

CODE OF ETHICS IN MEDIATION

CENTER FOR ARBITRATION AND MEDIATION OF SANTIAGO Santiago Chamber of Commerce

Introduction

The ethical standards contained in this Code are intended to establish rules of conduct for mediators, to guarantee the parties in mediation a strictly ethical process, and to foster mediation to the public as a reliable means of dispute resolution.

Mediation is a voluntary process where a neutral and impartial third party helps parties to resolve their differences. The role of the mediator is to facilitate dialogue between the parties in furtherance of understanding. The mediator will help to identify their interests and creatively ascertain the different possibilities for reaching an agreement satisfactory to all.

The ethical standards contained in this Code coincide with this definition of mediation and are binding upon all mediators of the Center, their administrative staff and any person who witnesses the mediations.

Self-determination of the parties

Article 1

The mediator must recognize and respect the self-determination of the parties in the resolution of their dispute. This means the power of the parties to reach an agreement freely and voluntarily and to abandon the mediation at any time prior to the agreement if they deem it convenient. The mediator, however, is the one empowered to conduct the mediation process.

Competence of the mediator

Article 2

When appointed for mediation, the mediator should analyze the conflict and determine whether he is actually qualified to direct the process. He must therefore excuse himself, at his own initiative, from conducting the mediation if he knows of any reason that disqualifies him from hearing the matter.

Article 3

The existence of any financial or personal relationship between the mediator and one or more parties shall be grounds to disqualify the mediator as shall the existence of any financial or personal interest of the mediator in the outcome of the mediation.

These grounds may be enforced by any of parties at the time indicated in the Center's Regulations on Mediation. The same may be done by whoever is in charge of the administration of mediations at the Center.

Impartiality of the mediator

Article 4

The mediator must be impartial. It is the mediator's duty to resign if he becomes unable, at any time during the mediation, to conduct the process impartially because any event arises

that disqualifies him as provided in the Mediation Regulations or other regulations.

The mediator must avoid any discriminatory or preferential conduct towards one of the parties.

No mediator may discriminate against the parties because of their personal characteristics, race, sex, condition or otherwise.

Conduct of the mediation process

Article 5

Upon receiving and during the entire process of the mediation, the mediator shall determine whether the mediation does or does not constitute an appropriate system of dispute resolution for that particular case given the nature of the dispute and the situation of the parties. If he at any time discovers that the mediation is not the appropriate method, he should advise the Center and the parties and put an end to the process.

Article 6

Upon commencing the mediation, the mediator should inform the parties of the mediation process, its characteristics, rules, advantages, disadvantages and the existence of other mechanisms of dispute resolution. He will explain to the parties the role of the mediator as well as the role they and their respective attorneys, if any, must play during the process. The mediator should be open to answering any question by the parties and ensure that they have understood and accepted all information.

The mediator should refrain from making promises or offering guarantees as to the outcome of the mediation.

Article 7

The mediator should employ appropriate language that invites the parties to an understanding. In co-mediation, the mediators shall exchange information and take care not to show discrepancies of opinion to the parties.

Article 8

The mediator should order the number of sessions to be held that is appropriate to the resolution of the dispute or to reaching the conviction that there are other means to secure it. The mediator shall endeavor for the sessions to last a prudent time and shall not accept delays by the parties or their representatives.

The meetings may be joint or private. The mediator shall convene one type of meeting or another as he deems appropriate for an effective conduct of the process. The mediator may convene a private session with the parties' attorneys who are involved in the mediation.

Article 9

The mediator should ensure that the interests of all persons who are involved in the dispute, and who may, therefore, be affected by the outcome of the mediation, are represented in the process. If necessary, the mediator shall suggest that these people become parties to the mediation.

Confidentiality

Article 10

All information provided by the parties during the mediation process as well as the process itself is absolutely confidential. Accordingly:

a) The mediator is forbidden to disclose information obtained during the mediation process, both to the Courts as well as to third parties alien to the mediation, unless it is an event constituting a crime that must be denounced by law. This duty of confidentiality also applies to the parties and to all such persons who are involved in the mediation as observers, attorneys, experts as well as all staff of the Center for Arbitration and Mediation.

The mediator may not disclose to one of the parties what the other party has confessed thereto at a private meeting unless specifically authorized to do so.

A confidentiality agreement shall be signed at the first meeting held by the mediator with the parties.

If a written agreement is executed, it shall not be confidential unless the parties decide otherwise.

b) All written proceedings that are kept by the Center in relation to mediation are strictly confidential.

The Center does, however, reserve the right to use the data from its mediation cases solely for statistical and internal training purposes without disclosing the names of the parties nor the contents of the mediation.

Counsel

Article 11

The mediator is forbidden to offer legal, technical or other advice or counsel to the parties in relation to the matter subject to mediation.

If necessary, the mediator shall cause the parties to secure such assistance from the people of their choice and solely for purposes of securing greater information for the parties with a view towards achieving a serious and realistic agreement.

The mediator may not recommend anyone as an expert to advise the parties.

Article 12

Mediators are forbidden to render professional services either directly or indirectly to the parties during the mediation. Nor may they do so in the future upon conclusion of the mediation.

Qualities of the mediator

Article 13

In order to be a mediator of the Center, it is indispensable to have undergone the training that

the Center stipulates as mandatory. It will also be obligatory to undertake the internships necessary to acquire experience under the conditions determined by the Center.

Mediators have the duty to stay informed and current in connection with mediation and, in general, with the alternative methods of dispute resolution.

The Center may request that mediators collaborate in the training of new members on the mediator list as well as the programs for the promotion of mediation that are organized inside the Center.

Article 14

Mediators should perform their office with professional excellence and take care to help disclose the mechanism of mediation seriously and honestly.

Costs

Article 15

Before the commencement of the mediation, the parties should be informed by the Center of the cost of the mediation. Only the Center, and not the mediators, is authorized to set prices and grant payment facilities to the parties.

The mediators shall receive the amount of their fees directly from the Center once it has received payment from the parties.

Mediators are forbidden to accept payments, gifts or other presents from the parties during and after conclusion of the mediation, whether or not there is an agreement.

General

Article 16

Any infringement of the ethical standards contained in this code shall be the subject of review by the Center and if proven, the corresponding sanction shall be adopted. The Center is authorized to eliminate anyone committing an infringement from the mediator list, if warranted.