



المركز السعودي للتحكيم التجاري
Saudi Center for Commercial Arbitration

Code of Ethics

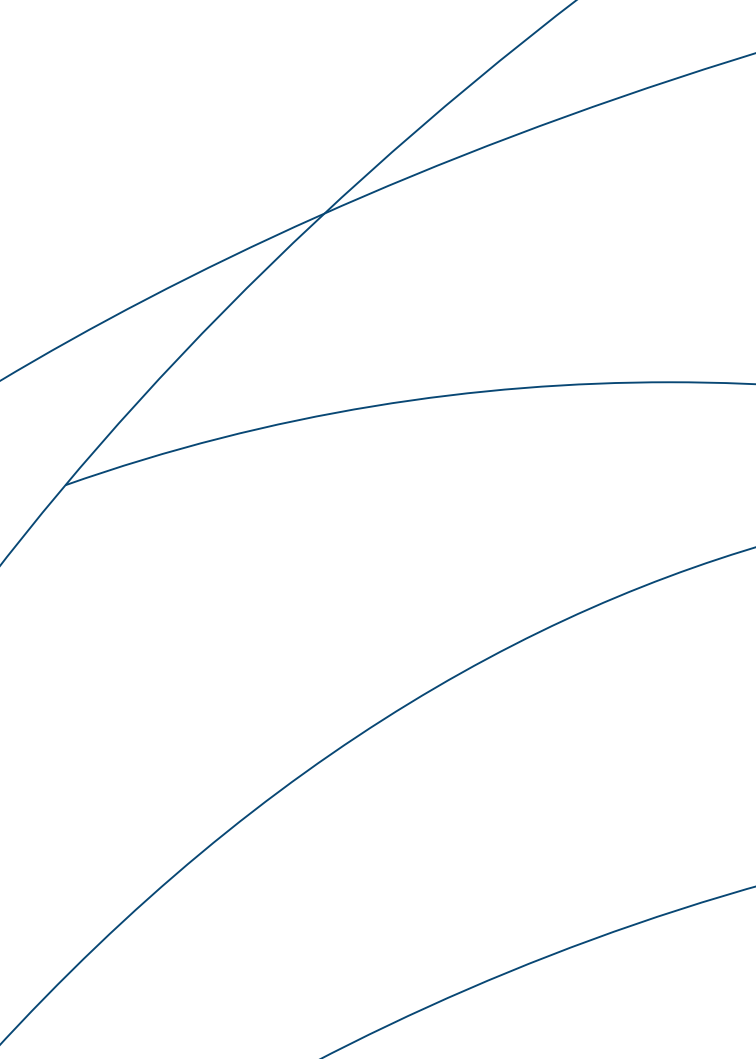
Arbitrators | Mediators | Parties



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Saudi Center for Commercial Arbitration

Code of Ethics

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Code of Ethics
for Arbitrators

Note on Construction

Various aspects of the conduct of arbitrators, including some matters covered by this Code, may also be governed by agreements of the parties, the arbitration rules of SCCA, applicable law, or other applicable ethics rules, all of which should be consulted by the arbitrators. This Code does not take the place of or supersede such laws, agreements, or arbitration rules to which the parties have agreed and should be read in conjunction with other rules of ethics. It does not establish new or additional grounds for judicial review of arbitration awards.

Canon I:

An arbitrator should uphold the integrity and fairness of the arbitration process.

A. An arbitrator shall be impartial and independent of the parties, and shall not have any interest in the relevant dispute. Partiality arises when an arbitrator favors one of the parties or where he is prejudiced in relation to the subject matter of the dispute. Dependence arises from relationships between an arbitrator and one of the parties, or with someone closely connected with one of the parties.

B. An arbitrator has a responsibility not only to the parties but also to the process of arbitration itself, and must observe high standards of conduct so that the integrity and fairness of the process will be preserved. Accordingly, an arbitrator should recognize a responsibility to the public, to the parties whose rights will be decided, and to all other participants in the proceeding.

C. Arbitrators should conduct themselves in a way that is fair to all parties and should not be influenced by outside pressure or self-interest. They should avoid conduct and statements that give the appearance of partiality toward or against any party.

D. An arbitrator should conduct the arbitration process so as to advance the fair and efficient resolution of the matters submitted for decision. An arbitrator should make all reasonable efforts to prevent delaying tactics, harassment of parties or other participants, or other abuse or disruption of the arbitration process.

Canon II:

An arbitrator must disclose all circumstances that are likely to raise a reasonable doubt as to his impartiality and independence.

