

# Rules of Procedure for Christian Conciliation

Version 2019/January



**ICC Peace, LLC**

*Institute for Christian Conciliation™*

306-N West El Norte Parkway #29

Escondido, CA 92026

[www.iccpeace.com](http://www.iccpeace.com)

844-707-3223

## Important Notice\*

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### Rules of Procedure for Christian Conciliation™

Version 2019/January

The Rules of Procedure are a part of the *Guidelines for Christian Conciliation™* which are designed to provide an introduction and procedural framework for biblical mediation and arbitration, otherwise known as Christian conciliation. The concepts and rules set forth on these pages may be used by anyone who is assisting others in resolving a conflict.

Although many conflicts can be successfully resolved with the assistance of lay conciliators, some disputes are so complex that they require the involvement of well-trained professionals. Furthermore, ICC Peace has no control over persons or organizations that use these *Guidelines for Christian Conciliation*, including the *Rules of Procedure* outside of its direct administration and cannot be responsible for the services they provide. For these reasons, when parties select their own conciliators, they should carefully consider the training and experience of the individuals who may serve them.

This publication is designed to provide general information on biblical conflict resolution. It is not intended to provide legal or other professional advice. If legal counsel or other expert assistance is required, the services of a competent professional person should be sought.

The Institute for Christian Conciliation™, formerly a division of Peacemaker Ministries, was transferred to ICC Peace in December 2016. ICC Peace boldly proclaims the good news of Jesus Christ by supporting peacemaking communities in resolving legal and personal conflicts and reconciling relationships in a biblically faithful manner.

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**Part II—Rules of Procedure for Christian Conciliation<sup>3</sup>**  
**Institute for Christian Conciliation™**  
**Version 2019/January**



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<sup>3</sup> Part II – The *Rules of Procedure for Christian Conciliation* may be used independently of the *Guidelines for Christian Conciliation*. Copyright © 2019, 2017 by ICC Peace, LLC. All rights reserved. [www.iccpeace.com](http://www.iccpeace.com).

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## A. GENERAL RULES

### 1. Purpose

The purpose of Christian conciliation is to glorify God by helping people to resolve disputes in a conciliatory rather than an adversarial manner. In addition to facilitating the resolution of substantive issues, Christian conciliation seeks to reconcile those who have been alienated by conflict and to help them learn how to change their attitudes and behavior to avoid similar conflicts in the future. These Rules shall be interpreted and applied in a manner consistent with this purpose.

### 2. Use of Rules and Name of Administrator

These Rules may be used by ICC Peace as the Institute for Christian Conciliation™, a denominational or local Christian conciliation ministry, a church, or any other organization or person who wishes to help parties resolve conflicts pursuant to these Rules. Any such organization or person to whom parties submit a dispute shall be referred to as “the Administrator” throughout these Rules.

### 3. Definitions and Rules of Construction

- A. *Administrator* refers to any individual or organization that provides or facilitates Christian conciliation services pursuant to these Rules. When referring to an organization, Administrator includes any staff, directors, volunteers, or conciliators who serve on behalf of the organization.
- B. *Conciliation* is the voluntary submission of a dispute for biblically-based conflict counseling/coaching, mediation, arbitration, or mediation/arbitration.
- C. *Conciliator* refers to a conflict coach, a mediator, or an arbitrator.
- D. A *conciliation agreement* is an agreement to submit an existing dispute to mediation, arbitration, or mediation/arbitration.
- E. A *conciliation clause* in a contract is a provision written into a contract that requires future disputes related to the contract to be resolved by mediation/arbitration or arbitration.

