, coding each move, and analyzing whether and how each move either supports, or interferes with, each of the above strategies. Through this process, the assessor will be able to determine whether the overall patterns of the mediator's practice support party efforts at empowerment and recognition, or work against them.

How should I prepare for the assessment?

The best preparation for the assessment is to practice transformative mediation regularly, in a self-reflective way. As a foundation for regular transformative practice, most mediators engage in some combination of training, mentoring, education, self-guided reading, and/or study groups, that meets their own personal needs and situation.

How do I prepare a tape?

The videotape may involve an actual mediation session or it may be an unscripted, unrehearsed, uncut mediation simulation or “role play.” The ISCT has no preference in this regard. The most important factor to the ISCT is that the assessor has an opportunity to observe the performance of the mediator in the course of real-time interaction. We have found that simulations provide an adequate representation of a mediator’s interactive practices for assessment purposes.

If you wish to submit a tape of an actual mediation session, you must obtain the written permission of your clients to videotape the session and submit it for evaluation. The ISCT provides a form for this purpose. You are also advised to check on the confidentiality requirements in your state and/or for your mediation program. While confidentiality provisions typically apply only to mediator testimony about the substance of the mediation session, and thus would not prevent videotaping of a session for evaluation purposes, provisions do vary by locality and it is your responsibility to be sure that you are in compliance with your local provisions.

If you wish to submit a videotape of a simulation or “role play,” we have found that it is very effective for a group of mediators to work together on producing videotapes. For example, in one community mediation center, the mediators held a “role play day” as part of a training event. The mediators took turns mediating on videotape, with other mediators acting as clients in the role plays. This allowed the videotaping equipment to be shared, and provided a shared learning experience and on-the-spot feedback for the mediators.

What happens if I do not pass the first time?

If the assessor’s decision is Deferral, the mediator may:

- (1) Request evaluation of the same tape by another ISCT assessor; or
- (2) Submit another tape for assessment, following consideration of the assessor’s feedback and, presumably, further practice.

The original assessment fee paid at the time of application covers either one of the foregoing options, but not both.

Why is there a fee for this process?

The summative assessment process is very time-consuming. It requires intense concentration and analysis by the assessor, including the viewing of the mediator's videotape, completion of a process of coding and analysis of the mediator's interaction in the session, the review of the mediator's self-assessment, a telephone interview with the mediator, and the production of written feedback for the mediator. Pilot tests have demonstrated that one assessment takes the average assessor anywhere from one-half to one full day. In addition, there is considerable administrative cost to the ISCT involved in this process. The fee covers the administrative cost as well as modest compensation for the assessor's time in conducting the assessment.

For this fee, the mediator receives not just a summative decision on certification, but also targeted developmental feedback, comparable to that of an individualized coaching session with an expert in the transformative framework. Many mediators find this developmental feedback valuable in itself.

Where can I learn more?

This FAQ paper is a brief overview and introduction to a complex process that is based on literature from several fields of study as well as research and applied inquiry. If you would like to learn more about the foundations of this process, we suggest the following resources:

- (1) Della Noce, D.J., Antes, J.R., & Saul, J.A. (2003). Identifying practice competence in transformative mediators: An interactive rating scale approach to summative assessment. A working paper prepared for the Institute for the Study of Conflict Transformation; and
- (2) Relevant background reading.⁶

ASSESSOR'S GUIDE TO MOVES AND STRATEGIES

<p align="center">Strategy: Framing mediation as a constructive conversation</p>	
<p align="center">Supportive mediator moves</p>	<p align="center">Non-supportive mediator moves</p>
<p>Using a <i>metaphor of conversation</i> to describe mediation, the mediator's role, or the party's role</p> <ul style="list-style-type: none"> • conversation <i>between the parties</i> • related terms: discussion, talk, chat, etc... <p>Identifying <i>inherent constructive possibilities</i> in having a conversation, such as :</p> <ul style="list-style-type: none"> • talking over differences • increasing clarity and understanding • hearing new information • being heard by the other • seeing choices • making decisions 	<p>Using metaphors that disempower the parties by positioning the mediator as an authority figure or expert, such as:</p> <ul style="list-style-type: none"> • referring to mediation as a "hearing" • referring to parties as plaintiffs and defendants • using unnecessary legal terms • referring to the legal, therapeutic, or substantive expertise of the mediator • assuming an analytical stance "above" the parties <p>Using metaphors that suggest that the outcome is more important than the conversation itself, such as:</p> <ul style="list-style-type: none"> • negotiation • settlement • problem-solving • problem and solution <p>A focus on agreement as the definition of success</p>

