

Tools for Dealing with Cross-Cultural Communication Issues¹

Cultural norms and values shape all communication experiences. Because the mainstream American culture and justice system place a high value on explicit, direct communication (what is said—the content and exact meaning of words), there is ample opportunity, if not a likelihood, for miscommunication in cross-cultural exchanges where the context of words, *how* words are said or written, and the circumstances surrounding the communication event are emphasized. Strategies to minimize potential barriers created by cross-cultural communication include all the techniques, especially listening, mentioned but might also include the following.

Speakers should

1. Speak audibly and distinctly, but without exaggeration;
2. Speak in a relaxed and unhurried manner, and slowly, if necessary;
3. Not speak louder in an effort to be understood (a common reaction, but often interpreted as intimidating, even hostile);
4. Be willing to take the time to explain or rephrase what is said, if necessary;
5. Communicate concepts clearly and in an orderly manner;
6. Give examples to demonstrate;
7. Learn the correct pronunciation of a person's name;
8. Not expect tone of voice that is meant to convey emotion (e.g., sarcasm, humor, praise, blame) to be understood (messages not intended literally may be interpreted as such);
9. Avoid colloquialisms, slang, and mixed language;
10. Not rely on eye contact (or lack thereof) to indicate respect, honesty, credibility, guilt, and innocence;
11. Not ask questions in the negative;
12. Remember that "Yes" or "OK" may mean "I am listening" or "I have heard what you said" rather than agreement, or that nodding may be a sign of respect, not of agreement; and
13. Understand that non-direct answers, or brief limited answers are not necessarily signs of lying or withholding.

Listeners should

1. Ask the speaker to slow down, enunciate more clearly, repeat, rephrase, or simplify;
2. Rephrase or summarize for clarification and confirmation; Make it clear that you really want to understand what the speaker is saying;
3. Not interrupt, unless necessary;
4. Respect silence;
5. Allow extra time;
6. Not make assumptions about facial expressions, body movement, or hand gestures (or lack thereof);
7. Not make assumptions about tone of voice or nonlanguage sounds;
8. Not misinterpret an effort to make one self understood by speaking more loudly as anger or aggression;
9. Not interpret silence as agreement;
10. Expose themselves to different accents to get used to them; and

¹ From *Handling Cases Involving Self-Represented litigants, A Benchguide for Judicial Officers* January 2007, p. 9-18, by the Administrative Office of the Courts.

11. Educate themselves as much as possible on cultural issues of the communities the court serves.

In asking questions of persons from different cultures, it is helpful to remember that the frame of reference can make a large difference in communications. For example:

Context is so important! I once interpreted in a case where a Guatemalan was asked to describe one of the parties. He said that she was a tall blonde. Well, that was true from his perspective, but to the judge and most members of the jury she looked more like a medium-height brunette. And it seemed like he was lying. Instead of asking for a description I recommend that judges ask if there is a person in the courtroom who looks like the person being discussed.

- Court Interpreter

1. Persons who have grown up in most countries other than the U.S. or England use the metric system. It may be easier to ask the person to compare the length of something in the courtroom.
2. In many countries, December 14, would be written as 14/12, rather than as 12/14. In asking about dates, it is helpful to ask for the name of the month and date.
3. In Mexico, the name of the surname of the father appears first and then the mother's surname. For example, Jose Garcia Chavez would generally go by the name of Jose Garcia. Judges may want to ask what the last name of the father in order to determine the person's "official" last name.
4. Students in Spanish-speaking countries are generally not taught to spell in their head. Thus, it can be difficult to spell their name out for the judge or court reporter. It is generally better to give them the opportunity to write out their name in order to avoid discomfort and misspellings.
5. In traffic cases, questions like "were you going southbound or northbound?" may be difficult to answer for persons from cultures more apt to think of landmarks – toward the ocean, toward the mountains, towards the city.
6. Many persons from other cultures find it rude to point at others. Thus, they can be asked where the person is sitting, what clothing they're wearing, or similar identifying questions.

Conclusion

Judges who use the techniques in this chapter report that they obtain more information from litigants on which to base a decision and that they feel more in control of their courtroom. Research indicates that good communication results in a higher level of compliance with court orders.² Thus these techniques have the potential not only to make the judicial experience more satisfying but also to improve the quality of justice.

² D. Eckberg and M. Podkopacz, Family Court Fairness Study, (2004) Fourth Judicial District of the State of Minnesota, Fourth Judicial District Research Division.