- F. The *conciliation process* includes all phases of conciliation, from the initial contact with the Administrator through the conclusion of mediation, arbitration, or other contact with the Administrator.
- G. *Mediation* utilizes one or more neutral intermediaries who assist the parties in arriving at their own voluntary and mutually satisfactory resolution. Mediators may provide the parties with an advisory opinion, but that opinion shall not be legally binding.
- H. *Arbitration* is the submission of a dispute to a single arbitrator or a panel of arbitrators for a legally binding decision that may become and have the same effect as a judgment of a civil court.
- I. *Mediation/arbitration* is the submission of a dispute to mediation and, if mediation is not successful, to arbitration.
- J. *Church leaders* are the staff and official leaders of both the church that a person usually attends or formally belongs to and the denomination, if any, to which that church belongs.
- K. A *person or party* includes an individual or an entity, corporate or otherwise.
- L. Any time the word *may* is used in these Rules, it indicates that a person has complete and sole discretion in deciding whether to take certain action or actions.
- M. Unless indicated otherwise, a word used in the plural form shall be understood to include the singular form (e.g., “arbitrators” includes “arbitrator”).
- N. Any provision of these Rules may be modified, but only by a written agreement signed by the parties and the Administrator.

#### **4. Application of Law**

Conciliators shall take into consideration any state, federal, or local laws that the parties bring to their attention, but the Holy Scriptures (the Bible) shall be the supreme authority governing every aspect of the conciliation process.

#### **5. Commencing Conciliation**

- A. Any person may initiate conciliation by informing the Administrator of the nature of the dispute, the names of the other parties involved, and the remedy sought. The initiating party may inform the other parties of the request for conciliation and provide them with information describing Christian conciliation, or the initiating party may ask the Administrator to contact the other parties.
- B. The Administrator may decline to accept any case for any reason. The Administrator may also postpone conciliation until reasonable efforts have been made by the parties to resolve the dispute in private or with the help of their churches, pursuant to Matthew 18:15–20 and 1 Corinthians 6:1–8. At the same time, the Administrator may provide the parties with individual biblical counseling/coaching or written resources designed to facilitate a private resolution.

- C. The Administrator may require a person to sign an agreement not to use in a court of law any information acquired through conciliation; this provides limited protection for communications made during the conciliation process.
- D. If the Administrator accepts a case, conciliation shall commence only after the parties sign a conciliation agreement. If persons who have a legal interest in the dispute refuse to consent to conciliation, conciliation shall affect only the rights and responsibilities of those joined as parties.
- E. Mediation agreements may contain an initial statement of the issues to be resolved. All mediation/arbitration and arbitration agreements shall contain a statement of the issues to be resolved. Arbitration agreements shall also contain a statement of the amount of money involved, if any, and the remedies sought. After a mediation/arbitration or arbitration agreement is signed by all parties, no new or different claim may be submitted without the approval of either the Arbitrators or the Administrator.
- F. The Rules of Procedure for Christian Conciliation in effect when conciliation is initiated shall apply.
- G. If legal action is pending at the time conciliation is commenced, the Administrator may require that the parties take steps to stay or postpone proceedings pending the conclusion of conciliation.
- H. If a party believes that property or rights may be irreparably harmed by delay, he/she may request temporary (injunctive) relief or action (see Rule 29).

## **6. Involvement of Insurer**

If a dispute or claim submitted to conciliation involves an alleged injury or damage that may be covered by a party's insurance, the insurer shall be invited to participate in the conciliation process in order to facilitate a prompt and equitable resolution. A participating insurer shall have the same privileges under these Rules as a party with regard to selecting an Administrator and appointing conciliators.

## **7. Withdrawal**

- A. The Administrator may withdraw at any time from any case if it decides that conciliation is inappropriate or ineffective. If the Administrator withdraws from a case requiring arbitration, and if the parties do not agree to terminate arbitration entirely, they shall submit their dispute to another organization that will apply these Rules.
- B. Any party may withdraw at any time from mediation, but not from mediation/arbitration or arbitration.

- C. A party may not withdraw from mediation/arbitration or arbitration without the written consent of all other parties who signed the conciliation agreement or the contract containing the conciliation clause.