A. From the date of his appointment and throughout the arbitral proceedings, an arbitrator must disclose in writing to the parties all circumstances that are likely to raise a reasonable doubt as to his impartiality and independence.

B. An arbitrator shall be prohibited from considering the claim and hearing it in the same situations in which the judge is prohibited.

C. If compliance by a prospective arbitrator with any provision of this Code would require disclosure of confidential or privileged information, the prospective arbitrator should either:

- 1.** Secure the consent to the disclosure from the person who furnished the information or the holder of the privilege; or
- 2.** Withdraw.

D. An arbitrator shall also withdraw if:

- 1.** the arbitrator has a direct or indirect personal interest in the result of the claim, if he feels partiality towards one party of the claim or in case he is personally aware of facts that indicate anything disputed within issues considered before him in the claim;
- 2.** the arbitrator had been a previous lawyer or a main witness in the dispute considered before him.

Canon III:

An arbitrator should avoid impropriety or the appearance of impropriety in communicating with parties

A. If an agreement of the parties or applicable arbitration rules establishes the manner or content of communications between the arbitrator and the parties, the arbitrator should follow those procedures notwithstanding any contrary provision of paragraphs B and C below.

B. An arbitrator or prospective arbitrator should avoid any unilateral communications regarding the case with any party, or its representatives, except in any of the following circumstances:

- 1.** When the appointment of a prospective arbitrator is being considered, the prospective arbitrator:
 - a.** may ask about the identities of the parties, counsel, or witnesses and the general nature of the case; and
 - b.** may respond to inquiries from a party or its counsel designed to determine his or her suitability and availability for the appointment. In any such dialogue, the prospective arbitrator may receive information from a party or its counsel disclosing the general nature of the dispute, but should not permit them to discuss the merits of the case.

2. Discussions may be made with a party concerning such logistical matters as setting the time and place of hearings or making other arrangements for the conduct of the proceedings. However, the arbitrator should promptly inform each other party of the discussion and should not make any final determination concerning the matter discussed before giving each absent party an opportunity to express the party's views; or

3. If a party fails to be present at a hearing after having been given due notice, or if all parties expressly consent, the arbitrator may discuss the case with any party who is present.

C. Unless otherwise provided in this Canon, in applicable arbitration rules or in an agreement of the parties, whenever an arbitrator communicates in writing with one party, the arbitrator should at the same time send a copy of the communication to every other party, and whenever the arbitrator receives any written communication concerning the case from one party which has not already been sent to every other party, the arbitrator should send or cause it to be sent to the other parties.

Canon IV:

An arbitrator should conduct the proceedings fairly and diligently.

A. An arbitrator should conduct the proceedings in an even-handed manner. The arbitrator should be patient and courteous to the parties, their representatives, and the witnesses and should encourage similar conduct by all participants.

B. The arbitrator should afford to all parties due notice of the time and place of any hearing and allow each party a fair opportunity to present its evidence and arguments.

C. The arbitrator should not deny any party the opportunity to be represented by counsel or by any other person chosen by the party.

D. Although it is not improper for an arbitrator to suggest to the parties that they discuss the possibility of settlement or the use of mediation, or other dispute resolution processes, an arbitrator should not exert pressure on any party to settle or to utilize other dispute resolution processes. An arbitrator should not be present or otherwise participate in settlement discussions or act as a mediator unless requested to do so by all parties.

E. Co-arbitrators should afford each other full opportunity to participate in all aspects of the proceedings.

F. An arbitrator shall not act during the proceedings as an advocate for any party and shall not advise any party on the merits or the outcome of the dispute whether before or after the appointment.

Canon V:

An arbitrator should make decisions in a just, independent and deliberate manner.

A. The arbitrator should, after careful deliberation, decide all issues submitted for determination. An arbitrator should decide no other issues.

B. The arbitrator shall devote such time and attention to acquaint himself with all the facts and arguments presented and all discussions relative to the proceedings so that he may properly understand the dispute, and shall do his best to conduct the arbitration in such a manner that costs do not rise to an unreasonable proportion of the interests in stake.

C. An arbitrator should decide all matters justly, exercising independent judgment, and should not permit outside pressure to affect the decision.

D. An arbitrator should not delegate the duty to decide to any other person.

Canon VI:

An arbitrator should be faithful to the relationship of trust and confidentiality inherent in that office.

A. An arbitrator is in a relationship of trust to the parties and should not, at any time, use confidential information acquired during the arbitration proceeding to gain personal advantage or advantage for others, or to affect adversely the interest of another.

