

MEMORANDUM CIRCULAR NO. 2021-____
Series of 2020

SUBJECT: GUIDELINES ON HEARINGS, CONFERENCES, REMOTE ATTENDANCE AND TESTIMONY OF PARTIES IN CASES BEFORE THE COOPERATIVE DEVELOPMENT AUTHORITY THROUGH VIDEOCONFERENCING AND OTHER ELECTRONIC COMMUNICATION MEANS

In furtherance of the regulatory and developmental functions of the Cooperative Development Authority (CDA) under Republic Act 11364 and Republic Act 9520, the CDA hereby promulgates the following guidelines on hearings, conferences, remote attendance and testimony of parties in cases before the Authority through videoconferencing and other electronic means of communication.

Section 1. Background

Due to the declaration of national public health emergency because of COVID-19 pandemic, the different parts of the country were placed under community quarantine. This resulted in a restricted movement of people and temporary business and work suspension. Mass gatherings like community assemblies are likewise prohibited and when allowed always subject to limitations and restrictions.

With the restrictions imposed on people's movements, the ability of cooperative members or officers with pending cases to appear before the Authority have become more difficult, if not diminished.

These guidelines also consider the objectives of Republic Act No. 8792, otherwise known as the Electronic Commerce Act, to facilitate domestic and international dealings, transactions, arrangements, agreements through the utilization of electronic, optical and similar medium, mode, instrumentality and technology and to promote the universal use of electronic transaction.

Section 2. Purpose and Scope

In the advent of COVID-19 pandemic, safety of every individual is of paramount concern. Face-to-face interaction between individuals is restricted to a one-meter distance. In order to mitigate the risk of exposure to the virus, the use of video-conferencing technology has been widely accepted for the remote appearance of the parties in court and quasi-judicial proceedings as well as in arbitration and administrative cases.

In light of the foregoing, there is a need to issue guidelines on the adoption of video-conferencing as a mode to conduct hearings and conferences including formal investigations during the imposition of community quarantine measures.

Under these guidelines, hearings through video conference shall be made available to all cases or proceedings before the Authority.

Section 3. Definition of Terms

Authority – shall refer to the Cooperative Development Authority.

Audioconferencing -is where two or more people in different locations use technology like a conference bridge to hold an audio call. Audio conferencing is different from a traditional phone in that all participants dial into a central system that connects them instead of directly calling each other. Audio conferencing aims at achieving communications and collaboration simultaneously.¹

Electronic Communication- shall refer to as the communication which uses electronic media to transmit the information or message using computers, e-mail, telephone, video calling, FAX machine, etc. This type of communication can be developed by sharing data like images, graphics, sound, pictures, maps, software, and many things.²

Teleconferencing- holding of a conference among people remote from one another by means of telecommunication devices such as telephone or computer terminals.³A teleconference or teleseminar is the live exchange and mass articulation of information among several persons and machines remote from one another but linked by a telecommunications system. Terms such as audio conferencing, telephone conferencing and phone conferencing are also sometimes used to refer to teleconferencing.⁴

Videoconferencing – shall refer to a conference between two or more participants at different sites by using computer networks to transmit audio and video data. For example, a *point-to-point* (two-person) video conferencing system works much like a video telephone. Each participant has a video camera, microphone, and speakers mounted on his or her computer. As the two participants speak to one another, their voices are carried over the network and delivered to the other's speakers, and whatever images appear in front of the video camera appear in a window on the other participant's monitor.⁵

Section 4. Electronic Platform. – The conduct of hearings and conferences, including testimonies of witnesses through video conference shall only use the official Google

¹<https://www.mitel.com/features-benefits/audio-conferencing>

²<https://www.elprocus.com/electronic-communication-and-its-types/>

³<https://www.merriam-webster.com/dictionary/teleconferencing>

⁴<https://en.wikipedia.org/wiki/Teleconference>

⁵<https://www.webopedia.com/TERM/V/videoconferencing.html>

Account of the Authority which has, among others, the Gmail application for the official e-mail accounts, and the Google Meet or other video conference platform to host such hearings and conferences.

Section 5. Notice of Hearing. –All notices of hearings shall be served by the Legal Staff of the Legal Division or Section as the case may be to the parties through their valid email addresses indicating the following:

- a. The time and date of the scheduled hearing;
- b. A link to join the hearing and the password thereto;
- c. A reminder that all details and information used to gain access to the proceedings shall be treated with strict confidentiality and any sharing of such to any unauthorized person is prohibited; and
- d. Rules to be observed during the conduct of the hearing.

Parties must notify the Authority the names and email addresses of counsel and their witnesses at least three (3) days before the scheduled hearing in order for them to gain access on the said hearing

Section 6. Conduct of hearings through Videoconference. The host or the hearing officer must ensure that prior to the start of the hearing the parties are present including their respective counsels if represented by any, and their witnesses, if there are any. On the part of the Authority, it must be ensured that present during the videoconference are the hearing officer, a legal staff to serve as stenographer, and one MIS personnel to assist in the conduct of the hearing via video conferencing.

Section 7. Hearing Proper. When the parties are found to be present, the Hearing Officer will call the hearing to order. Parties shall be required to open their individual computer/laptop/cell phone cameras in order to become visible at all times during the hearing. The dignity and solemnity of the hearing shall be observed at all times. Participants will be required to follow the proper dress code and proper online decorum.

Section 8. Presentation of witness. When a witness is presented to testify, he/she will be required to use multiple cameras and angles or a single camera with a full view of his/her surroundings. He or she may also be required to place mirrors at the back showing images of his/her immediate surroundings. The Authority can administer oath remotely. An oath taken by an officer authorized to administer oaths present with the witness is also allowed but must not coach the witness during his/her testimony.

Section 9. Suspension of the Hearing or Proceedings. The Hearing Officer, may *motu proprio* suspend the hearing or proceedings if there are technical problems encountered that cannot be immediately resolved. Parties must be immediately informed of the next scheduled hearing.

Section 10. Recording of the Hearing or Proceedings. The proceedings of the hearing shall be recorded by the Authority using the Google Meet application or other

video conference platform, with prior consent of the parties. The MIS personnel shall store and file these video recordings and the same shall form part of the records of the case. A copy of the recordings of the hearings may be requested upon written request. Unauthorized recording of the proceedings by any party may be considered contempt. Proceedings shall still be transcribed by Legal Staff assigned during the hearing or proceedings.

Section 11. Manner of Filing and Service of Complaints, Petitions, Pleadings, Orders, and Decisions. Complaints, petitions, pleadings or documents may be electronically submitted or filed via electronic mail to the official email address of the Authority. Hard copies shall thereafter be submitted within fifteen (15) days from the submission of the soft copies. Failure to submit hard copies within the required period shall result in the complaints, petitions, pleadings, and documents being deemed not filed.

Service of Orders, Decisions, documents emanating from the Authority shall be issued electronically by email to the publicly available or official email address of the parties. The Authority shall also send hard copies of the documents by courier to the parties' respective addresses after service by email.

Section 12. Applicability of other Rules of Procedure governing cases filed before the Authority. All other rules of procedure governing the cases filed before the Authority including conciliation mediation proceedings, involuntary and voluntary dissolution cases, procedure for dissolution, liquidation, cancellation and delisting of cooperatives, among others, that are not inconsistent with these guidelines shall continue to apply.

Section 13. Effectivity. This Memorandum Circular shall take effect immediately upon its approval.

Approved by the CDA Board of Administrators pursuant to Resolution No. ____ dated _____ 2021 .

For the Board of Directors:

USEC. JOSEPH B. ENCABO

Chairman