## **8. Selecting an Administrator**

The parties may mutually select the Administrator that will administer their dispute. If the parties are unable to agree on an Administrator within a reasonable period of time (as determined by ICC Peace), ICC Peace shall have the power to determine the Administrator, and its decision shall be final and binding. If ICC Peace is a party to a dispute, the Administrator shall be the Christian Legal Society.

## **9. Fees and Costs**

- A. A non-refundable administrative fee may be charged for conciliation services. If an administrative fee is to be charged, the Administrator shall provide the parties with a written fee schedule, which must be signed by the parties. The Administrator may reduce the fee or arrange a payment plan for parties who would not otherwise be able to afford Christian conciliation.
- B. If an hourly conciliation fee is to be charged, the Administrator and/or the conciliators shall provide the parties with a written fee agreement, which must be signed by the parties. The Administrator may require the parties to pay an advance deposit to cover the anticipated costs of conciliation, as determined by the Administrator.
- C. The parties shall reimburse the Administrator for all direct costs associated with a case, including long distance telephone calls, travel, materials provided, and other out-of-pocket expenses. Withdrawal by any party or the Administrator does not relieve the parties of their responsibility to pay any of these fees and expenses.
- D. The expense of any witness or evidence produced at the request of the conciliators shall be shared equally by the parties, unless agreed otherwise by the parties or determined otherwise by the conciliators. The expense of any witness produced by either side shall be paid by the party producing such a witness unless determined otherwise by the arbitrators.
- E. All fees and costs incurred by the Administrator shall be shared equally by the parties unless agreed otherwise in a fee agreement, or as determined by the Arbitrators (see Rule 40C), or as otherwise provided by law.
- F. If the Institute for Christian Conciliation administers a dispute submitted to conciliation pursuant to a conciliation clause in a contract, the Institute for Christian Conciliation Fees and Costs schedule in effect when conciliation is initiated shall apply. If paid conciliators are appointed for the case, the Administrator, in consultation with the conciliators, shall set their rate of compensation.

## **10. Appointment of Conciliators**

- A. The Administrator shall nominate a panel of one or more conciliators for approval by the parties. Before making its nominations, the Administrator may consult with the parties to identify individuals or types of individuals who may be well suited to serve as conciliators in their case. Upon request, the Administrator shall provide the parties with biographical information on any proposed conciliator. All conciliators shall affirm the Statement of Faith contained in the Institute for Christian Conciliation's Standard of Conduct for Christian Conciliators.
- B. If the parties are unable to agree on conciliators after a reasonable effort has been made to propose suitable conciliators (as determined by the Administrator), the Administrator shall approve conciliators and conciliation shall commence as though the conciliators were approved by the parties.

## **11. Replacement of Conciliators**

- A. A person proposed or approved as a conciliator shall disclose to the Administrator any circumstances likely to affect impartiality or the person's ability to perform the duties of a conciliator. Upon receipt of such information from that person or from another source, the Administrator shall either change its proposal or communicate the information to the parties. After consulting with the parties, the Administrator shall determine whether a conciliator who has already been appointed should be disqualified, and its decision shall be final and binding.
- B. If any appointed conciliator withdraws, is disqualified, or is unable to perform the duties of the office, the remaining conciliators may continue with conciliation, unless the parties unanimously agree, or the Administrator decides, that the vacancy should be filled.

## **12. Time and Place of Conciliation Meetings**

The Administrator shall determine the time, place, and other conditions of the initial conciliation meetings, after taking into consideration the preferences of the parties. The conciliators shall determine the time, place, and other conditions (including adjournments and continuances) of subsequent conciliation meetings.

## **13. Right to Legal Counsel**

- A. Conciliation can affect substantial legal rights and responsibilities. Therefore, parties have the right to be assisted or represented by independent legal counsel throughout the conciliation process.
- B. Both the Administrator and any attorneys serving on behalf of the Administrator serve only as impartial conciliators and will not represent any party or provide the parties with legal advice such as they would receive were they to seek legal advice from an independent attorney. If a party desires legal advice, he/she should consult with his/her own independent attorney, especially concerning a question about the statute of

limitations (i.e., how long one can wait to file a legal action before losing the right to do so).

