

REVISED PROCEDURES FOR MEDIATION AND CONCILIATION OF COOPERATIVE DISPUTES IN THE COOPERATIVE DEVELOPMENT AUTHORITY

Pursuant to the provision of Section 8, Republic Act No. 6939, authorizing the Cooperative Development Authority to mediate and conciliate disputes within a cooperative or between cooperatives, the Authority hereby promulgates the following procedures in the conduct of mediation and conciliation, under the said section, to wit:

“Sec. 8. Mediation and Conciliation. – Upon request of either or both parties, the Authority shall mediate and conciliate disputes within a cooperative or between cooperatives; Provided, That if no mediation or conciliation succeeds within three (3) months from request thereof, a certificate of non-resolution shall be issued by the commission prior to the filing of the appropriate action before the proper courts.”

SECTION 1. Title. – These procedures shall be known as the Revised Procedures for Mediation and Conciliation of Cooperative Disputes in the Cooperative Development Authority.

SECTION 2. Definition of Terms. – As used in these procedures, the term:

- a. Authority – shall refer to the Cooperative Development Authority or any of its officers duly designated to act on its behalf.
- b. Board of Administrators – shall refer to the governing board of the Authority consisting of a chairman and six (6) members.
- c. Mediation – shall refer to a process whereby a mediator designated by the Authority takes a more active part in helping the conflicting parties develop or come out with an acceptable solution to their dispute or assist the parties reach an amicable solution to the dispute/s.
- d. Conciliation – shall refer to a process whereby a conciliator designated by the Authority calls together the parties involved in a dispute, encourages them to discuss their differences, and assists them in developing their own proposed solutions to their disputes.
- e. Mediator/conciliator – shall refer to an employee of the Authority designated to act as such in relation to such requests for mediation and conciliation. As a rule, the Legal Officer of Extension Offices shall act as mediator/conciliator. The Extension Director shall have the authority to appoint other CDA Regional employees qualified to act as mediator/conciliator in the absence of such Legal Officer.
- f. Order – shall refer to any directive of the Authority or the Board of Administrators, or such other body, committee, board or officer duly created or designated by the Authority.
- g. Certificate – shall refer to the Certificate of Non-Resolution issued by the Authority or by the duly designated officer.

- h. Settlement or Agreement – shall refer to the compromise, which the parties in the mediation/conciliation conference have agreed upon.

SECTION 3. Commencement of Action. – Any action for mediation or conciliation may be commenced upon receipt of written request or complaint from either or both parties.

SECTION 4. Complaint. – A written request/complaint may be filed with the Extension Office or Central Office having jurisdiction over the cooperative. It shall contain the following:

- a. The name/s and address/es of the complainant/s;
- b. The name/s and address/es of the persons being complained of;
- c. The issue and subject matter of the controversy;
- d. A certification by any member of the grievance committee of the cooperative that the complaint has undergone the cooperative grievance mechanism or a certification by either the secretary of the board or by the complainant that the cooperative has no grievance machinery or no functional grievance machinery or that a certification is no longer practicable

In the absence of any one of the aforementioned requirements, the complaint shall be dismissed without prejudice to the re-filing of the same.

SECTION 5. Grounds for complaint for Mediation and/or Conciliation. – The issues considered to be the subject for mediation/conciliation:

- a. Matters involving the internal affairs of the cooperative, such as but not limited to: (1) the rights and privileges of members; (2) the rules and procedures for meetings of the General Assembly, Board of Directors, or the different cooperative committees; (3) the rules and procedures for the election and qualifications for officers, directors or committee members; (4) the allocation and distribution of surpluses and reserves; and (5) all other matters involving the internal affairs of the cooperative that the Authority may deem vital to the operations of the cooperative.
- (b) For disputes between cooperatives, such other matters that may involve the area of operations of the cooperatives and disputes between cooperatives.

SECTION 6. Matters Not Cognizable Under These Procedures. – The following are not cognizable for mediation and conciliation conferences and hence cannot be the subject of any amicable settlement.

- a. Violation of Article 48, R.A. 6938 (Dealings of Directors, Officers or Committee);
- b. Violation of Article 49, R.A. 6938 (Disloyalty of a Director);
- c. Violation of Article 50, R.A. 6938 (Illegal Use of Confidential Information);
- d. Violation of Article 84, R.A. 6938 (Right to Examine);
- e. Matters involving the grant and exercise of a franchise, license or certificate of public convenience or necessity as stated in Article 98, paragraph (2) of R.A. 6938;
- f. Violation of Article 114, R.A. 6938 (Prohibition);
- g. Non-compliance with other laws as stated in Article 119, R.A. 6938;
- h. Violation of Article 124, R.A. 6938 (Penal Provisions);
- i. Issues which are criminal in nature cognizable by the regular and/or special courts; and
- j. Other matters which fall under the administrative and regulatory functions or matters that pertain to compliance with mandatory requirements of the law and related issuances.

