

BYLAWS



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CHAPTER I: GENERAL DISPOSITIONS

SOLE SECTION. GLOSSARY.

Article 1. For the purposes of this bylaw, the following terms shall have the following meaning:

RAC: Alternative Conflict Resolution.

RAC Law: Law on Alternative Resolution of Conflicts and Promotion of Social Peace, number 7727 of December 9, 1997.

DINARAC: National Directorate of Alternate Conflict Resolution of the Ministry of Justice and Peace of the Republic of Costa Rica.

BA-RAC Center: Alternate Conflict Resolution Center Alternative Law Firm.

Days: For the purposes of applying this Regulation, the days will be understood as working days.

Director: Director of the Center.

Management: Whoever exercises the functions of Director, permanently or temporarily replacing any of said officials.

Board of Directors: Board of Directors of the BA-RAC Center.

Regulations: Regulations of the BA-RAC Center.

Neutral: Impartial person who conducts, directs or resolves, according to the applied method, the process aimed at solving a specific conflict.

Communication: It is understood that it refers to notification, invitation, note, or proposal.

CHAPTER II: OPERATION OF THE CENTER

SECTION I. FUNCTIONS, PURPOSES AND SCOPE OF COMPETENCE OF THE CENTER

Article 2. Legal nature.

The BA-RAC Center is a private and for-profit entity, created with the purpose of promoting, investigating, training, advising and managing alternate conflict resolution processes, such as mediation, negotiation and peace circles, in accordance with the established in Law 7727 and its Regulations.

Article 3. Objectives.

The specific objectives of the BA-RAC Center are as follows:

- 1) Promote solutions in harmony, providing advice and services in negotiation, mediation and circles of peace in accordance with the RAC law.
- 2) Contribute to the promotion of social peace, the culture of peace and the alternative resolution of conflicts in communities and academic centers through training processes and having a vocation of social service.
- 3) Develop specialized research on issues of the Culture of Peace, Alternative Conflict Resolution and Restorative Justice.

Article 4. Scope of Competence of the BA-RAC Center.

The Center will be competent to hear all kinds of labor, family, civil, commercial or neighborhood conflicts and any other matter that is brought to its attention and whose object is of a patrimonial, available, lawful and possible nature.

You can also advise and rule on the admissibility and mediability of each matter that is subject to its jurisdiction.

When any requested RAC procedure cannot be started or cannot continue, the Center will notify the parties in a reasoned manner.

It will also be possible to carry out training and promotion activities for social peace and alternative conflict resolution in communities and academic centers, as well as developing specialized research on issues of the culture of peace, alternative conflict resolution and restorative justice.

Article 5. Functions of the BA-RAC Center.

5.1 Regarding the RAC mechanisms:

- a- Manage mediation processes and others in accordance with the RAC Law.
- b- Maintain strict control and monitoring of case files.
- c- Integrate the register of neutrals and verify the reports, training and annual specialized updating in RAC of the same.
- d- Appoint the neutral in his role as mediator or facilitator of peace circles, as necessary for the management of the cases that arise.
- e- Exclude and remove neutrals in those cases where it corresponds according to the law and the code of ethics of this Center.

5.2 Regarding training and research: Carry out specialized training and research activities on issues of alternative conflict resolution and promotion of social peace.

5.3 Regarding DINARAC: Keep the neutral register for this entity updated and comply with all the provisions that it dictates for this purpose.

5.4 Regarding administrative functions:

- a- Maintain custody of case files and the BA-RAC Center.
- b- Prepare statistics on its operation in terms of consultations received, signed agreements, non-agreements, training, research processes and RAC promotion processes.
- c- Manage the collection of their respective rates from users.
- d- Manage the payment of the neutrals.
- e- Maintain a work plan and annual budget.

f- Actively work to promote and disseminate the RAC methods, as well as the promotion of the Culture of Peace and Human Rights, through talks and training courses.

g- Other functions that are necessary to maintain its proper functioning.

SECTION II. ORGANIZATIONAL STRUCTURE.

Article 6. Structure.

The Center will be directed by the figure of the Director; This must be appointed by the Board of Directors and will have the necessary administrative, legal and technical support to carry out their functions correctly.