- C. When the Administrator is informed that a party has retained an attorney, the Administrator, after consulting with the party, may contact the attorney to discuss the case and invite his/her cooperation in the conciliation process.
- D. A party must notify the Administrator at least five (5) days in advance if he/she desires to have an attorney present at a conciliation meeting. Such notice shall include the name and address of the attorney. If other parties will not have attorneys present with them during mediation meetings, the Administrator may exclude all attorneys from mediation meetings. If necessary, to fulfill the purpose of Christian conciliation (see Rule 1), the Administrator may disqualify an attorney from participating in conciliation, provided his/her client is given reasonable time to secure another attorney.
- E. During mediation, attorneys shall serve only as advisors to their clients, and the clients will be expected to speak for themselves as much as possible. During arbitration, attorneys may represent and speak for their clients. Attorneys will be expected to respect the conciliatory nature of the process and avoid unnecessary advocacy.
- F. No attorney who has served as a conciliator shall represent any party in a subsequent legal proceeding concerning the matter that was presented for conciliation, nor may such an attorney use in other proceedings any information that was obtained during conciliation.

#### **14. Evidence in Conciliation**

- A. The parties shall cooperate with the Administrator and each other in providing documents, names of witnesses, and other information that will contribute to an understanding of the dispute.
- B. The parties may offer any evidence that they consider to be fair, relevant, and pertinent to the dispute, and they shall produce any additional evidence that the conciliators deem necessary for understanding and resolving the dispute.
- C. Conciliators authorized by law to subpoena witnesses or documents may do so independently or upon the request of any party.
- D. The conciliators shall be the judge of the relevance and materiality of the evidence offered, and conformity to legal rules of evidence shall not be necessary.
- E. The conciliators may receive and consider the evidence of witnesses by deposition or affidavit and may make a personal inspection or investigation of relevant premises or objects.

## 15. Decisions by Majority

If there is more than one conciliator, the decision of any matter shall be decided by majority vote of the conciliators.

## 16. Confidentiality

- A. Because of its biblical nature, Christian conciliation encourages parties to openly and candidly admit their offenses in a particular dispute. Thus, conciliation requires an environment where parties may speak freely, without fear that their words may be used against them in a subsequent legal proceeding. Moreover, because conciliation is expressly designed to keep parties out of court, conciliators serving on behalf of the Administrator would not do so if they believed that any party might later try to force them to testify in any legal proceeding regarding a conciliation case. Therefore, all communications that take place during the conciliation process shall be treated as settlement negotiations and shall be strictly confidential and inadmissible for any purpose in a court of law, except as provided in this Rule.
- B. This Rule extends to all oral and written communications made by the parties or by the Administrator, and includes all records, reports, letters, notes, and other documents received or produced by the Administrator as part of the conciliation process, except for those documents that existed prior to the conciliation process and were otherwise open to discovery apart from the conciliation process. The parties may not compel the Administrator to divulge any documents or to testify in regard to the conciliation process in any judicial or adversarial proceeding, whether by personal testimony, deposition, written interrogatory, or sworn affidavit.
- C. Mediated settlement agreements reached by the parties and arbitration decisions shall be confidential, except as provided in Rule 17, unless the parties agree otherwise in writing, or unless an agreement or decision must be filed with a civil court for purposes of enforcement. If an arbitration decision is contested or appealed pursuant to statute, the Administrator, upon written request from a party, shall furnish to such party, at the party's expense, copies of the conciliation agreement and the arbitration decision.
- D. The Administrator may divulge appropriate and necessary information under the following circumstances, and the parties agree to waive confidentiality and hold the Administrator harmless for doing so: (1) when, as part of its normal office operations, the Administrator consults with its staff members or outside experts regarding particular issues or problems related to a case; (2) when compelled by statute or by a court of law; (3) when an arbitration agreement or decision has been contested or appealed; (4) when an action has been brought against the Administrator as a result of its participation in a conciliation case; (5) when the Administrator deems it appropriate to discuss a case with the church leaders of parties who profess to be Christians; and (6) when the Administrator deems it necessary to contact appropriate civil authorities to prevent another person from being harmed.

