

## **10 BASIC PRINCIPLES OF CULTURAL COMPETENCY: A STARTING POINT FOR NEW MEDIATORS**

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As a result of COVID-19 and its impact on courthouse operations, there is an increased focus on mediation as a method of attempting to resolve cases. With emerging social awareness of the major benefits of understanding and working with persons from diverse backgrounds, there is also a heightened interest in the concept of “cultural competency” in an inclusive society. Adding cultural competency and sensitivity to mediation can help mediators in both family and civil proceedings manage the process.

For new mediators who have little or no prior familiarity with the concept of cultural competency, but seek to improve their ability to help people from different backgrounds, there can be a significant benefit to considering certain foundational principles as a starting point for further study. Those beginning the journey toward cultural competency may at first feel overwhelmed by the absence of any specific roadmap. There is no single, universal, “official” textbook on the subject. Some information is complex, and different resources, studies and articles may at times seem ambiguous or contradictory.

The following basic principles of cultural competency are designed to help new mediators. These principles are not intended to cover every aspect of cultural competency, but rather to provide clear and fundamental points and a general direction for those wanting to learn more about this topic.

### **BASIC PRINCIPLES OF CULTURAL COMPETENCY**

***1) “Culture” is not limited to one’s nation of origin. Rather, culture may include other relevant categories as well, including ethnicity, race, religion, gender, physical or developmental challenges, sexual orientation, and other groups with which a person may personally identify or have shared similarities.***

This concept addresses recognition of a broad definition of “culture” beyond more traditionally narrow terms.

***2) Cultures may have many “sub-cultures” and some people may be part of different or overlapping sub-cultures, with various levels of self-identification; therefore, cultures are heterogeneous, as individual members have their own thoughts, viewpoints, life experiences and responses which define their uniqueness.***

This point emphasizes that when a person identifies with a “culture” or “sub-culture”, the degree of adherence to traditional customs and value systems may vary from person to person. As every person is a unique individual, a mediator cannot presume that any person has particular characteristics, beliefs, or customs merely because one or more other members from that person’s culture have such traits. Any such presumptions can lead to overgeneralization and stereotyping. If a mediator finds that a person identifies with a particular culture or sub-culture, this is only a starting point in the process of seeking to understand the person as an individual. While a culturally competent mediator may research and learn about a culture, one never pre-supposes a person’s views beforehand, but rather seeks further information, input and clarification as applicable.

**3) *“Cultural Competency” does not require a mediator to be an “expert” about multiple cultures. Rather, a mediator remains open to learning about relevant issues of cultural importance to each person as presented.***

The level of a person’s self-identification with some cultural norms and traditions may change multiple times based upon life experience. For example, one’s personal adherence to the customs and rituals of a particular religion (or lifestyle, such as veganism) may change for any number of personal reasons. As one’s ongoing relationship with aspects of a culture may evolve in one direction or another, a mediator should be aware of the potential for such variations.

**4) *A culturally competent mediator listens and appreciates that individuals from different cultures may have viewpoints different from that of the mediator, and no such viewpoints should be disregarded or devalued as a result.***

A mediator cannot know everything. There may be multiple ways of looking at an issue. A culturally competent mediator knows the importance of effective listening, and accepts while appreciating that people from varying backgrounds can have differences in viewpoints which are all valuable.

**5) *A culturally competent mediator remains aware of the potential for implicit and unconscious prejudice and biases, which can exist without one’s knowledge or intent and may negatively impact the mediation process; therefore, cultural competency is supported by an ongoing willingness and effort of the mediator to self-evaluate for open-mindedness to persons and ideas from all backgrounds.***

A mediator’s willingness to engage in ongoing self-evaluation is key. Such willingness helps protect against unconscious pre-existing beliefs potentially impacting the ability of the mediator to appreciate the merits of other people’s ideas and ways of addressing and potentially resolving an issue.

**6) *A culturally competent mediator is cautious and sensitive about the terms used in addressing or describing members of any particular class.***

There can be outdated or conflicting information from different sources as to how to appropriately address persons who may identify with a particular culture. Different persons may prefer different terminology. An example is when parents of a child diagnosed with Autism Spectrum Disorder (ASD) may prefer the term “child with autism” over “autistic child” or “child with ASD”. Rather than assuming preferences, and when relevant to the discussion, a mediator may ask the participant(s) their preferred terminology. Acknowledging and respecting personal preference can help support cultural awareness.

**7) *If a mediator learns that they inadvertently offended a person through words, gestures or actions, it is generally helpful and constructive to acknowledge the situation and consciously avoid repetition in the future.***

Life teaches us that every person - without exception -- may say or do something which personally offends somebody else. Therefore, it is possible that a mediator may unknowingly use words or engage in actions which may culturally offend a party. The principle, is that the mediator accepts responsibility when learning that words, gestures or actions have unintentionally offended someone. Maintaining trust, rapport and respect is a very valuable concept in the mediation process.

**8) *There is no single “training program” that suddenly transforms a new or experienced mediator into a culturally competent professional.***

This provision emphasizes that while there may be numerous continuing education and professional development courses and seminars on “cultural competency”, the topic involves far more than rote memorization of points and principles that might be covered in any particular class or course on the subject. Cultural competency is an ever-evolving and ongoing process. It involves an ongoing, long-term commitment to constant education, open-mindedness and willingness to learn when dealing with persons from diverse backgrounds

**9) *When mediating a case involving persons of different cultures, a primary goal of a culturally competent mediator is not to determine who is “right” or “wrong” but rather to assess for ways to respectfully construct a bridge of common interests and agreements between the persons involved.***

When mediating a case between persons of different cultures, there may sometimes be challenges in reaching compromises between minds that view the same issues very differently. For this reason, a culturally competent mediator appreciates and understands that with compassion and reason, it is very possible to help people from completely different cultures find common ground and reach mutually acceptable resolutions in the mediation process. A

successful mediation can occur between people of different cultures when at the conclusion, both sides feel that they have obtained some meaningful benefit.

***10) "Diversity/Inclusion" and "Cultural Competency" are related but different concepts***

The concept of "cultural competency" differs from the concept of "diversity and inclusion." While "diversity and inclusion" supports the concept of persons from multiple and diverse cultures and backgrounds working together, "cultural competency" focuses on the actual ability and willingness of persons from all backgrounds to understand and learn from each other with open minds. For example, a business seeking to practice diversity and inclusion may hire multiple qualified persons from different cultures. Yet, if that same business makes little or no legitimate effort to share ideas and actually understand and learn from the diverse persons hired, then the business may have staff diversity but a deficiency in cultural competency. Reciprocally, if the same business has an open-mindedness to receive and consider different ideas from persons of different cultures, but little or no actual diversity and inclusion, then the company may never realize the full benefit of diverse teammates working together. By pairing and utilizing both diversity/inclusion and cultural competency together at the same time, the resulting synergy can significantly strengthen a group or organization's efforts in achieving a common goal.