



Singapore International Mediation Institute (SIMI)
Guidelines For The Determination Of
Mediation Case Experience (Full-scale and Hours)

Version (February 2018)

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PART A INTRODUCTION

1. Objective
 - 1.1. These “Guidelines For The Determination Of Mediation Case Experience (Full-scale and Hours)” (**Guidelines**) are intended to help further illustrate and determine whether the mediation experience requirements under the SIMI Credentialing Scheme (“**Scheme**”) are satisfied.

2. About The Scheme
 - 2.1. Under the Scheme there are experience requirements for progressing from the lowest tier (SIMI Accredited Mediator Level 1) to the highest tier (SIMI Certified Mediator):

Requirements	SIMI Accredited Mediator Level 2	SIMI Accredited Mediator Level 3	SIMI Certified Mediator
<u>Full-Scale Mediation</u> (a) no. of full-scale mediations	5	12	20
<u>Mediation Case Hours</u> (b) no. of hours of mediation ¹	50	120	200

¹ Note that in order to rely on this requirement, at least one of the cases submitted should last at least one (1) day or longer. For the purposes of the SIMI Credentialing Scheme, a day refers to 6 hours of mediation, and may be completed over more than 1 calendar day

- 2.2. Applicants must choose whether they will be applying under the “Full-Scale Mediation” path or the “Mediation Case Hours” path. Using a combination of cases and hours from both paths is not acceptable.

- 2.3. It is the responsibility of a SIMI Registered Service Partner (**SIMI RSP**) or SIMI Qualifying Assessment Program (**SIMI QAP**) to ensure that when a SIMI Mediator requests to be promoted to a higher tier under the Scheme, that the applicant satisfies the above experience requirement, as well as any other requirements that may apply.

PART B GUIDELINES – FULL-SCALE MEDIATION REQUIREMENT

1. Purpose Of The Full-Scale Mediation Requirement

- 1.1. When a mediation is referred to as a “full-scale” mediation, it means that it qualifies to be counted as satisfying the experience requirement under the Scheme. Thus, the intention of having a definition for “full-scale” mediation is not to set out definitively the essence or meaning of mediation, but rather to ensure that the experience requirement is robust enough for users to rely on.

For example, it is envisaged that including this qualifier of “full-scale” will protect against the submission of mediation sessions that are “mediation” sessions in name only but in reality feature little or none of the key characteristics of a typical mediation session.

- 1.2. Given that the Scheme is a professional standard for mediators in Singapore and the region, it is necessary to ensure that SIMI Mediators represented on SIMI’s website have conducted sufficient mediation sessions with sufficient familiarity of the key process and phases that are used internationally to resolve issues.
- 1.3. Do note that the need to satisfy this requirement of “full-scale” mediation *only* applies where the mediation in question is being submitted to be recognised as going towards satisfying the experience requirement under the Scheme.

2. Definition Of Full-Scale Mediation

- 2.1. For the purposes of the Scheme, SIMI’s definition of “full-scale” mediation is :

A mediation session where the parties and the mediator have gone through *key mediation processes and phases*.

There is a *rebuttable presumption that a mediation lasting 6 hours or more* is a full-scale mediation.

- 2.2. The definition above consists of both a qualitative, and a quantitative component. This is intended to reflect the reality of the duration of most full-scale mediation sessions whilst retaining room for discretion in other cases.
- 2.3. SIMI RSPs and SIMI QAPs will have to implement their own methodology to determine whether a mediation session satisfies this definition. This is typically done in consultation with SIMI.

3. Applying The Definition Of Full-Scale Mediation
- 3.1. SIMI Partners who are processing an application (**Processor**) should incorporate the following methodology when applying the definition of full-scale mediation:
 - (a) If the mediation session lasts 6 hours or more, the Processor may deem the mediation to be a “full-scale” mediation.

The Processor and the SIMI Mediator should sign a declaration stating that the mediation was a full-scale mediation.
 - (b) If the mediation session lasts less than 6 hours, the Processor may still accept the case as a “full-scale” mediation by looking at whether the parties and the mediator have gone through the *key mediation processes and phases* (see below, **Part B, Section 4**), taking a holistic view of the mediation processes and phases that were present.

The Processor and the SIMI Mediator should sign a declaration stating that the mediation was a full-scale mediation notwithstanding the fact that it lasted less than 6 hours. The declaration should be accompanied by an explanation for why the SIMI RSP or SIMI QAP considers the mediation session to satisfy the definition of a full-scale mediation.
- 3.2. Processors are required to keep a record of the declarations and explanations for all mediation sessions verified by them as having satisfied the “full-scale” requirement. These records need not be submitted to SIMI. However they are expected to maintain such records for SIMI’s audit purposes in accordance with SIMI’s requirements for its SIMI Partners.
- 3.3. A more detailed explanation of what are key mediation processes and phases is set out below in **Part B, Section 4**.

4. Key Mediation Processes And Phases

4.1. While SIMI does recognise that a mediation can take on different proceedings depending on the context and nature of the issues and the parties, generally speaking most full-scale mediations should contain the following key mediation processes and phases.