- E. In spite of these confidentiality protections, some of the information discussed during conciliation may not be confidential as a matter of law or may be discoverable outside the conciliation process and used in other legal proceedings, and the Administrator shall have no liability therefore.

### **17. Church Involvement**

Unless agreed otherwise, the Administrator and the conciliators may discuss a case with the church leaders of parties who profess to be Christians. If a party who professes to be a Christian is unwilling to cooperate with the conciliation process or refuses to abide by an agreement reached during mediation, an advisory opinion, or an arbitration decision, the Administrator or the other parties may report the matter to the leaders of that person's church and request that they actively participate in resolving the dispute. If a church chooses to become actively involved, it may, at its discretion, review what has transpired during conciliation, obtain such additional information as it deems to be helpful, and take whatever steps it deems necessary to facilitate reconciliation and promote a biblical resolution of the dispute (see Matt. 18:15–20). The Administrator may disclose to the church any information that may have a bearing on its investigation or deliberations.

### **18. Waiver of Right to Object**

Any party who proceeds with a conciliation meeting after learning that any provision of these Rules has not been complied with, or who fails to object in writing within three days of learning that any provision of these Rules has not been complied with outside of a conciliation meeting, shall be deemed to have waived the right to object.

### **19. Interpretation and Application of Rules**

The conciliators shall interpret and apply these Rules insofar as they relate to the conciliators' powers and duties. The Administrator shall interpret and apply all other Rules and resolve all other issues and questions pertinent to the conciliation process.

### **20. Exclusion from Liability**

The parties agree that ICC Peace, the Administrator, and the conciliators shall be immune from any liability for any acts or omissions that occur during the conciliation process.

## **B. MEDIATION RULES**

### **21. Individual Meetings and Caucuses during Mediation**

- A. Prior to an initial mediation meeting, the Administrator or the mediators may communicate privately with any of the parties to obtain an overview of the dispute, to assess the party's attitudes and needs, to teach relevant biblical principles, and to assign homework that will facilitate the mediation process.
- B. The mediators may also meet separately (caucus) with any party during the course of mediation to discuss that party's attitudes, conduct, and responsibilities, or to discuss

possible solutions to the dispute. As much as possible, the discussion during a caucus shall focus on the party who is present rather than on the absent party.

- C. The mediators may eventually discuss with the other parties any information that is obtained during an individual meeting or a caucus.

## **22. Mediation Proceedings**

A mediation meeting will normally include (1) an introduction and opening prayer; (2) statements by each party clarifying the issues involved; (3) the presentation of each party's claims, defenses, and witnesses, as well as an opportunity for the other party to respond; (4) questioning by the mediators; (5) a discussion, sometimes in private at first, of each party's responsibility for the dispute; (6) counsel involving the application of relevant biblical principles; (7) a discussion of appropriate solutions to the dispute; (8) agreement on a solution; and (9) closing comments and prayer. If the parties are unable to reach a voluntary agreement, the conciliators may meet in private for discussion, Bible study, and prayer, and then issue an advisory (non-binding) opinion as to what each party should do to resolve the dispute and facilitate reconciliation.

## **23. Written Record of Agreement**

If requested, the mediators shall assist the parties to prepare a written record of their agreement. That agreement shall be legally binding if, and only if, the parties or their attorneys reduce it to a contract or stipulation that is signed by all parties.

