

## **How Do We Know A Mediator Is Competent?**

**By Sally Ganong Pope**

October 22, 2004

How do we know that a mediator is competent to practice? This question is of vital importance to program administrators and directors of community mediation centers. It is also of importance to the ultimate consumers of mediation - the people in conflict. But assurance of mediator quality is difficult for all who ask the question. The privacy and confidentiality of the process, coupled with uninformed participants who may not know what to expect, make it difficult to answer the question with any certainty.

The question of mediator competence is also important to the entire field of conflict resolution. The need for credibility, to assure mediator quality and to establish mediation as a "field" of practice, has led to various answers to the question. The answers include credentialing based on training and educational requirements, internships within mediation centers, the use of written tests, direct observation and performance testing.

### **ISCT Helps Answer the Question**

Mediator quality assurance has been an on-going project for the Institute for the Study of Conflict Transformation (ISCT) for many years. A think tank affiliated with Hofstra University School of Law, ISCT has developed assessment processes for both developmental and summative purposes. It is also applying its own assessment process to review and certify the quality of the mediators it provides through a roster of mediators which it makes available to corporations and federal agencies.

Work by ISCT fellows is currently featured in the Ohio State Journal on Dispute Resolution in a Special Series: Assuring Mediator Quality which was just published (vol. 19, 2004, no. 3). The Series includes articles by Dorothy Della Noce, Robert A. Baruch Bush, James R. Antes and Judith A. Saul. An overview of the history of mediator quality assurance efforts in the field and the work of ISCT is presented, including the development and field testing of an interactive rating scale assessment model.

The work on assessment (and much more of the work of ISCT) is being presented at the First National Conference on Transformative Mediation, "Looking Back, Looking Forward: Ten Years After *The Promise of Mediation*," being held in Philadelphia, Pennsylvania, November 7-8. In addition, *The Promise of Mediation*, by Baruch Bush and Joseph Folger, first published in 1994, has been completely and substantially revised for release as a second edition in October 2004. It also includes discussion of the work on assessment and many new insights on the transformative model.

ISCT work on the quality assessment of transformative mediators began more than six years ago. under the leadership of Dorothy Della Noce, James Antes, and Judith A. Saul. One of the projects of the Practice Enrichment Initiative, a theory to practice project funded by the Hewlett Foundation and the Surdna Foundation, was a study of mediator development and assessment. That project resulted in a process for formative assessment – a supportive, developmental approach to building mediator competence, and was

reported by James R. Antes & Judith A. Saul, in *Evaluating Mediation Practice from a Transformative Perspective*, 18 *Mediation Q.* 313 (2001)

### **Assessment Process Applied**

Recent work on assessment was conducted by ISCT for the United Postal Service with the development of a process for observing live mediations and assessing the work of the mediator during the live action of an actual case. The Postal Service is currently employing the process to review and evaluate the work of transformative mediators in its REDRESS workplace mediation program.

Its own summative assessment process is being used by ISCT to evaluate mediators who apply to become ISCT Certified Transformative Mediators™. The impetus for the Institute certification process came from growing interest in panels or rosters of transformative mediators. In 2003 the Institute was invited to maintain a roster of transformative mediators and to make them available to Raytheon nation-wide for its new ADR program. In 2004 the Institute was awarded a contract to provide transformative mediators for Federal Occupational Health (FOH), a division of the United States Department of Health and Human Services.

FOH provides a network of ADR professionals to assist Federal managers and employees with workplace conflict. The ADR Program is a new addition to the occupational health services FOH has offered for more than half a century. Agencies selecting the FOH/ADR Program include the Transportation Security Administration of Homeland Security Department and many others. As a result of the selection of ISCT, mediators on the ISCT roster are called on to mediate cases for the Transportation Security Administration and other Federal agencies as well as for Raytheon.

The ISCT program for the assessment and certification of Certified Transformative Mediators™ is the best assurance of the quality of the mediators. The certification process is based on research and field study into mediator quality assessment conducted by Fellows and Associates of ISCT over the past ten years and research into the differences between transformative mediators and others. The certification process is rigorous: it requires mediators to submit a video of themselves conducting a mediation and a written self-analysis of their work, both of which are evaluated by trained assessors. It also requires an interview. Those who are certified have demonstrated commitment to transformative mediation as well as competence.

### **Why is Assessment Important to ISCT?**

There are many reasons for a summative assessment process:

- (1) Respond 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) 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) 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) 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) Support 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.

### **ISCT Goals**

The goal of ISCT is to fulfill the potential of mediation as a truly alternative social process for addressing conflict, and to do so by increasing knowledge and understanding of the transformative approach to conflict intervention and expanding its use. The transformative approach is grounded in a relational world view - a view of human beings and society based on the fundamental belief that individuals have the capacity and desire to act with both strength and compassion even in the midst of conflict. Strength and compassion are also often expressed as empowerment and recognition, which are terms of art in the transformative model. The foundations of the model and the relational world view are described fully in *The Promise of Mediation* by Robert A. Baruch Bush and Joseph P. Folger, first published in 1994, second edition 2004.

Scholars and practitioners have worked together for exploration and development of training materials and resources for the practice of mediation from the transformative perspective. They also produced a core working group of individuals committed to the transformative approach who formed the nucleus of the Institute. The founders of the Institute, Professors Bush and Folger, Dorothy Della Noce and Sally Ganong Pope, invited the core working group to join them by assisting with development of the Institute and participating in its work. Today, there are six Fellows, who are the four founders joined by Professor James A. Antes and Judith A. Saul. In addition to the six Fellows, thirty-five Associates, throughout the United States, Canada and the United Kingdom, are now affiliated with the Institute to further its mission.

### **Goal of Transformative Mediaton**

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.

According to the transformative framework, a conflict represents first and foremost a **crisis in human interaction**, a crisis with a common and predictable character. Specifically, the occurrence of conflict tends to destabilize the parties' experience of both self and other, so that each party feels both more vulnerable and more self-absorbed than they did before the conflict. Further, these negative attitudes often feed into each other on all sides as parties interact in a vicious circle that intensifies each party's sense of weakness and self-absorption. As a result, the interaction between the parties quickly degenerates and assumes a mutually destructive, alienating, and dehumanizing character.

For most people, according to the transformative theory, being caught in this kind of destructive interaction is the most significant negative impact of conflict. However, the transformative framework posits that, despite conflict's natural destabilizing impacts on interaction, people have the capacity to regain their footing and shift back to a restored sense of strength or confidence in self (the **empowerment** shift) and openness or responsiveness to the other (the **recognition** shift). Moreover, these positive moves also feed into each other on all sides, and the interaction can therefore regenerate and assume a constructive, connecting, and humanizing character. The model assumes that this **transformation of the interaction** itself is what matters most to parties in conflict, even more than resolution on favorable terms.

As applied to third party intervention, the framework is the basis for the **transformative model of mediation**. In this model, the mediator's goal is helping the parties to: identify the opportunities for empowerment and recognition shifts as they arise in the parties' own conversation; choose whether and how to act upon these opportunities; and thus change their interaction from destructive to constructive, as they explore specific disputed issues. Success is measured, in transformative mediation, not by settlement but by party shifts toward strength, responsiveness and constructive interaction. Effective practice is focused on supporting empowerment and recognition shifts, by allowing and encouraging **party deliberation and decision-making**, and inter-party **perspective taking**, in various ways.

### **For More Information**

More details on the assessment process and the work of ISCT are available on the website [www.transformativemediation.org](http://www.transformativemediation.org) and in the document [Mediator Certification: Frequently Asked Questions](#) by Della Noce, Antes and Saul that is on the website and also attached.