Strategy: Supporting the parties' sense of their own agency	
Supportive mediator moves	Non-supportive mediator moves
<p>Using the second person subject, singular and plural (“you”)</p> <p>Using second person possessive adjectives (“your”)</p> <p>Using parties’ names in the subject position of a sentence, thereby “constructing” them as people capable of action</p> <p>Downgrading mediator agency, e.g.:</p> <ul style="list-style-type: none"> • emphasizing role as “helping,” or “assisting” • disclaiming power to decide <p>Using reflections that “follow” the content and emotional tone of a party’s own comments</p> <p>“Getting out of the parties’ way,” e.g.:</p> <ul style="list-style-type: none"> • allowing self to be interrupted • allowing self to be corrected <p>Offering reflections in a tentative manner, especially by using “check ins” and/or ending with an opening, questioning tone</p>	<p>Using terms that orient the parties to the agency of the mediator, such as:</p> <ul style="list-style-type: none"> • frequent use of the first person (“I”, “me”, “my”) • use of “we” to include mediator as a party <p>Acting in ways that assert mediator authority, such as:</p> <ul style="list-style-type: none"> • interrupting the parties • making choices for the parties <p>“Normalizing” (advancing the mediator’s interpretation of the party’s situation over the party’s own interpretation, by “convinc[ing] them that theirs is a normal, resolvable problem” and “undermin[ing] the uniqueness of each problem definition by normalizing the situation.” Haynes, 1994)</p>

Strategy: Supporting the parties' orientation to each other	
Supportive mediator moves	Non-supportive mediator moves
<p>Using the conversation metaphor (it takes two!)</p> <p>Using the second person, especially plural subject</p> <p>Making explicit references to “the other”</p> <ul style="list-style-type: none"> • by name • “both of you,” “each of you,” or “together” <p>Allowing parties to speak of and for each other (that is, to step into the other’s shoes)</p> <p>Checking in with a party who has not been “in” the conversation for a period of time, to “make space” if the party chooses to speak</p> <p>Allowing significant segments of uninterrupted party-to-party talk (“intentional silence”)</p> <p>“Following” party-to-party discussions through <i>inclusive</i> summaries (summaries that include important topics raised by both/all parties, in order to help parties hear each other)</p>	<p>Focusing party attention on the mediator and away from each other</p> <p>Focusing party attention on “the problem” and away from each other</p> <p>Discouraging party efforts at party-to-party talk through:</p> <ul style="list-style-type: none"> • ground rules • use of caucus • ignoring a party who is trying to engage • non-verbal behaviors that “cut off” a party <p>Stopping party-to-party talk when it happens, through:</p> <ul style="list-style-type: none"> • “turn shifts” (changing who may speak next) • “topic shifts” (changing the subject) • use of caucus • interruptions • specific “sanctions” (e.g., “speak for yourself” or “speak to me”)

Strategy: Supporting the parties' "conflict talk"	
Supportive mediator moves	Non-supportive mediator moves
<p>Using minimal encouragers at party pauses to encourage a party to continue speaking ("Mm-hmm," "Go on," "Okay")</p> <p>Using key word encouragers, that is, keying in to a term a party used that seems to carry "heat" ("Support, as in...?")</p> <p>Using open reflections (reflections that "follow" the content and emotional tone of party conflict talk and "check in" with party on accuracy of reflection)</p> <p>Using reflections and summaries to mark points of disagreement (not just agreement or common ground)</p> <p>Using reflections and summaries that "follow" conflict storylines</p> <p>Allowing multiple themes / storylines to develop in the course of conversation (not just themes that seem tangible, or solvable)</p> <p>Asking questions that invite elaboration</p> <p>Allowing conflict talk to continue uninterrupted</p>	<p>Preventing conflict talk in advance through ground rules that limit:</p> <ul style="list-style-type: none"> • how long a party may talk • how parties may talk • what parties may talk about <p>Terminating conflict talk when it occurs through:</p> <ul style="list-style-type: none"> • turn shifts (changing the speaker) • topic shifts (changing the subject) • interruptions • use of caucus • sanctions <p>Failing to respond to conflict talk and strong emotion</p> <p>Normalizing</p> <p>Mutualizing</p> <p>Future focus</p> <p>Reframing</p>