## **24. Transition from Mediation to Arbitration**

- A. If any issues in a dispute submitted to mediation have not been resolved through mediation or church involvement, the parties may either quit the conciliation process and pursue other remedies, or, by unanimous agreement, they may submit the unresolved issues to arbitration pursuant to this Rule.
- B. If any issues in a dispute submitted to mediation/arbitration have not been resolved through mediation or church involvement, the parties are obligated to proceed to arbitration. This transition shall take place when either a majority of the mediators or all of the parties agree that neither mediation nor church involvement is likely to resolve the outstanding issues of the dispute.
- C. If a dispute is submitted to mediation/arbitration pursuant to a conciliation clause in a contract, either party may request that the dispute move immediately into arbitration. Such a request shall be granted by the Administrator if the Administrator concludes that immediate arbitration is likely to provide a more timely and beneficial resolution to the dispute.
- D. When a transition pursuant to this Rule occurs, an entirely new panel of arbitrators shall be appointed pursuant to Rule 10, unless the parties agree otherwise. By unanimous written agreement, either before or after the mediation stage, the parties may agree to use the same conciliators in both mediation and arbitration. By such unanimous

agreement, the parties agree that the arbitrators may consider any information they received during mediation as though it were received during arbitration, in full compliance with the Arbitration Rules.

- E. Whenever mediators are authorized to act as arbitrators pursuant to this Rule, the parties, after signing the appropriate documents, may either (1) summarize the information that was received during mediation, make closing statements, and then rest their cases; or (2) proceed to offer new information pursuant to the Arbitration Rules.
- F. Whenever new arbitrators are appointed pursuant to this Rule, the arbitrators may not call the previous mediators as witnesses without the unanimous agreement of the parties and the mediators.

## **C. ARBITRATION RULES**

### **25. Description of Issues and Remedies**

At the outset of arbitration, the parties shall describe the issues and desired remedies that they wish the arbitrators to consider. The arbitrators shall consider only those issues that are consistent with the parties' original arbitration or mediation/arbitration agreement, or which are contemplated by an earlier contract between the parties that contains a conciliation clause.

### **26. Approval of Panel**

At the outset of arbitration, the parties shall sign forms approving the appointment of the arbitrators. If the parties refuse or are unable to agree on arbitrators, arbitrators shall be appointed pursuant to Rule 10.

### **27. Oaths or Vows**

Before proceeding with arbitration, each arbitrator may take an oath or vow of office. The arbitrators have discretion to require parties or witnesses to testify under oath or vow, provided that making an oath or vow does not violate the persons sincerely held religious beliefs. Oaths or vows may be administered by the arbitrators.

### **28. Pre-hearing Conferences and Preliminary Hearings**

- A. At the request of the parties or at the discretion of the Administrator, a preliminary conference with a case administrator and the parties may be scheduled to arrange for an exchange of information and the stipulation of uncontested facts to expedite the arbitration proceedings.
- B. In large or complex cases, at the discretion of the arbitrators or the Administrator, a preliminary hearing may be scheduled with the arbitrators and the parties to arrange for the production of relevant evidence, to identify potential witnesses, to schedule further hearings, and to consider other matters that will expedite the arbitration proceedings.

## **29. Temporary Relief**

- A. A party may request immediate temporary relief (e.g., temporary restraining order, preliminary injunction) to safeguard property or rights that are subject to a contract clause or agreement that requires arbitration or mediation/arbitration under these Rules. Such extraordinary relief will not be granted unless the moving party has demonstrated, by a clear showing (1) a substantial likelihood of prevailing on the merits; (2) a substantial threat of irreparable harm if the temporary relief is not granted; (3) that the threatened injury outweighs any harm that may result to the non-movant from an injunction or other relief; and (4) that the temporary relief will not undermine public interests.
- B. Temporary relief may be granted at any stage of the conciliation process and shall be fashioned so as not to substantially prejudice the rights of the parties or the final determination of the dispute.
- C. Matters of temporary relief shall be decided by the arbitrators, or, if they are not yet appointed, by temporary arbitrators appointed by the Administrator. If an Administrator has not yet been appointed, ICC Peace shall serve as Administrator for purposes of this rule.
- D. A request for temporary relief is subject to Rule 40C.
- E. Decisions regarding temporary relief may be entered in any court otherwise having jurisdiction.
- F. A party requesting a temporary restraining order will be responsible for paying any fees and costs incurred by the Administrator or by the arbitrators for issuance of a temporary restraining order and may request the allocation of fees and costs to the other party (if deemed successful) by the arbitrators pursuant to Rule 40 as part of final award.