B. The arbitrator should keep confidential all matters relating to the arbitration proceedings and decision. An arbitrator may obtain help from an associate, a research assistant or other persons in connection with reaching his or her decision if the arbitrator informs the parties of the use of such assistance and such persons agree to be bound by the provisions of this Canon.

C. The arbitrator should not inform anyone of any decision in advance of the time it is given to all parties. In a proceeding in which there is more than one arbitrator, an arbitrator should not, at any time, inform anyone about the substance of the deliberations of the arbitrators.

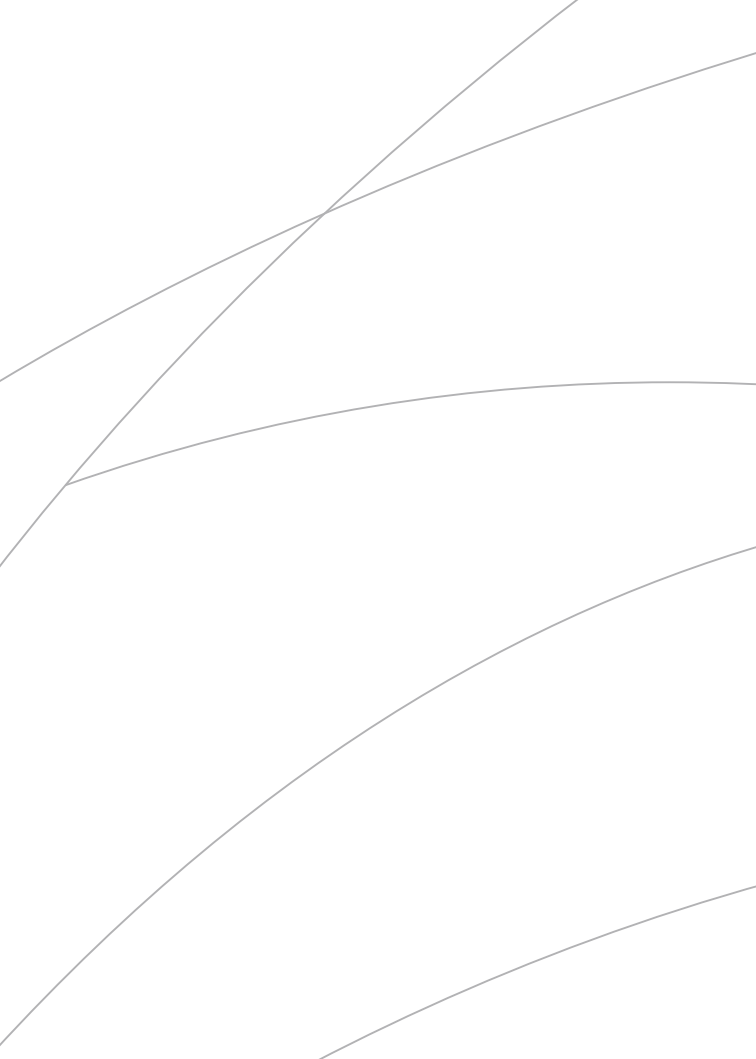
D. After an arbitration award has been made, an arbitrator shall not assist in proceedings to enforce or challenge the award.

Canon VII:

An arbitrator should adhere to standards of integrity and fairness when making arrangements for compensation and reimbursement of expenses.

A. An arbitrator who is to be compensated for his services or reimbursed for his expenses shall adhere to standards of integrity and fairness in making arrangements for such payments.

B. In accepting an appointment, an arbitrator agrees to the remuneration as settled by the Administrator, and he shall make no unilateral arrangements with any of the parties or their counsel for any additional fees or expenses.





Code of Ethics
for Mediators

Note on Construction

These Standards are to be read and construed in their entirety. There is no priority significance attached to the sequence in which the Standards appear.

The use of the term “shall” in a Standard indicates that the Mediator must follow the practice described. 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 very strong reasons and requires careful use of judgment and discretion.

The use of the term “Mediator” is understood to be inclusive so that it applies to co-mediator models.

These Standards do not include specific temporal parameters when referencing a mediation, and therefore, do not define the exact beginning or ending of a mediation.

Various aspects of a mediation, including some matters covered by these Standards, may also be affected by applicable law, court rules, regulations, other applicable professional rules, mediation rules to which the parties have agreed and other agreements of the parties. These sources may create conflicts with, and may take precedence over these Standards. Application of the Code of Ethics is without prejudice to national legislation, SCCA Mediation Rules or rules regulating individual professions. However, a Mediator should make every effort to comply with the spirit and intent of these Standards in resolving conflicts between them and other applicable norms. This effort should include honoring all remaining Standards not in conflict with these other sources.