Strategy: Supporting the parties' decision-making process	
Supportive mediator moves	Non-supportive mediator moves
<p>Summarizing and highlighting available decision-points (no distinction between process and content decisions)</p> <p>Offering decision-points to the parties</p> <p>Offering any mediator suggestions only tentatively</p> <p>Offering any mediator suggestions with alternatives, in order to emphasize opportunity for party choice</p>	<p>Making choices for the parties (e.g., “The mediator controls the process, and the parties control outcome”)</p> <p>Taking choices away from the parties</p> <p>Limiting the choices/topics available for discussion</p> <p>Narrowing the topics for discussion</p> <p>Favoring certain choices over others</p> <p>“Closing” (disregarding unresolved topics as agreement begins to appear)</p> <p>Orchestrating / managing the parties’ interactions</p>

¹ See Transformative Mediation, An Annotated Bibliography of Institute Resources, © Institute for the Study of Conflict Transformation, 2001, 2002 <http://transformativemediation.org/annotated%20bibliography1.doc>

² We outline here in more detail the various projects that have contributed in some way to the development of the summative assessment process. **Many practitioners and scholars were drawn to the vision of mediation expressed in *The Promise of Mediation***, and contacted Bush and Folger for training, materials, and other resources. To meet this demand, **Bush and Folger launched the Training Design Consultation (TDC) project in 1996**, with joint funding by the Hewlett Foundation and the Surdna Foundation. The TDC involved scholars and practitioners from all over North America in the development of training materials and programs.

One participant in the TDC was Cynthia Hallberlin, then counsel for the United States Postal Service (USPS). She was instrumental in **the decision by the USPS to adopt the transformative framework for its nationwide EEO mediation program (REDRESS™)**, given the interest of the USPS in changing the quality of conflict interaction in the workplace. Bush, Folger, Della Noce and Pope assisted in the development of the REDRESS™ program by creating training programs and materials, and by training a corps of trainers in the transformative framework who then trained the national corps of mediators. Additional colleagues from the ISCT have contributed to the REDRESS™ program since, through training, resource development, evaluation, consultation and research.

The Practice Enrichment Initiative (PEI), a multi-pronged theory-to-practice project, also jointly funded by the Hewlett Foundation and the Surdna Foundation, followed the TDC. The PEI, which began in 1998 and ended in 2000, encompassed three work groups: one that focused on developing “pictures of practice” through close analysis of transformative mediation practice using videotapes and transcriptions of mediation sessions; another that studied approaches to mediator development and assessment; and a third that analyzed policy materials in the mediation field to assess their impact on the opportunity to engage in transformative practice and to develop appropriate alternatives where necessary. Among the many products of the PEI were: (1) the recognition of the profound impact of policy materials, such as assessment standards and procedures, on practice; (2) a crystallization of images of competent transformative practice; and (3) thoughtful approaches and materials for *formative assessment*, that is, a supportive, developmental approach to *building* mediator competence in the transformative model.

Throughout these various projects, **members of the ISCT also were actively engaged in the education and training of mediators** --- as they are today. A significant component of these training programs involved ongoing assessment of the practices of mediators during the training process in order to determine those areas where adequate learning was demonstrated and also those areas where additional instruction was needed. This assessment was conducted through close analysis of the mediators’ interactions in mediation simulations. Eventually, to meet the demand for training beyond the introductory level, members of the ISCT developed an advanced tutorial training (or coaching process) that utilized close analysis, with mediators, of videotaped interactions of those mediators in mediation simulations. Here, too, however, the focus was on formative assessment processes to enhance the development of mediators.

Since the conclusion of the PEI, for all of the reasons noted earlier, we have been turning our attention toward *summative assessment*. In the process, we have brought together the insights from the TDC and the PEI projects, the USPS initiative, and our experiences with training and coaching. We also incorporated insights from research on the in-session practices of competent transformative mediators into the processes already under development. First, we drew upon what might be called the **“action research”** conducted by members of the ISCT since the time of the PEI --- insights from the analysis of videotapes and transcripts, and from close coaching work with mediators on the nature and effects of their practices at a micro-level. **We also drew upon discourse analytic research conducted by Della Noce (2002)**, who compared the practices of competent problem-solving mediators

with the practices of competent transformative mediators, and thereby isolated certain essential and unique practices of transformative mediators. We have continued to refine and build on the findings of this research by analyzing additional videotapes of mediations representative of each framework and comparing the patterns of practice we found with those identified in the original research.

³ **How is the Performance Assessment conducted?**

The purpose of the Performance Assessment is to provide the assessor with insight on the mediator's ability to demonstrate with some consistency the moves and strategies associated with competent transformative practice (Competency #3).