Article 8. Functions of the Board of Directors:

The Board of Directors of the Center has the following functions:

- a) Swearing in, naming, suspending and removing neutrals who render their service to the Center.
- b) Annually update the neutral register maintained by the BA-RAC Center.
- c) Appoint and eventually remove the Director of the BA-RAC Center.
- d) Approve the regulations of the BA-RAC Center and its modifications.
- e) Approve the administration rates of the processes, training and investigations, when appropriate.

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Article 8. Functions of the Director:

The Director of the Center has the following functions:

- a) Represent the Center in its regular operations, except in those cases where the legal representation of someone designated by the Board of Directors is required.
- a) Direct and supervise the general operation of the Center.
- b) Take control and supervision of cases that are administered in the Center.
- c) Indicate the corresponding rate for mediation according to the current table.
- d) Establish the technical guidelines in the Center and have direct contact with the interested parties in order to inform them about the procedures, scope and limitations in the Center.
- e) Ensure the application of the regulations in the Center and the current regulations regarding alternate conflict resolution.

Article 9. Office hours, business days, communications and calculation of deadlines.

- a) For the purposes of these Regulations, the provisions of the CR Notifications Law will be followed.
- b) Regarding the means of delivery of notifications, invitations, communications or proposals, electronic means will be used at the addresses provided by the parties.
- c) The communication will be considered delivered and received on the day it was effectively received by the party and that date can be verified with certainty.
- d) The delivery of the communication and the name of the person who receives it, who will sign, or if there was any resistance or impediment to the respective signature shall be recorded in the respective file.
- e) Regarding the computation of the terms established in these Regulations, they will begin to run from the day after the respective communication is received.
- f) If a term expires on a non-business day, the term will be understood as extended to the next business day.
- g) The BA Center's hours of reception and delivery of documents will be on ordinary daytime from Monday to Friday, except on legal holidays.

h) The schedule for the performance of RAC mediation procedures, peace circles and others, may be carried out outside business hours on business days or non-business days, prior designation of the date for holding RAC hearings by the Director (a) of the Center.

i) They will have the power to notify all resolutions, communications or proposals that are made, during and with respect to RAC processes, the Director of the Center or the person designated by the Board of Directors for this purpose.

Article 10. Place of proceedings.

a) The actions of RAC procedures will be carried out at the BA-RAC Center Headquarters, authorized by the Ministry of Justice and Peace and the Ministry of Labor and Social Security.

b) By management of part or in accordance with the specialty of the matter, the actions of RAC procedures, including mediation hearings and Peace Circles, may be carried out in another place, which is authorized by the respective Ministries to that effect, complying with all the peculiarities and requirements of the RAC Law.

c) By party management or according to the specialty of the matter, it is possible to hold Negotiation Hearings and private Settlement Transactions in the place designated by the parties, in accordance with the RAC Law.

Article 11. Language.

The language in which the sessions will be held will be Spanish, with the possibility of translation into English, by agreement of the parties.

Article 12. Representation and legal advice

In the case of RAC processes, the parties may be represented by a duly accredited third party. They may also be accompanied by a trusted legal professional.

Whoever represents the party that does not appear in person, must submit to the BA-RAC Center, the enough legal power for the act in question.

All the powers presented must meet the requirements of the law.

SECTION III. NEUTRAL REGISTRY.

Article 13. Registration of neutrals.

Members of the Bar Association of recognized moral standing, who have been incorporated for at least 1 year and who accredit theoretical and practical training of at least sixty hours, may be mediators and others of the Center. in mediation, in a Center recognized by DINARAC. Exceptionally, they may form part of the registration list of mediators, professionals in other areas, in addition to the law, under the same parameters and who have specialized experience in their professional area for more than two years.

Article 14. Appointment of neutrals.

The Neutrals will be appointed according to the needs of the case and the provisions of the parties, the B.A-RAC Center will look for professionals whose academic and professional experience adjusts to the particularities of each case.

Article 15. Responsibility of neutrals.

The neutrals will be responsible for the damages that may be caused to the parties or to the Center in their actions.

