

APPENDIX
MODEL STANDARDS FOR
MEDIATION CERTIFICATION PROGRAMS
ASSOCIATION FOR CONFLICT RESOLUTION

(ADOPTED ON OCTOBER 10, 2011)

INTRODUCTION, BACKGROUND, DEFINITIONS AND CONTEXT

1.0 Introduction

These Model Standards for Mediation Certification Programs were developed and approved by the Association for Conflict Resolution (ACR) on October 10, 2011. The Standards are the result of widespread collaboration and consensus building among ACR members and other stakeholders in the mediation community. These standards are intended to set goals to which new and existing mediator quality assurance programs should aspire.

These Standards build on the historic work on mediator certification conducted by ACR and its predecessor organizations. Products of this work include but are not limited to the 1989 report of Society for Professionals in Dispute Resolution (SPIDR) Commission on Qualifying Neutrals, *Qualifying Neutrals: The Basic Principles, Report of the SPIDR Commission on Qualifications* (April, 1989), the National Institute for Dispute Resolution's (NIDR) Performance-Based Assessment: A Methodology for Use in Selecting, Training and Evaluating Mediators, Test Design Project (NIDR, 1995), and the ACR *Mediator Certification Task Force Report and Recommendations to the ACR Board of Directors*, March 31, 2004. The 2004 Task Force recommended creating a national mediator certification program, but subsequent feasibility studies indicated that creating best practices for certification programs might be a more logical first step.

ACR encourages entities that certify mediators to adopt, as some have, a nurturing and skill-building approach to certification, reflecting a sense of responsibility to the field, as well as respect for practitioners at all levels.

1.1 Rationale

ACR recognizes the potential benefits of mediator certification, as observed at state, regional and local levels. While many agencies establish standards for mediators, there is no uniform standard for the certification programs themselves. Without some degree of standardization, it is difficult for professionals to choose among various programs that offer certification and almost impossible for members of the public to evaluate the

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competence of mediators based upon the certification that mediators advertise. ACR reached out to established certifying entities and reviewed the extensive literature in the creation of these model standards for certification programs.

1.2 Background

ACR, along with the American Bar Association and the American Arbitration Association, has already adopted Model Standards of Conduct for Mediators, which serve as fundamental ethical guidelines for mediators. ACR has also developed Ethical Standards for ACR Neutrals and Recommended Standards for School-Based Peer Mediation Programs.

These standards have been developed to help national organizations, state programs, and non-profit agencies achieve excellence in credentialing mediators. Not all programs or agencies will wish to certify mediators and may choose to use a less rigorous method of credentialing. The standards, nevertheless, can serve as a unifying guide to enhance the credibility of the field.

These Standards are to be read and construed in their entirety. No significance should be attached to the sequence in which the Standards appear.

1.3 Mediation Defined

For purposes of these Standards, mediation is defined as a process in which an impartial third party facilitates communication and negotiation and promotes voluntary decision making by the parties to the dispute. Mediation serves various purposes, including providing the opportunity for parties to define and clarify issues, understand different perspectives, identify interests, explore and assess possible solutions, and reach mutually satisfactory agreements, when desired. (Model Standards of Conduct for Mediators)

Terms:

- The use of the terms “shall and will” in these Standards indicates that in order to comply with the Standard, the certifying program must follow the practice described.
- The terms “will” and “must” indicate the same level of expectation of adherence to the Standard as does “shall.”
- The use of the term “should” indicates that the practice described in the standard is highly desirable, but not required, and is to be departed from only for compelling reasons requiring careful use of judgment and discretion.

1.4 Overview of Credentialing

“Credentialing” is an umbrella term that encompasses quality assurance practices such as licensure, certification qualification, accreditation, rostering, and registration. Numerous authorities have discussed the benefits, challenges, and trade-offs inherent in each of these credentialing approaches as applied to mediation (See, e.g., ABA Task Force 18-21; Pou, *Assuring Excellence* 329-33; Herrman 32-37; Milne, *Parameters* 49). Each of these credentialing approaches requires that a candidate demonstrate, to some level of qualification, successful completion of one or more of the three Es:

- education (e.g., an educational or training program),
- experience (e.g., clinical internship or supervised practicum), and
- examination (e.g., written exam or performance assessment).

Each of these credentialing approaches provides some degree of assurance that individuals holding themselves out as qualified to provide a professional service, they have the knowledge and skill to competently provide that service competently (ABA Task Force 18).

1.5 Movement of Mediator Credentialing toward “Certification”

Mediator credentialing systems abound in the United States. The result is a vast patchwork of credentialing programs that vary considerably in their standards of qualification and are often localized to the point that they may be isolated from one another even within the same state. (ABA Task Force 18-31; Pou, *Assuring Excellence* 312-23).