For this part of the assessment, the assessor must be able to observe the mediator performing *as* a mediator. We ask the mediator to submit a sample mediation session to the assessor on videotape. The videotape may involve an actual mediation session (if submitted with the appropriate consent forms from the clients), or it may be an unscripted, unrehearsed, uncut mediation simulation or "role play." In either case, the most important factor is that the assessor has an opportunity to observe the performance of the mediator in the course of real-time interaction. We recommend that the session be one-half hour in length, and that it include the mediator's opening of the mediation session. It is not necessary that the tape show a resolution of any particular kind during that half-hour time period, as the assessment will be based on the quality of the interaction itself rather than any particular outcome. Likewise, we have no restrictions or preferences regarding the subject matter of the conflict. Good sound quality is essential to the assessment process, and therefore we encourage mediators to use table microphones during the taping process.

The assessor watches and listens carefully to one-half hour of the unfolding mediation session, starting from the beginning of the tape. The assessor's focus is on mediator interventions. The assessor notes on a notepad each mediator intervention, taking down the mediator's language (verbal and non-verbal) as accurately as possible. It may be necessary for the assessor to occasionally rewind the tape and play back portions in order to accurately capture the mediator's language, especially in the opening of the session and during lengthy interventions such as summaries.

During this observation period, **the assessor also makes notes about the "flow" of the unfolding interaction.** For example, an assessor might note that the mediator offered a reflection after a party spoke, but that the reflection softened or laundered out the emotional content of what the party said. Skilled assessors should also be able to follow and read the unfolding communication sufficiently well that they might note the absence of a particular intervention where they believe a supportive intervention was warranted --- recognizing that a choice not to act is also an intentional "move" in a conversation.

At the end of the observation period, the assessor will have several pages of notes recording the mediator's interventions in the session. **The assessor then begins a process of coding and analyzing the mediator's interventions in terms of the specific "moves" and "strategies" the mediator used,** and whether those moves and strategies supported transformative practice or were contrary to transformative practice.

The concepts of "moves" and "strategies" emerge from the research we described earlier, and are the subject of more academically-oriented papers. Detailed explanations of these concepts, and how they are operationalized for assessment purposes, are essential for training assessors and for demonstrating that this is a valid and reliable assessment process. However, for purposes of describing how the assessment occurs, in this paper, a simple overview is sufficient.

The assessor studies the interventions he or she has noted and “codes” them as specific “moves,” according to a typology he or she has been trained to use. The assessor then analyzes the pattern of moves identified in the mediator’s practice in terms of whether they are supportive of, or contrary to, each of five functional “strategies” of transformative practice. By analyzing these patterns, the assessor can rate the mediator in terms of his or her competence within each of the strategy areas.

⁴ **How is the Interactive Component conducted?**

The purpose of the Interactive Component is to provide the assessor with insight on the mediator’s understanding of the theoretical foundations of the transformative model (Competency #1) and the mediator’s ability to apply that understanding to specific situations (Competency #2).

For evaluative purposes, the Interactive Component allows the assessor and the mediator to go beyond the assessor’s inferences concerning the mediator’s understanding of the theoretical framework and ability to apply it, which were based on the assessor’s observation and analysis of the mediator’s in-session competencies.

The first task of the assessor is to review the written Self-Assessment submitted by the mediator, to get a sense of the mediator’s own interpretations of his or her practice competencies. The Self-Assessment consists of two brief essays (no more than one page each) prepared by the mediator prior to submitting the videotape to the assessor. The mediator selects two segments of the videotape to analyze according to directions provided on the ISCT *Applicant’s Guide to Preparing a Self-Assessment* – one segment which demonstrates the mediator intervening in a way that is consistent with transformative practice, and one which demonstrates the mediator intervening in a way that is not consistent with transformative practice. The mediator submits his or her written analysis of those segments to the assessor with the videotape.

The assessor views the two segments of the videotape to which the mediator directs the assessor’s attention, and carefully considers the contents of the mediator’s essay with respect to:

- (1) whether it conveys an accurate understanding of the transformative model of practice (Competency #1), by including, for example, key vocabulary and concepts, such as conflict transformation, empowerment, recognition, and microfocus; and
- (2) whether it contains an accurate self-evaluation, that is, descriptions and explanations that reveal an ability to apply key concepts of the model to an analysis of interaction as it unfolds in the session (Competency #2).

The assessor makes notes about any insights he or she gains from the mediator’s Self-Assessment, and notes any areas of concern that he or she would like to explore in a later conversation with the mediator.