## **30. Discovery and Distribution of Documents**

Reasonable discovery (including oral depositions, written interrogatories, and production of documents) may be allowed to identify issues, relevant evidence, and names of witnesses. If the parties cannot agree on the scope of discovery or allocation of costs, the issue shall be submitted to the arbitrators for a decision, which shall be final and binding. The Administrator or the arbitrators may require the parties, at their own expense, to deliver to the Administrator and to the other parties copies of the documents they plan to introduce and a list of the witnesses they plan to call.

## **31. Notice of Arbitration Meetings**

The Administrator or the lead arbitrator shall give parties at least five (5) days written notice of the time, place, and conditions of any arbitration meeting, unless the parties agree to modify or waive such notice. It shall be the parties' responsibility to notify their witnesses of the time and place of all arbitration meetings.

### **32. Delivery and Notice**

- A. All documents and notice shall be delivered in person or by facsimile transmission (fax), or by United States mail, or by another country's official government mail service (when applicable), or by private carrier to the last known address of the parties as given to the Administrator.
- B. In addition, documents and notice may be delivered through electronic mail (e-mail) per the e-mail address provided by the parties to the Administrator and/or as provided on the Administrator's Client Information Form. Documents or formal offerings submitted through e-mail shall be in portable document format (.pdf) or other reliable format as agreed upon and approved by the Administrator. Receipt of such information shall be readable and able to be stored electronically by the recipients.
- C. Notice and other documents shall be considered to have been received on the day they were personally received or transmitted by fax or e-mail, or on the fifth day after they were postmarked in the case of United States mail, or on the tenth day after they were postmarked in the case of another country's official government mail service.

### **33. Communication with Arbitrators**

There shall be no direct communication from the parties to an arbitrator other than at joint hearings. Any other oral or written communications from the parties to the arbitrators shall be directed to the Administrator for transmittal to the arbitrators and all other parties.

### **34. Arbitration Proceedings**

- A. Arbitration proceedings shall be conducted according to the same format as mediation proceedings (see Rule 22), except as limited by these Arbitration Rules.
- B. The arbitrator shall have the power to rule on his/her own jurisdiction, including any objections with respect to the existence, scope, or validity of the arbitration agreement. A party may object to the jurisdiction of the arbitrator or to the arbitrability of a claim. The arbitrator may rule on such objections as a preliminary matter or as a part of the final award.

### **35. Record of Proceedings**

Any party wishing a stenographic record of an arbitration meeting shall make arrangements directly with a stenographer and shall notify the other parties of such arrangements in advance of the meeting. The requesting party or parties shall pay the cost of such record and shall provide the Administrator with a copy and make copies of the record available to all other parties for the cost of reproduction. A stenographic record is subject to the limitations of Rule 16 and may be used only for appealing an arbitration decision. Video and audio recordings of meetings may be made only with the written consent of all parties and the Administrator.

### **36. Evidence in Arbitration**

Subject to the provisions of Rules 14 and 24(D), all evidence used in arbitration shall be taken in the presence of all of the arbitrators and all of the parties, except where any of the parties has waived the right to be present or when arbitration proceeds pursuant to Rule 37.

### **37. Arbitration in the Absence of a Party**

Unless the law provides to the contrary, arbitration may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain an adjournment. A decision shall not be made solely because of the default of a party. The arbitrators shall require the party who is present to submit such evidence as the arbitrators may require for the making of a decision. The arbitrators may, but need not, allow the absent party an opportunity to appear at subsequent hearing(s) attended by all parties; provided, however, that a party may request the arbitrators to condition an absent party's participation in subsequent hearing(s) on paying its share of fees and costs incurred by the Administrator or by the arbitrators in conducting the arbitration, which request the arbitrators may grant or deny in their sole discretion. A party requesting arbitration under this Rule 37 will be responsible for paying any fees and costs incurred by the Administrator or by the arbitrators in conducting an arbitration under this Rule 37. In such case, the allocation of fees and costs to the absent party will be determined by the arbitrators pursuant to Rule 40 as part of final award.