Standard I:

Self-Determination

A. A Mediator shall conduct a mediation based on the principle of party self-determination. Self-determination is the act of coming to a voluntary, un-coerced decision in which each party makes free and informed choices as to process and outcome. Parties may exercise self-determination at any stage of a mediation, including Mediator selection, process design, participation in or withdrawal from the process.

1. Although party self-determination for process design is a fundamental principle of mediation practice, a Mediator may need to balance such party self-determination with a Mediator's duty to conduct a quality process in accordance with these Standards.

2. A Mediator cannot personally ensure that each party has made free and informed choices to reach particular decisions, but, where appropriate, a Mediator should make the parties aware of the importance of consulting other professionals to help them make informed choices.

B. A Mediator shall not undermine any party's self-determination for reasons such as higher settlement rates, egos, increased fees, or outside pressures.

Standard II: Impartiality

A. A Mediator shall decline a mediation if the Mediator cannot conduct it in an impartial manner. Impartiality means freedom from favoritism, bias or prejudice.

B. A Mediator shall conduct a mediation in an impartial manner and avoid conduct that gives the appearance of partiality.

1. A Mediator should not act with partiality or prejudice based on any participant's personal characteristics, background, values and beliefs, or performance at a mediation, or any other reason.

2. A Mediator shall neither give nor accept a gift, favor, loan or other inducement of value that raises a question as to the Mediator's actual or perceived impartiality.

C. A Mediator should ensure that the parties understand that the Mediator's role is that of neutral intermediary, not that of representative of or advocate for any party. A Mediator should not offer legal advice to a party.

1. A Mediator should not offer legal advice to a party. If a Mediator offers an evaluation of a party's position or of the likely outcome in court or arbitration, or offers a recommendation with regard to settlement, the Mediator should ensure that the parties understand that the Mediator is not acting as an attorney for any party and is not providing legal advice.

2. A Mediator should be particularly sensitive to role differences if any party is unrepresented by counsel at the mediation, and should explain carefully the limitations of the Mediator's role and obtain a written waiver of representation from each unrepresented party. If a Mediator assists in the preparation of a settlement agreement and if counsel for any party is not present, the Mediator should advise each unrepresented party to have the agreement independently reviewed by counsel prior to executing it.

D. If at any time a Mediator is unable to conduct a mediation in an impartial manner, the Mediator shall withdraw.

Standard III:

Conflicts of Interest

A. A Mediator shall avoid a conflict of interest or the appearance of a conflict of interest during and after a mediation. A conflict of interest can arise from involvement by a Mediator with the subject matter of the dispute or from any relationship between a Mediator and any mediation participant, whether past or present, personal or professional, that reasonably raises a question of a Mediator's impartiality.

B. A Mediator shall make a reasonable inquiry to determine whether there are any facts that a reasonable individual would consider likely to create a potential or actual conflict of interest for a Mediator. A Mediator's actions necessary to accomplish a reasonable inquiry into potential conflicts of interest may vary based on practice context.

C. A Mediator shall disclose, as soon as practicable, all actual and potential circumstances that are reasonably known to the Mediator and could reasonably be seen as raising a question about the Mediator's impartiality. Such circumstances include:

1. Financial or personal, direct or indirect, interests in the outcome of the mediation;
2. Existing, past or future financial, business or professional relationship with any of the parties or their representatives about which the Mediator is aware;

3. Other potential source of bias or prejudice concerning a person or institution which may affect that Mediator's independence or impartiality or reasonably create an appearance of partiality or bias.

After disclosure, if all parties agree, the Mediator may proceed with the mediation. In such case, the Mediator may only agree to act or continue to act if he is certain of being able to carry out the mediation in full independence and impartiality. The duty to disclose is a continuing obligation throughout the process of mediation.

D. If a Mediator's conflict of interest might reasonably be viewed as undermining the integrity of the mediation, a Mediator shall withdraw from or decline to proceed with the mediation regardless of the expressed desire or agreement of the parties to the contrary.

E. After accepting appointment, and until the mediation process ends, Mediators will not enter into financial, business, professional, family or social relationships or acquire financial or personal interests that are likely to affect or might reasonably create the appearance of conflict of interest, partiality or bias, without making a prior disclosure to all the parties and gaining their consent.