(a) Opening Statements

- The mediation session should follow a formal process starting with the opening statement by the mediator, welcoming the parties to the mediation as well as sharing important information with the parties on the mediation process (e.g. role of mediator, confidentiality, voluntary participation, benefits of mediation, authority to settle, role of mediator, ground rules, without prejudice).
- The parties should also be given an opportunity to share their perspectives and views of the issues to be discussed. In some instances, the opening statement may also be delivered together with or by the party's mediation advocate.
- Following the opening statements of all parties, the mediator should assist in setting down an agenda of issues to be discussed.

(b) Exploration Of Parties' Interests And Issues

- There should be ample opportunity for the parties to discuss and explore their respective interests under each issue.

(c) Exploring Options

- As a neutral facilitator of the proceedings, the mediator should not be imposing options on the parties, but rather encouraging them to develop options that satisfy both their interests.
- Parties should have ample opportunity to raise and discuss options. They should not be forced or coerced into options that they do not agree with.

(d) Private Caucus

- Private caucuses are not necessarily needed in all mediations. It is entirely up to the mediator as well as the parties and their counsel to the mediation, whether a particular mediation requires the use of one or more private caucuses.
- Should the mediator choose to use private caucus the mediator should ensure :
 - Confidential information shared during the private caucus are not disclosed without the respective party's consent; and
 - All parties are given an opportunity to have a private caucus with the mediator.

(e) Formal Conclusion

- The mediator should take the parties through a formal closing of the mediation session, regardless of whether an agreement was reached. The mediator may take this opportunity to, for instance, thank the parties for their time, contribution and effort in being participants to the mediation.

PART C GUIDELINES – MEDIATION CASE HOUR REQUIREMENT

1. Purpose Of The Mediation Case Hours Requirement

- 1.1. As with the previous requirement relating to “full-scale” mediation, the intention of defining mediation case hours here is likewise not to set out definitively the essence or meaning of mediation, but rather to ensure that the experience requirement is robust enough for users to rely on.
- 1.2. The rationale for allowing applicants to rely on mediation case hours as another path to satisfying the experience requirement is intended to reflect the practicalities of the mediation environment, whereby not all mediated cases may satisfy the qualitative considerations under the full-scale path.
- 1.3. It is important that as the Scheme is a professional standard for mediators in Singapore and the region, relevant parameters are set in place to ensure that the mediation case hours requirement path is as reflective of the applicant’s capabilities and experience as the full-scale path.

2. Definition of Mediation Case Hours

- 2.1. For the purposes of the Scheme, SIMI’s definition of mediation case hours is:

A mediation session that can be *reasonably relied upon* to be a mediation and not some other form of dispute resolution, with the recorded hours of the mediation being *reasonably accurate* to only include the *number of hours from the start to the end of a mediation session, not including any preparation time undertaken by the mediator prior to the start of the actual mediation session.*

There is a *presumption that a mediation conducted with a SIMI RSP* can be reasonably relied upon to be a mediation session and its recorded hours being reasonably accurate.

- 2.2. Processors will have to implement their own methodology to determine whether a mediation session satisfies the above definition. This is typically done in consultation with SIMI.

3. Applying the Definition Mediation Case Hours

3.1. Processors should incorporate the following methodology when applying the definition of mediation case hours.

- (a) If the mediation session was conducted with a SIMI RSP, than the Processor may simply accept the submission of the mediation case hours, without requiring more.
- (b) If the mediation session was not conducted by another SIMI RSP, the Processor may still accept the submitted cases by looking at whether the case can
 - i. be reasonably relied upon to be a mediation case and not any other form of dispute resolution, and
 - ii. the submitted hours are reasonably accurate to only include the number of hours from the start to the end of a mediation session, not including any preparation time undertaken by the mediator prior to the start of the mediation.

For the purposes of point ii above, breaks for refreshments or intermissions may be included in the calculation.

3.2. A more detailed explanation of what Processors may consider in determining reliability and accuracy are set out below in **Part C, Section 4**.

4. Reasonable Reliability And Accuracy

4.1. This is concerned primarily with the mediation service provider that the case was conducted with. Factors affecting the overall reliability and accuracy of mediation case hours submitted are:

More Reliable & Accurate	Less Reliable & Accurate
<ul style="list-style-type: none"> • Conducted with a mediation service provider or mediation scheme that can be contacted to verify the case. • Mediator feedback from parties / counsel are available. • Documents supporting the case as a mediation are available (e.g. invoice/receipt for mediator’s services; request for mediation) • The original or copy of the case record kept by the mediation organisation is available. • Other parties to the mediation have separately endorsed the case hours (e.g. mediation parties or their counsel). 	<ul style="list-style-type: none"> • The mediation service provider or operator of the mediation scheme cannot be contacted, and/or does not respond to attempts, to verify the cases. • Mediator feedback from parties / counsel are not available. • No documents are available to support the mediation case having taken place.

Note that the hours recorded for each case may be rounded off to the nearest half-hour for convenience.

Example:

Mediator A has a mediation lasting 3 hours 11 minutes.

This may be submitted as a mediation for 3 hours.

Mediator B has a mediation lasting 9 hours 39 minutes.

This may be submitted as a mediation for 9 hours 30 minutes.

Mediator C has a mediation lasting 6 hours 48 minutes.

This may be submitted as a mediation for 7 hours.