### **38. Legal or Scriptural Briefs**

The arbitrators may request or consider briefs or position papers that set forth the parties' understandings of the legal, factual, or scriptural issues.

### **39. Reopening of Hearings**

The arbitrators may reopen a case for good cause at any time before a final decision is rendered.

### **40. Decisions**

- A. The arbitrators shall render a written decision (award). Whenever possible, it shall be issued within sixty (60) days after the closing of the final hearing and after receipt by the arbitrators of all post-hearing briefs and other documents requested by the arbitrators.
- B. The arbitrators may grant any remedy or relief that they deem scriptural, just, and equitable, and within the scope of the agreement of the parties, including, but not limited to, specific performance of a contract. In making their decision, the arbitrators shall consider, but are not limited by, the remedies requested by the parties.
- C. The arbitrators may grant to the Administrator any fees, costs, and expenses, including attorneys' fees, that are due to the Administrator under the Arbitration Agreement or the Fees and Costs Agreement, or that are reasonably incurred as a result of the conciliation process. The arbitrators may also grant to any party any reasonable fees, costs, and expenses related to the resolution of a dispute, including attorney fees. Grounds for such a decision may include but are not limited to (1) when another party

unreasonably refused to settle a dispute and unnecessarily increased the costs of resolving the matter; (2) when a party necessarily incurred significantly higher costs than another party, such as travel expenses, in order to participate in conciliation; or (3) as prevailing party's attorney fees pursuant to a written contract. A grant of fees, costs, and expenses may be made only after all parties who may be affected by the decision have had a reasonable opportunity to comment on the proposed decision.

- D. The arbitrators may, but need not, inform the parties of the reasoning by which the decision was reached.
- E. The arbitrators' decision shall be legally binding on the parties, except as provided by law, and may be filed as a judgment and enforced by a court of law. It shall be the sole responsibility of the parties to file a decision with the court and, if necessary, to have it enforced.
- F. If the parties settle their dispute during the course of arbitration, the arbitrators may set forth the terms of the agreed settlement in a decision.
- G. The arbitration decision is final and cannot be reconsidered or appealed except as provided by Rule 41 and/or civil law.

#### **41. Request for Reconsideration**

- A. A party may submit a request to the Administrator for reconsideration of a decision within twenty (20) calendar days after the day the decision was received by the parties.
- B. A request for reconsideration will not be considered if it simply asks the arbitrators to review the evidence and change their decision.
- C. A request for reconsideration is appropriate only when the arbitrators (1) have deviated from these rules or from the arbitration agreement; (2) have patently misunderstood a party; (3) have failed to address an issue or have made a decision outside the issues presented to the arbitrators by the parties; or (4) have made a miscalculation or a mistake of identification.
- D. The request, which must be sent to the Administrator and to the other parties, shall set forth in writing the reasons for which reconsideration is sought, including a specific statement of the claimed mistake, prejudice, or harm.
- E. If the request is granted by the arbitrators, they shall define the issues that are being reconsidered and allow each party to submit whatever supplementary information is deemed appropriate. If the request is denied, the requesting party will be responsible for paying any expenses or fees incurred by the Administrator or by the arbitrators as a result of the request.

#### **42. Conflict of Rules**

Should these Rules vary from state or federal arbitration statutes, these Rules shall control except where the state or federal rules specifically indicate that they may not be superseded.

#### **43. Suspension for Nonpayment**

If arbitrators' compensation or administrative charges have not been paid in full, the Administrator may so inform the parties in order that one of them may advance the required payments. If such payments are not made, the arbitrators may order the suspension or termination of the proceedings. If no arbitrators have yet been appointed, the Administrator may suspend the proceedings.