The next step of the Interactive Component will vary slightly, depending on whether the mediator “Passed” or was “Deferred” in the Performance Assessment portion. As we noted earlier, a mediator must pass both Part 1 (the Performance Assessment) and Part 2 (the Interactive Component) of the assessment process in order to be deemed a competent transformative mediator.

In the case where the mediator was “Deferred,” based on the Performance Assessment, the mediator is in need of developmental coaching. Therefore, the assessor will call the mediator to inform him or her of the deferral decision. The assessor will offer to return the tape to the mediator and schedule a

telephone call for the purpose of developmental coaching. The assessor will urge the mediator to review the tape and the assessor's written feedback prior to the call, and to use this call as an opportunity to understand the basis for the assessor's decision and the assessor's suggestions for improvements to the mediator's practice. During the call, the assessor will discuss specific segments of the tape with the mediator, and also review his or her impressions of the mediator's understanding of the model gained from the assessor's analysis of the mediator's Self-Assessment.

If the mediator "Passed" the performance Assessment portion, the goal of the Interactive Component is to analyze separately the mediator's understanding of the theoretical foundations of the model and the ability to apply that understanding in practice. This is a key component of assessment, which must be passed independently of the Performance Assessment, because it indicates whether a mediator will be able to engage *consistently* in transformative practice.

In either case, the Interactive Component will follow the same general procedure. The mediator and the assessor talk together about portions of the videotape selected by the assessor. The assessor directs the mediator's attention to certain segments of the videotape, and at each segment engages the mediator in a discussion of these key questions:

1. What **opportunities** did you see or hear in the interaction (i.e., for party empowerment or inter-party recognition) that you were responding to?
2. What was the **purpose** of your intervention in that segment? What were you trying to do?
3. What **effect** did your intervention have on the continuing interaction? (e.g., can party "shifts" in the dimensions of empowerment and recognition be identified)
4. How did your intervention support, or interfere with, the **principles and premises** of the transformative model?
5. **What else** might you have done at this point?

Three or four segments of discussion following this general pattern are generally sufficient to provide the assessor and the mediator with insight on the mediator's understanding of the model.

At the conclusion of this process, the assessor will discuss his or her overall impressions with the mediator, particularly impressions related to areas of strength and areas in need of further development. The assessor will also rate his or her overall assessment of the mediator's understanding of the model and ability to apply it, as "Satisfactory" or "Unsatisfactory," on these dimensions:

- (1) Whether the mediator conveyed an accurate understanding of the transformative model of practice (Competency #1), by using, for example, key vocabulary and concepts, such as conflict transformation, empowerment, recognition, and microfocus; and
- (2) Whether the mediator engaged in accurate self-evaluation, by using descriptions and explanations that reveal an ability to apply key concepts of the model to an analysis of interaction as it unfolds in the session (Competency #2).

A “Satisfactory” rating on the Interactive Component, coupled with a “Pass” on the Performance Assessment, indicates that the mediator should be “Approved” as a competent transformative mediator. An “Unsatisfactory” rating on the Interactive Component would require the assessor to reach a decision of “Deferred” on the overall application of the mediator, despite a “Pass” on the Performance Assessment.

⁵ The assessors will be using a method that has been developed through research on the “talk” of competent transformative mediators. Two key concepts for assessors are mediator *moves* and *strategies*. While these concepts are important for understanding the work of the assessors, we must emphasize that it is not necessary for the mediators to understand or explain their work in these terms in order to succeed in demonstrating competent mediation practice.

Moves are specific “codable moments” in the intervention. The coding system for mediator moves is very detailed, and has been developed through research on mediator talk. To code mediator interventions, the assessor looks closely at how the mediator structures each turn at talk, in terms of the nouns and pronouns used, the form of intervention (question, reflection, summary, etc.), and how responsive the intervention is to the interaction that preceded it. One turn at talk may be made up of many codable moves.

Strategies provide a way to look at patterns or collections of moves over time --- or the cumulative interactive effect of mediator moves. We want to emphasize here that we are using the term “strategy” in a communication sense, rather than a psychological sense. That is, we are not talking about deliberate psychological strategizing that puts the mediator out “ahead of the parties.” Rather, we are referring to “strategies” as goal-oriented communication *functions* that become apparent over time, as mediator moves are examined in context. In other words, as patterns of mediator moves emerge in context, the functions and goals of the mediator’s interventions also emerge.

⁶ Relevant Background Reading

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