SECTION 7. Comments. – Upon receipt of such complaint, an order shall be issued by the Extension Office/Central Office as the case may be, requiring the person/s being complained of to file their comments/answers thereto within fifteen (15) days from the receipt of the order.

SECTION 8. Prohibited Motions. – The following motions shall not be allowed under these mediation/conciliation procedures.

- a. Motion to Dismiss;
- b. Motion for a Bill of Particulars;
- c. Motion for Extension of Time;
- d. Motion to Declare Petitioner Non-Suited or Respondent in Default; and
- e. Motion for Intervention.

SECTION 9. Conference. – Upon receipt of the comments/answers from the person being complained of, the Extension Office/Central Office as the case may be, shall issue a notice of conference to all parties concerned stating the date, time and venue of the conference.

SECTION 10. General Preparations. – (a) The mediator/conciliator shall have the following documents at his disposal during the said conference.

- a. A copy of the 1987 Constitution;
- b. A copy of R.A. No. 6938, R.A. 6939, and the Implementing Rules;
- c. A copy of these Procedures and other pertinent issuances of the Authority;
- d. A copy of the cooperative's articles of cooperation and by-laws;
- e. A copy of the Complaint and the Comments thereto; and
- f. Other documents that may be deemed necessary for the conference.

(b) As far as practicable, the mediator/conciliator shall be dressed in semi-formal office attire if the conference shall be held within the Extension Office. If the conference is held in the field, he may opt to wear casual attire.

(c) The venue where the conference is to be held must be comfortable to all so that the atmosphere shall be conducive to the settlement of disputes.

SECTION 11. Purpose of Conference. – In the conference, the mediator/conciliator shall make it clear that the purpose of the conference is to see whether any settlement or agreement may be reached between the parties after a thorough discussion of the issues. However, before any discussion, the mediator/conciliator shall clearly define the issues.

SECTION 12. Conduct of Conference. – The following rules shall be observed:

- (a) Parties are required to appear personally during the conference without the assistance of counsel.
- (b) A mediation/conciliation conference is not judicial proceeding *per se*. Hence, the technical rules and procedures shall not be applicable in such cases.
- (c) The conduct of the conference shall be non-adversarial in nature and shall proceed with the end in view of settling any cooperative dispute.
- (d) All parties involved or interested in the dispute shall be afforded the opportunity to ventilate their views concerning the dispute.

SECTION 13. Minutes. – Minutes of the proceedings of the conference shall be made by the designated secretary and shall form part of the records of the case.

SECTION 14. Recess and Suspension. – The conference may be recessed from time to time in order for the parties to consult with one another. It may also be suspended from day to day until the positions of both parties on all issues are properly ventilated and exhausted.

SECTION 15. Settlement or Agreement. – Once all the issues have been ventilated and addressed and the parties have reached an agreement:

- (a.) The agreement shall be reduced in writing and attested to by the mediator/conciliator.
- (b) The agreement shall be clear and concise and must contain all points of the parties' understanding. Extra care must be taken in drafting the Agreement in order to minimize doubtful or vague interpretations that might result to further disagreement or worsening of the dispute.
- (c) Copies of the Agreement shall be furnished to the parties at the soonest possible time for their own records.

SECTION 16. Certificate of Non-Resolution. – A Certificate of Non-Resolution shall be issued on the following grounds:

- (a) In the event that after the holding of the conferences, and the disputes have not been resolved;
- (b) If no mediation or conciliation conference succeeds within three (3) months from the filing of the written request/complaint;
- (c) If no conference succeeds due to the non-attendance of the respondent;
- (d) Breach of terms and conditions in the amicable settlement upon receipt of notice from either or both parties.

SECTION 17. Effect of Issuance of Certificate of Non-Resolution. – The issuance of Certificate of Non-Resolution shall be the basis for the filing of any action before the proper courts.

SECTION 18. Non-Appearance of the Complainant. – If for no justifiable cause, the complainant fails to appear, after two (2) consecutive summons/notices the dispute shall be disposed of through an appropriate resolution. Issuance of such resolution shall bar the complainant from re-filing the same dispute.

SECTION 19. Construction. – These rules shall be liberally construed in order to promote the growth and viability of cooperatives, preserve harmony and instill the cooperative way of life within and among cooperatives and to achieve a just and expeditious resolution of every dispute brought before the Authority.

SECTION 20. Repealing Clause. – All rules, regulations, issuances and the likes which are contrary to or inconsistent with any of the provisions of these procedures are hereby repealed.

SECTION 21. Effectivity. – These revised procedures shall take effect upon the approval by the Cooperative Development Authority Board of Administrators.

Approved, Board of Administrators Resolution No. 214, S-2004 dated 10 June 2004.

Original Signed
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