Roster Programs. Roster programs are by far the most prevalent form of credentialing for mediators. They are common in court-administered mediation programs and state or national professional associations of mediators (Della Noce, *Communicating Quality Assurance* 770-73; ABA Task Force 21-26). A roster exists when an organization establishes qualification standards (usually education/training and experience) and requires applicants to show evidence of meeting the qualifications before being listed on the roster (Della Noce 770-73; Herrman 35). As evidence of competence, mediator rosters most often rely on paper credentials, such as training certificates and academic degrees, and on documented hours of mediation experience and sometimes hours of supervised practice (Id.). Roster programs rarely have a process for independent third-party verification and authentication of the credentials, relying in good faith on the individual who purports to meet the defined standards (see Della Noce). The strength of roster programs rest in its lower cost and ease of administration, while the often minimal training and experience requirements are seen as a weakness (Herrman 35; Pou, *Assuring Excellence* 305). The criteria used for court-administered rosters most often require little more than some training (typically forty hours), some experience, and/or supervised

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practice (three to ten cases), and “modest continuing education” (Pou, Assuring Excellence 332).

Certification. Various state and national groups have launched initiatives for certification of mediators. The Institute for Credentialing Excellence (ICE), a national body that develops standards for professional certification programs, defines “certification” as a voluntary process by which individuals are evaluated against predetermined standards for knowledge, skills, or competencies believed essential for competent practice in the field (Features of Quality Certification Programs 2-3; NCCA Standards 21). In many established professions, certification is national in scope and confers upon the individual the legally protected right to use the term “certified” (or equivalent initials) as a credential. Because the field of mediation is in an early stage of development, it is difficult to predict how certification may evolve and the level of competency it may seek to assure within its various subfields or the field as a whole.

ACR believes that well-designed programs promise to elevate the level of quality assurance and accountability in mediation as well as increase practitioner self-awareness and advance professional development. This requires moving beyond review of paper credentials to include performance-based assessment. Rather than only verifying whether candidates have specified hours of experience and training, performance assessment focuses on how candidates *apply* their knowledge and what they can *do*. It more accurately reflects an individual’s capacity for competent performance. The work on performance assessment in recent years has produced more precise knowledge of mediation practice, making it possible to design performance-based testing that is valid for the intended purpose and produces reliable and fair results. These model standards outline criteria to assist in developing performance-based assessment as a component of certification.

1.6 Distinguishing Certification and Certificate Programs.

“Certificate” programs need to be clearly distinguished from professional certification programs. A certificate program differs from professional certification in important ways, the most important being that it is centered on learning events and coursework completion. A certificate program is a training program on a topic for which participants receive a certificate after attendance and/or completion of the coursework (Features of Quality Certification Programs 5-7; 2005 NOCA Guide 5).

Certification is more comprehensive and necessarily includes an assessment of an individual’s knowledge, skills, and abilities based on a body of knowledge pertaining to a profession or occupation. For example, people often receive certificates for completing their beginning mediation training. Some certificate programs require the individual to pass an assessment, but the assessment is designed to evaluate accomplishment of intended learning outcomes rather than competencies required for professional practice. Moreover, certification is valid for a specific time period and involves recertification at the expiration of the stated period, whereas certificates are generally issued for life.

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1.7 Distinguishing Certification and Licensure

Licensure refers to the process by which a license to practice in the profession is granted by a government board, or by an independent professional organization authorized by government. The Institute for Credentialing Excellence defines licensure as “the mandatory process by which a governmental agency grants time-limited permission to an individual to engage in a given occupation after verifying that he/she has met predetermined and standardized criteria” (2005 NOCA Guide 5). Licensure offers title protection for those who meet the criteria, and persons without a license are prohibited from practicing. Although licensure is a mandatory form of credentialing, it may not necessarily hold practitioners to a higher standard of practice than certification or other forms of credentialing. No state currently licenses mediation professionals.

1.8 Challenges Associated with Developing Mediator Certification Programs

The issue of certification has been a topic of particular interest and concern for mediators across the country. The extensive diversity of opinion on mediator licensing and certification reflects the national dialogue on this topic. Strong divisions exist among practitioners and experts as to how to define, measure, and promote quality mediation practice. These differences have generated debates that have raised a variety of policy, practical, legal, and logistical concerns, such as how best to assess whether practitioners have the skills that can be crucial for a quality process, how to assure diversity, and how to minimize bureaucracy.

These issues arise in part because mediators are asked to play complicated, diverse roles that may vary from program to program or even from case to case.

Some people believe that the field is still evolving and should not be regulated at all. Many knowledgeable people favor market-based philosophies or suggest that insufficient knowledge exists to measure or predict quality performance. Others believe that research is beginning to show the attributes that are important for effective performance in various settings and how those aptitudes are best acquired. (Pou, 2002)

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