F. Within 12 months following the end of a mediation, Mediators will not represent in an advisory capacity any party to a mediation in the same or a substantially related matter, unless all parties to the mediation expressly consent to that representation after full disclosure.

G. At no time following the end of a mediation will Mediators adduce evidence or testify on behalf of one of the parties in making or defending a claim against another party to the same mediation where they have acquired confidential information from the other party, unless all that information is no longer confidential or unless the party protected by the confidentiality gives consent.

Standard IV: Competence

A. A Mediator shall mediate only when he has the necessary competence to satisfy the reasonable expectations of the parties.

1. Any person may be selected as a Mediator, provided that the parties are satisfied with the Mediator's competence and qualifications. Training, experience in mediation, skills, cultural understandings and other qualities are often necessary for mediator competence. A person who offers to serve as a Mediator creates the expectation that the person is competent to mediate effectively.

2. A Mediator should attend educational programs and related activities to maintain and enhance the Mediator's knowledge and skills related to mediation.

3. Mediators must verify that they have the appropriate background and competence to conduct mediation in a given case before accepting the appointment. They must disclose information concerning their background and experience to the parties.

B. If a Mediator, during the course of a mediation determines that he cannot conduct the mediation competently, the Mediator shall discuss that determination with the parties as soon as is practicable and take appropriate steps to address the situation, including, but not limited to, withdrawing or requesting appropriate assistance.

Standard V:

Confidentiality

A. A Mediator shall maintain the confidentiality of all information obtained in mediation, unless otherwise agreed to by the parties or required by applicable law.

1. If the parties to a mediation agree that the Mediator may disclose information obtained during the mediation, the Mediator may do so.

2. A Mediator should not communicate to any non-participant information about how the parties acted in the mediation. A Mediator may report, if required, whether parties appeared at a scheduled mediation and whether or not the parties reached a resolution.

3. If a Mediator participates in teaching, research or evaluation of mediation, the Mediator shall protect the anonymity of the parties and abide by their reasonable expectations regarding confidentiality.

B. A Mediator who meets with any persons in private session during a mediation shall not convey directly or indirectly to any other person, any information that was obtained during that private session without the consent of the disclosing person.

C. A Mediator shall promote understanding among the parties of the extent to which the parties will maintain confidentiality of information they obtain in a mediation.

D. Depending on the circumstance of a mediation, the parties may have varying expectations regarding confidentiality that a Mediator should address. The parties may make their own rules with respect to confidentiality.

Standard VI:

Quality of the Process

A. A Mediator shall conduct a mediation in accordance with these Standards and in a manner that promotes diligence, timeliness, presence of the appropriate participants, party participation, procedural fairness, party competency and mutual respect among all participants.

1. A Mediator should agree to mediate only when he is prepared to commit the attention essential to an effective mediation.

2. A Mediator should only accept cases when he can satisfy the reasonable expectation of the parties concerning the timing of a mediation.

3. The presence or absence of persons at a mediation depends on the agreement of the parties and the Mediator. The parties and Mediator may agree that others may be excluded from particular sessions or from all sessions.

4. A Mediator should promote honesty and candor between and among all participants, and a Mediator shall not knowingly misrepresent any material fact or circumstance in the course of a mediation.

5. The role of a Mediator differs substantially from other professional roles. Mixing the role of a Mediator and the role of another profession is problematic and thus, a Mediator should distinguish between the roles. A Mediator may provide information that the Mediator is qualified by training or experience to provide, only if the Mediator can do so consistent with these Standards.

6. A Mediator may recommend, when appropriate, that parties consider resolving their dispute through arbitration, counseling, neutral evaluation or other processes.

7. A Mediator shall not undertake an additional dispute resolution role in the same matter without the consent of the parties. Before providing such service, a Mediator shall inform the parties of the implications of the change in process and obtain their consent to the change. A Mediator who undertakes such role assumes different duties and responsibilities that may be governed by other standards.

8. If a Mediation is being used to further criminal conduct, a Mediator should take appropriate steps including, if necessary, postponing, withdrawing from or terminating the mediation.

9. If a party appears to have difficulty comprehending the process, issues, or settlement options, or difficulty participating in a mediation, the Mediator should explore the circumstances and potential accommodations, modifications or adjustments that would make possible the party's capacity to comprehend, participate and exercise self-determination.

B. If a Mediator is made aware of domestic abuse or violence among the parties, the Mediator shall take appropriate steps including, if necessary, postponing, withdrawing from or terminating the mediation.

