



REPUBLIC OF THE PHILIPPINES
COOPERATIVE DEVELOPMENT AUTHORITY



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EXcellence, Com(m)itment, Integrity and TEamwork

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MEMORANDUM CIRCULAR NO. 2013-20

Series of 2013

TO : ALL CONCERNED

SUBJECT : REVISED GUIDELINES GOVERNING THE CONDUCT OF CONCILIATION-MEDIATION PROCEEDINGS AT THE PRIMARY AND UNION/FEDERATION LEVEL

DATE : SEPTEMBER 13, 2013

Pursuant to Article 137 of Republic Act No. 9520, otherwise known as the *Philippine Cooperative Code of 2008* and reinforced by Republic Act 9285, known as the *Alternative Dispute Resolution Act of 2004*, the Cooperative Development Authority (CDA) hereby adopts and promulgates the following guidelines:

Section 1. Scope. – These Guidelines shall govern the conduct of conciliation-mediation proceedings at the primary cooperative as well as union/federation level, provided that nothing in these Guidelines shall preclude the parties from seeking other modes of amicably settling the dispute.

Section 2. Coverage. - These Guidelines shall apply to all disputes among members, officers, directors, and committee members, and intra-cooperative, inter-cooperative, intra-federation, or inter-federation disputes, as far as practicable, be settled amicably in accordance with the conciliation or mediation mechanisms embodied in the by-laws of cooperatives and in such other applicable laws.

The conciliation and mediation committee of the cooperative shall facilitate the amicable settlement of intra-cooperative disputes and disputes among members, officers, directors, and committee members.

Should such conciliation or mediation proceedings fail, the matter shall be settled thru voluntary arbitration. Provided, however, That before any party can validly file a complaint with the Authority for voluntary arbitration, it must first secure a certification

from its conciliation and mediation committee and from the cooperative union or federation to which it belongs that despite all efforts to settle the issues, the same have failed.

The jurisdiction of the voluntary arbitrators shall be exclusive and original and their decisions shall be appealable to the Office of the President. The Authority shall issue and adopt the proper rules of procedure governing arbitration as the primary and exclusive mode for dispute resolution in accordance with the Alternative Dispute Resolution Act of 2004.

Section 3. Definition of Terms. As used in these guidelines, the following terms shall mean:

- a) **Conciliation** is a process whereby a neutral third party takes a vigorous and active role in assisting disputants formulate solutions in order to reach an amicable settlement.
- b) **Mediation** is a process whereby the neutral third party facilitates the negotiation between disputing parties to reach a voluntary, mutually satisfactory outcome.
- c) **Conciliator-Mediator** is a qualified individual who provides conciliation-mediation services.
- d) **Pool of Conciliator-Mediators** is a group of Conciliator-Mediators accredited by the CDA.
- e) **Conflict Coaching** is a stage in the conciliation-mediation process, the objective of which is to clarify the issues and interests of each party.
- f) **Conciliated-Mediated Settlement Agreement** is a written agreement following a successful conciliation-mediation proceedings prepared and duly signed by the parties with the assistance of the Conciliator-Mediator.
- g) **Certificate of Non-Settlement** is a document issued by the Conciliation-Mediation Committee in case of failed or refused Conciliation-Mediation.
- h) **Refused Conciliation-Mediation** is a situation when one or both parties refused to submit to conciliation-mediation process, or failed to appear despite notice.
- i) **Party in interest** is any member, officer, committee or cooperative who stands to be benefited or injured by the settlement agreement.

Section 4. Composition, Qualifications, Term of Service and Functions of the Conciliation-Mediation Committee. –

- a. **Composition.** The Committee shall be composed of at least three (3) members, who are appointed by the Board of Directors in accordance with

the cooperative by-laws. The committee shall elect from among themselves, the Chairman, Vice-Chairman and Secretary.

- b. Qualifications.** Any member in good standing who has all the qualifications and none of the disqualifications provided in the bylaws and pertinent issuances of the Authority is qualified to become a member of the Committee.
- c. Term of Service.** Members of the Committee may serve for one (1) year or as may be provided by the cooperative bylaws. In case of vacancy, the Board of Directors shall fill the vacancy by appointing a qualified member or as may be provided by the cooperative by-laws.
- d. Functions.** The Mediation and Conciliation Committee shall:

 - a. Formulate and develop the Conciliation-Mediation Program and ensure that it is properly implemented;
 - b. Monitor Conciliation-Mediation program and processes;
 - c. Submit semi-annual reports of cooperative cases to the Authority within fifteen (15) days after the end of every semester;
 - d. Accept and file Evaluation Reports;
 - e. Submit recommendations for improvement to the Board of Directors;
 - f. Recommend to the Board of Directors any member of the cooperative for Conciliation-Mediation Trainings as Cooperative Conciliator-Mediator;
 - g. Issue the Certificate of Non-Settlement (CNS);
 - h. Provide conciliation-mediation services during their term, provided the member/s of the committee are mutually selected by both parties; and
 - i. Perform such other functions as may be prescribed in the By-laws or authorized by the General/Representative Assembly.