SECTION IV.- SYSTEM OF COLLECTION OF RATES AND PAYMENT OF FEES TO NEUTRAL

Article 16. Rates.

The Center will charge for its services and for the services of neutrals, according to the rate system issued by the Board of Directors based on the amount approved for mediation agreements established by decree number 39078-JP, called "Tariff of fees for professional legal and notary services "in force.

The parties must cover all the administrative expenses and the fees of the neutrals before the opening of any procedure, for which the director will determine, based on the current rate system, a prior estimate.

It may start with the deposit made by at least one of the parties. In the event that the process begins with the management of a single party and the other does not pay the corresponding expenses, the interested party may cover the total cost of the process on its own. "

Article 17. Fees of the mediators.

The mediators' fees will be set according to the number of hearings attended.

CHAPTER III: MEDIATION

SOLE SECTION: PROVISIONS OF THE MEDIATION PROCESS

Article 18. Request for Mediation.

Mediation processes will be carried out when requested by both parties, or one of them. They may also be made when there is an agreement to reconcile and one or both parties request it.

If a party rejects mediation, the conciliation procedure will not start.

In the event that the parties accept the invitation to mediation or by mutual agreement they have decided to submit their dispute to mediation, once the nature of the case has been evaluated and it has been accepted for mediation, the Center will proceed to formally start the mediation process and appoint the mediator (s), taking into account the object of the conflict and the mediator's area of legal specialization. If the parties decide to choose the mediator themselves, they must do so by mutual agreement and from the list of mediators kept by the Center.

Once an agreement has been reached in this regard, the time and date for the initial mediation hearing will be set, considering this date as the start of the mediation process.

Article 19: Participation of the Mediator (a).

The Mediator will be designated by the Director according to each particular case from the Center's list of neutrals and depending on their academic and professional powers, the approach of the case and the style of mediation to be carried out. This (a) can make proposals at any time without the parties necessarily having to adopt them.

If more than one mediator is appointed, both must act together but only one will be the director for the specific case.

Article 20. Dynamics of Mediation Hearings.

1) Each party is called to a private audience with the mediator (s) designated by the Center to hear their positions. This will be called a preliminary hearing.

2) The mediator will call hearings with both parties, ensuring that they do not last more than two and a half hours in each session. After this time, the parties will be invited to a new mediation hearing. The Parties may sign a total or partial agreement.

The mediator will decide on the advisability of conducting joint or separate hearings for the development of mediation.

3) In case there is no agreement, a record will be made stating the non-agreement.

Article 21. Participation of representatives or advisers in the hearings.

Each party may be accompanied by their advisor, but they will not participate in the audience dynamics. It reserves the right of the parties to request the mediator to interrupt the session to communicate with a trusted legal advisor in the event that he or she is not accompanied by the latter at the hearing.

Article 22. Duties of the mediator.

The mediator (s) will have the following duties:

- 1) Inform the parties of the procedures, scope, limits of mediation and legal implications of the agreements according to Law 7727. In addition, set the agenda for the hearings and help the parties independently and impartially in their efforts to achieve a solution to your conflict.
- 2) Act in an objective, equitable and fair manner, bearing in mind the rights and obligations of the parties, the law and the circumstances of the conflict.
- 3) Conduct the mediation procedure in the manner it deems appropriate in accordance with the case, the wishes of the parties and equity.
- 4) Inhibit itself in cases that represent conflicts of interest and maintain confidentiality regarding the actions of the parties in the mediation procedure, preparatory acts of the agreement and any other communication regarding the case.

Article 23. Duties of the parties.

The parties have the following duties:

- 1) Cancel the costs of the process at the place, time and manner indicated.
- 2) Attend hearings in a timely manner.
- 3) Provide the documentation requested.
- 4) Comply with all agreements reached during the process.
- 5) Negotiate in good faith and in accordance with the interests of the parties.
- 6) Collaborate in good faith with the mediator (a) in what the latter requests.

If any of the parties breaches these duties, the mediator may suspend or end the mediation procedure, if it deems it appropriate; in which case a record of total or partial suspension of the mediation procedure will be made.

