

REGISTERED PRACTITIONER IN DISPUTE RESOLUTION (RPDR)

Declaration of Principles, Code of Conduct, & Qualities of a
Practitioner in Dispute Resolution



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PREFACE

This document, first drafted in 1997, is the Canadian International Institute of Applied Negotiation Declaration of Principles, Code of Conduct, and Qualities of a Registered Practitioner in Dispute Resolution.

This document addresses three key elements:

- **PRINCIPLES** – the values, benefits and claims that the Institute asserts about Alternative Dispute Resolution (ADR);
- **A CODE OF CONDUCT** – relevant, morally and socially responsible standards to guide the practitioner and inform the client or consumer; and,
- **QUALITIES OF A DISPUTE RESOLUTION PRACTITIONER** – including the personal attributes that are held to be fundamental qualities of anyone who would practice ADR.

PRINCIPLES

- ADR refers to a growing number of non-adversarial techniques and processes that support the search for consensus-based outcomes, including interest-based negotiation, interest-based mediation, neutral and joint fact-finding, collaborative decision-making, and conflict analysis and process design.
- ADR seeks to empower individuals in dispute to negotiate their own resolution through processes which place value on relationships, the restoration of harm done, healing, and reconciliation.
- Any specific ADR technique or process may be more, or less appropriate as a means of resolving a dispute, depending on a number of factors peculiar to the dispute, those in dispute, and the cultural context in which ADR is being used.
- ADR can be used in a much boarder range of applications (from “front end” preventive and collaborative processes to mediation of disputes) than is conventionally recognized.
- Participation in ADR must be voluntary; although mandatory referral to consider mediation as one option for resolving a dispute is acceptable, providing that those who are expected to use mediation see the need for and value of it and proceed voluntarily after a mandatory first session.
- All legitimate stakeholders in a dispute must be allowed to participate in ADR processes.
- Flexibility of the process is an essential feature of ADR; the focus is on designing an appropriate process that meets the needs of parties and has their endorsement throughout.
- ADR efforts should be conducted in a manner to ensure that no party’s legal rights are neglected.
- ADR efforts should address any potential power imbalances between or among the parties resulting from equal resources, information or skills.
- The ADR practitioner must be acceptable to all the parties involved.
- Impartiality of, and trust in, the ADR practitioner is requisite, allowing for cultural interpretations of these terms such that acceptability of and trust of the ADR practitioner(s) by the people involved is paramount.
- Evaluation of the use of ADR is essential in order to learn from experience.



CODE OF CONDUCT FOR REGISTERED PRACTITIONERS IN DISPUTE RESOLUTION*

Application of the Standards

Adherence to this code of conduct is basic to professional responsibility. Registered Practitioners in Dispute Resolution commit themselves to be guided in their professional conduct by these standards.

i. General

Registered Practitioners in Dispute Resolution should be honest and unbiased, act in good faith, be diligent, and not seek to advance their own interests at the expense of the parties.

ii. Responsibilities to the Parties

1. A Dispute Resolution professional should accept responsibility only in cases where she/he has sufficient knowledge regarding the appropriate process and subject matter to be effective. A RPDR has a responsibility to maintain and improve his or her professional skills.
2. It is the duty of the RPDR to explain to the parties at the outset of the process, the bases of compensation, fees, and charges, if any.
3. **Impartiality.** When active as a neutral the RPDR must maintain impartiality toward all parties. Impartiality means freedom from favouritism or bias either by word or by action, and a commitment to serve all parties as opposed to a single party.
4. **Informed Consent.** The RPDR has an obligation to assure that all parties understand the nature of the process, the procedures, the particular role of the dispute resolution practitioner, and the parties' relationship to the dispute resolution practitioner.



5. **Confidentiality.** Maintaining confidentiality is critical to the dispute resolution process. Confidentiality encourages candour, a full exploration of the issues, and a practitioner's acceptability. There may be some types of cases, however, in which confidentiality is not protected. In such cases, the dispute resolution practitioner must advise the parties, when appropriate in the dispute resolution process, that the confidentiality of the proceedings cannot necessarily be maintained. Expect in such instances, the practitioner must resist all attempts to cause him or her to reveal any information outside the process. A commitment by the practitioner to hold information in confidence within the process also must be honoured.
6. **Conflict of Interest.** The dispute resolution practitioner must refrain from entering or continuing in any dispute if she/he believes or perceives that participation would be a clear conflict of interest. The dispute resolution practitioner also must disclose any circumstance that may create or give the appearance of a conflict of interest.
7. **Promptness.** The dispute resolution practitioner shall exert every reasonable effort to expedite the process.
8. **The Settlement and its Consequences.** The dispute resolution process belongs to the parties. The dispute resolution practitioner has no vested interest in the terms of a settlement, but must be satisfied that agreements in which she/he has participated will not impugn the integrity of the process. The dispute resolution practitioner has a responsibility to see that the parties consider the terms of the settlement. If the dispute resolution practitioner is concerned about the possible consequences of a proposed agreement, and the needs of the parties dictate, the dispute resolution practitioner must inform the parties of that concern. In adhering to this standard the dispute resolution practitioner may find it advisable to educate the parties, to refer one or more parties for specialized advice, or to withdraw from the case. In no case, however, shall the dispute resolution practitioner violate section 5 above, Confidentiality.

The experienced RPDR should participate in the development of new practice in the field and engage in efforts to educate the public about the value and use of ADR.

* Adapted with thanks and acknowledgment from the Code of Professional Conduct of the Society of Professionals in Dispute Resolution.



QUALITIES OF A PRACTITIONER IN DISPUTE RESOLUTION

Personal Attributes:

Recognizing that different cultures place different value on particular personal attributes, and while recognizing that much remains to be learned about the effectiveness and appropriateness of personal style, practical experience of a dispute resolution practitioner, specific ADR techniques, and the degree of importance attached to a dispute resolution practitioner's knowledge of the subject matter or the substantive matters in dispute, the following personal attributes are presented as **a general body of attributes that have been identified as those which are desirable in a dispute resolution practitioner:**

- demonstrate integrity and impartiality
- belief in, knowledge of and skilled in the principles and processes of ADR
- ability to assess personal weaknesses and strengths, in self and others
- is empathetic
- is analytical, processing problem solving abilities
- is patient
- has a sense of humor
- is trustworthy
- is assertive
- has sufficient personal drive and ego strength, qualified by a willingness to be self-effacing
- is an effective communicator
- demonstrates wisdom
- is self-reflective

Declaration

I have read and do subscribe to the Declaration of Principles, the Code of Conduct, and the Qualities of a Practitioner in Dispute Resolution of the Canadian International Institute of Applied Negotiation.

SIGNATURE

DATE

PLEASE PRINT NAME

Sign and Email to: ciian@ciian.org