Section 5. Filing of the Complaint – Any party in interest shall file his/her/its complaint with the conciliation/mediation committee.

Section 6. Contents of the Complaint. – The complaint shall be in writing. It shall contain the name/s, position/s in the cooperative, address/es of the parties including a narration of facts and statement of issues.

Section 7. The Preliminary Conference – The primary purpose of the preliminary conference is to confirm the parties' interest to enter into conciliation-mediation and to choose the

conciliator-mediator. A Notice of conference which states the venue, time and date of the conference, shall be in writing and signed by the Secretary of the committee.

If one or all parties does /do not appear in the scheduled conference, the committee shall send another Notice for the next scheduled conference.

Failure to appear, without valid cause shall be construed as Refused Conciliation-Mediation.

Section 8. Selection and Replacement of the Conciliator-Mediator

- a) The Conciliator-Mediator shall be mutually selected by the disputants from the Pool of Accredited Mediators, preferably from the cooperative and within the area.
- b) A Conciliator-Mediator who is not among the Pool of Accredited Conciliator-Mediators may provide Conciliation-Mediation service, provided he/she is chosen with the mutual consent of the parties.
- c) Member/s of the conciliation/mediation committee may provide conciliation-mediation services during his/her/their term, provided mutually selected by both parties.
- d) The parties have the option to request replacement of the Conciliator-Mediator at any time during the conciliation-mediation proceedings, due to loss of confidence and partiality.

Section 9. Accreditation of a Conciliator-Mediator – Any individual may apply to be a Accredited Conciliator-Mediator. The accreditation process of the CDA shall include compliance with training requirements and successful completion of evaluation instruments and standards.

Section 10. Order of Conciliation-Mediation Proceedings. -

- a) *Filing of Complaint.* For primary cooperative or union/federation level, any party in interest shall file his/her complaint before the conciliation/mediation committee.

For cases elevated from primary cooperative to union/federation level, the party in interest shall no longer file another complaint instead, the conciliation/mediation committee shall, upon request of the party in interest, forward the records of the case together with the Certificate of Non-settlement to the union/federation.

In case the conciliation/mediation committee fails or refuses to issue a Certificate of Non-Settlement within the period specified in par. (j) hereof, the party in interest shall submit an Affidavit stating such fact, in lieu of the Certificate.

- b) *Issuance of Notice of Preliminary Conference.* The conciliation/mediation committee shall issue a Notice of Preliminary Conference to the parties.
- c) *Conduct of Preliminary Conference by the Conciliation/Mediation Committee.* During the preliminary conference, the committee shall encourage the parties to conciliate-mediate.
- d) *Selection of Conciliator-Mediator.* If both agree, the committee shall furnish them with a list of CDA Accredited Conciliator-Mediators from which they may select at least three (3) Conciliator-Mediators. The name common to their list shall be the Conciliator-Mediator. Upon selection, the committee shall immediately endorse the complaint to the Conciliator-Mediator.
- e) *Notice to the Parties for Conciliation-Mediation.* The Conciliator-Mediator shall notify the parties of the scheduled Conciliation-Mediation Conference.
- f) *Conduct of the Conflict Coaching Session.* The Conciliator-Mediator may initially meet with the disputants separately in a conflict coaching session, with the aim of clarifying their respective issues and interests. The Conciliator-Mediator then proceeds to clarify the issues, helps them generate options, and agree on the options that best meet their needs and interests.
- g) *Signing of the Settlement Agreement.* Should the Conciliation-Mediation be successful, the Conciliator-Mediator shall prepare a written agreement for the parties' approval and signature. Each shall be provided a copy of the agreement.
- h) *Accomplishment of the Evaluation Forms.* The Conciliator-Mediator shall require the parties to fill-up an Evaluation Form for feedback on the effectiveness and quality of the conciliation-mediation process. The accomplished forms shall be forwarded to the Conciliation-Mediation Committee for filing and monitoring.

- i) *Submission of the Signed Agreement.* The signed written agreement may be deposited at the option of the parties with the Regional Trial Court where one of the parties resides.
- j) *Issuance of Certificate of Non-Settlement.* If the conciliation/mediation is not successful before *the primary cooperative or union/federation level*, the conciliation/mediation committee shall issue a Certificate of Non-Settlement signed by the conciliator-mediator, within 5 calendar days from termination of conference/failure to appear during the preliminary conference despite due notice or written notice of parties' non-interest in conciliation-mediation.

Section 11. Validity of Certificate of Non-settlement. The Certificate of Non-settlement shall be valid for one hundred twenty (120) days from the date of its issuance.