Article 24. Communications between the mediator and the parties.

The mediator will have as one of his objectives the direction of the mediation process, therefore, he will look for open channels of communication between the parties and his person, so that there is constant communication.

In addition to mediation sessions, electronic communications provided by the parties will also be used for communications.

Article 25. Administrative Assistance.

When it is necessary or you want to accelerate the development of the mediation procedure, the parties or the mediator in accordance with them, may have the administrative assistance of the Center in the request of experts or other necessary advice.

Article 26. Professional secrecy and confidentiality.

The mediator is obliged to keep professional secrecy in accordance with law number 7727, thus, it is impossible to reveal the content of the preparatory activities, conversations and agreements of the mediation agreements. Likewise, you are prohibited from disclosing the issues debated in discussions and meetings. The parties cannot relieve the mediator of this duty, nor will the testimony or confession of the parties or the mediator about what happened or expressed during the mediation, except in civil or criminal proceedings in that the possible responsibility of the mediator is discussed, or that the scope of an agreement already concluded be interpreted.

Anyone who participates in mediation hearings is equally obligated to keep the duty of confidentiality.

Article 27. Mediation Agreement.

When the mediator considers that the case and the circumstances of the case lend themselves to the elaboration of an agreement, it will formulate a project and will inform the parties so that they can rule on it. At the moment in which all the parties agreed with the text of the draft agreement, it will be signed by all, unless the parties wanted to present their own draft of the agreement, in which case, it should be reviewed by the mediator.

The parties may consider that a clause is included in the agreement whereby any dispute arising from the agreement must be submitted to the Center.

By signing the full mediation agreement, the parties end the dispute and are required to comply with it, in accordance with the RAC Law.

Article 28. Requirements of the agreement.

The mediation agreement must contain, as a minimum:

- Names of the parts and their qualities.
- Clear mention of the object of the conflict and its scope.
- Name of the mediator.
- Specific relationship of the agreements adopted.
- Punctual relationship of the form, place and date in which the agreements will be fulfilled.
- If there is a judicial or administrative process initiated or pending, expressly indicate the institution that knows it, the file number, its current status and the mention of the parties' will to complete, partially or totally, that process.
- The mediator must state in the document that he has informed the parties of the rights at stake and has warned them that the agreement may not satisfy all their interests and that everything that happened in the process is confidential. You must also state that you have warned the parties of their right to consult the content of the agreement with a lawyer before signing it.
- The signatures of all the parties involved, as well as that of the mediator.
- Indication of the exact address where the parties will receive notifications.

Article 29. Interruption and conclusion of the mediation procedure.

The mediation procedure will conclude:

With the signing of a final mediation agreement between the parties.

The procedure will be interrupted:

- By a record of the mediator made after consulting with the parties, in the sense that further efforts at mediation are no longer justified.
- By a written communication addressed to the mediator by one or both parties, in the sense that the mediation procedure will not be continued.

Article 30. Role of the mediator in other procedures.

The mediator cannot act as a representative or adviser to a party in any subsequent arbitration or judicial proceeding related to a dispute that would have been the subject of the mediation procedure. Likewise, you may not testify in any of these procedures, except to clarify only the scope of the agreement.

Article 31. Admissibility of evidence in other procedures.

The parties agree not to invoke or propose as evidence in a subsequent arbitration or judicial procedure, whether or not they are related to the controversy that is the subject of the mediation procedure; the facts acknowledged, opinions expressed or proposals formulated during the development of the mediation by virtue of their confidentiality.

CHAPTER IV. MEDIATION PROCESS AND OTHERS

UNIQUE SECTION. ON MULTIPARTY AND OTHER MEDIATION PROCESSES

Article 32. Circles of Peace.

It is a form of multiparty mediation that results in the improvement of interpersonal relationships; facilitating group work for making consensual agreements.

The number of participants will be defined by the interest of the parties and their direct or indirect relationship with the conflict in question.

The mediator will act as facilitator of the multiparty mediation process and will decide on the advisability of the extension of the hearing, according to the particularity of each case.

Article 33. Multiparty mediation procedure, others and agreement.

Everything arranged for the mediation procedure will be attended.