C. If a Mediator believes that participant conduct, including that of the Mediator, jeopardizes conducting a mediation consistent with these Standards, a Mediator shall take appropriate steps including, if necessary, postponing, withdrawing from or terminating the mediation.

D. The Mediator must inform the parties, and may terminate the mediation, if a settlement is being reached that for the Mediator appears unenforceable or illegal, having regard to the circumstances of the case and the competence of the Mediator for making such an assessment.

Standard VII:
Advertising and Solicitation

A. A Mediator shall be truthful and not misleading when advertising, soliciting or otherwise communicating the Mediator's qualifications, experience, services and fees.

B. A Mediator shall not include any promises as to outcome in communications, including business cards, stationery, or computer-based communications.

C. A Mediator shall not solicit in a manner that gives an appearance of partiality for or against a party or otherwise undermines the integrity of the process.

D. A Mediator shall not communicate to others, in promotional materials or through other forms of communication, the names of persons served without their permission.

Standard VIII:

Fees and Expenses

A. A Mediator shall provide each party or each party's representative true and complete information about mediation fees, expenses and any other actual or potential charges that may be incurred in connection with a mediation.

1. If a Mediator charges fees, the Mediator should develop them in light of all relevant factors, including the type and complexity of the matter, the qualifications of the mediator, the time required and the rates customary for such mediation services.

2. A Mediator's fee arrangement should be in writing and provided to the parties prior to the mediation unless the parties request otherwise.

B. A mediator shall not charge fees in a manner that impairs a mediator's impartiality.

1. A Mediator shall not enter into a fee agreement which is contingent upon the result of the mediation or amount of the settlement.

2. While a Mediator may accept unequal fee payments from the parties, a Mediator should not use fee arrangements that adversely impact the Mediator's ability to conduct a mediation in an impartial manner.

Standard IX:

Advancement of Mediation Practice

A. A Mediator should act in a manner that advances the practice of mediation. A Mediator promotes this Standard by engaging in some or all of the following:

1. Fostering diversity within the field of mediation;
2. Striving to make mediation accessible to those who elect to use it, including providing services at a reduced rate or on a pro bono basis as appropriate;
3. Participating in research when given the opportunity, including obtaining participant feedback when appropriate;
4. Participating in outreach and education efforts to assist the public in developing an improved understanding of, and appreciation for, mediation;
5. Assisting newer Mediators through training, mentoring and networking.

B. A Mediator should demonstrate respect for differing points of view within the field, seek to learn from other Mediators and work together with other Mediators to improve the profession and better serve people in conflict.





Code of Conduct
**for Parties and
Representatives**

The SCCA requires that parties and their representatives (“Participants”) conduct themselves in an appropriate manner when utilizing the SCCA services. Participants in SCCA arbitration and mediation cases are required to abide by the following standards of conduct. Failure to do so may result in the SCCA declining to further administer a particular case or caseload.

1. Participants in SCCA-administered cases shall treat all employees and others involved in the proceedings in a courteous, respectful and civil manner.
2. Participants must respect the SCCA’s policy against any form of unlawful discrimination.
3. Participants shall not engage in harassing, threatening or intimidating conduct toward SCCA employees or neutrals.
4. Party representatives shall advise their clients and witnesses of the appropriate conduct that is expected of them during the proceedings.
5. Participants shall refrain from using vulgar, profane or otherwise inappropriate language.
6. Participants shall respect the confidentiality of the proceeding, and will comply with any measure adopted by the Tribunal or the mediator to protect that confidentiality.

7. Participants, shall not make neutrals, SCCA Board members or SCCA staff a party or witness in any judicial or other proceeding related to the ADR process, or request them to make any statement about it.

8. Participants should exercise their best efforts, to prepare for and engage in a meaningful and productive ADR process, and to avoid unnecessary delay and expenses.

9. Participants shall direct case-related communications only to their assigned case counsel via phone, email or address provided by SCCA case management service, and shall copy the other parties on such communications as required by the Rules governing the case, or as directed by SCCA case management service. The assigned case counsel will raise matters with SCCA executives directly and as necessary.

10. Participants shall not contact members of the SCCA Board of Directors on case-related matters. SCCA Board has no involvement in the day-to-day management of the SCCA, and SCCA executives do not have any authority or input regarding the administration or outcomes of a particular matter.

11. Threats of violence or other unlawful conduct will not be tolerated and will be forwarded to the competent authorities.

12. Before using SCCA services, Participants are expected to read and uphold this Code of Conduct and sign a statement of commitment to that effect.



For further information

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