Section 12. Nature of Conciliation/Mediation Proceedings. – The proceedings and all incidents thereto shall be kept strictly confidential, unless otherwise specifically provided by law. All admissions or statements made therein shall not be inadmissible for any purpose in any proceeding, nor divulged to any other third person.

Any communication made by one disputant to the Conciliator-Mediator, either during conflict coaching or at any time during the Conciliation-Mediation proceedings, which are not intended to be known by the other party or by anyone shall not be divulged. Documents, reports, position papers and affidavits submitted by one disputant must not be shown to the other without the consent of the former.

Both parties shall not rely or introduce as evidence in any other proceeding, the following:

- a) Views expressed or suggestions made by the other disputant in respect of a possible settlement of the dispute;
- b) Admissions made by either disputant in the course of the proceedings;
- c) Proposals made by the Conciliator-Mediator;
- d) The fact that the other disputant had indicated his willingness to accept a proposal for settlement.

No transcript, minutes or any record of the Conciliation-Mediation proceedings shall be taken. Any personal notes taken by the Conciliator-Mediator on the proceedings shall be destroyed after the termination of the proceedings. Such transcript, minutes or notes shall be inadmissible as evidence in other proceedings.

The Rules of Evidence shall not apply to the proceedings.

Section 13. Duration of the Conciliation-Mediation Proceedings – The conciliation-mediation proceedings must be completed within thirty (30) days from the start of the conflict coaching.

Section 14. Failure of Conciliation-Mediation – The conciliation-mediation proceedings shall be declared as failed under the following circumstances:

- a) When no settlement is reached by the parties after 30 calendar days from the start of the conflict coaching.
- b) When any or both of the parties or the conciliator-mediator decide to terminate the proceedings if, in his/her judgment, further efforts at conciliation-mediation are unlikely to lead to a resolution of the dispute.

Section 15. Monitoring. - All conciliation/mediation committees of every cooperative shall submit a semi-annual written report to CDA on the status of conciliation/mediation within fifteen (15) days after the end of every semester. This report shall cover information regarding common issues of disputes, monthly account of complaints received, number of conciliated/mediated cases, and report of outcomes.

Section 16. Code of Ethical Standards. - The Conciliation-Mediation Committee, and Conciliator-Mediators shall be guided in professional conciliation-mediation practice by a Code of Ethical Standards of Practice prescribed by the CDA.

Section 17. Advocacy. - The Cooperative shall undertake the following advocacy measures:

- a. A report on the status of the Conciliation-Mediation Program in its General Assembly meetings.
- b. An article or articles on the availability, benefits, status and advantages of Conciliation-Mediation in its newsletters and other modes of communication to the general membership.

Section 18. Repealing Clause. - These Guidelines repeal Memorandum Circular Nos. 2007-04 and 2007-05, and other related issuances which are inconsistent herewith.

Section 19. Separability Clause. — If for any reason or reasons, any portion or provision of these Guidelines shall be held unconstitutional or invalid, all other parts or provisions not affected shall remain in full force and effect.

Section 20. Effectivity. — These Guidelines shall take effect upon approval by the Cooperative Development Authority Board of Administrators and after fifteen (15) days following its publication in the Official Gazette.

APPROVED per CDA Board of Administrators Resolution No. 205, s-2013 dated **September 11, 2013.**

FOR THE BOARD OF ADMINISTRATORS:


EMMANUEL M. SANTIAGUEL, Ph.D.
Chairman



EXCERPTS FROM
MINUTES OF REGULAR MEETING
OF THE CDA BOARD OF ADMINISTRATORS HELD ON SEPTEMBER 11, 2013
Duka Bay Resort, Medina, Misamis Oriental

PRESENT:

Hon. Emmanuel M. Santiagué, Ph.D.	- Chairman/Presiding Officer
Hon. Nelson B. Alindogan	- Administrator
Hon. Mercedes D. Castillo	- Administrator
Hon. Eulogio T. Castillo, Ph.D.	- Administrator

ALSO PRESENT:

Atty. Niel A. Santillan	- Executive Director
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ABSENT:

Hon. Pendatun B. Disimban	- Administrator
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RESOLUTION NO. 205, s-2013

Upon motion of Adm. Eulogio T. Castillo, duly seconded by Adm. Mercedes D. Castillo, be it RESOLVED as it is hereby RESOLVED to approve the Memo Circular on Revised Guidelines governing the conduct of Conciliation-Mediation Proceedings at the Primary and Union/Federation Level.


APPROVED.

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This is to certify that the foregoing is true and correct from the minutes of the CDA Board of Administrators' Regular Meeting.


MARY GRACE I. CINCO
Acting Board Secretary IV

ATTESTED:


EMMANUEL M. SANTIAGUÉ, Ph.D.
Chairman