

DE LA SALLE CREDIT COOPERATIVE MEDIATION AND CONCILIATION PROGRAM

Pursuant to the provision of Article 121 of Republic Act No. 6938 - An Act to Ordain a Cooperative Code of the Philippines, the DLSUCC-Mediation Committee hereby promulgates the following procedures in the conduct of mediation and conciliation, under the said article to wit:

“Art. 121. Settlement of Disputes. - Disputes among members, officers, directors, and committee members, and intra-cooperative disputes shall, as far as practicable, be settled amicably in accordance with the conciliation or mediation mechanisms embodied in the bylaws of the cooperative, and in applicable laws. Should such a conciliation/mediation proceeding fail, the matter shall be settled in a court of competent jurisdiction.”

The objective of these procedures is to be able to resolve any issue or dispute in a speedy and inexpensive way.

SECTION 1. Title. - These procedures shall be known as the DE LA SALLE CREDIT COOPERATIVE MEDIATION AND CONCILIATION PROGRAM which are based primarily on the Revised Procedures for Mediation and Conciliation of Cooperative Disputes in the Cooperative Development Authority.

SECTION 2. Definition of Terms.

a. Mediation is a process of resolving disputes with the aid of a neutral person who help parties identify issues and develop proposals to resolve their disputes. Unlike arbitration, the mediator is not empowered to decide disputes.¹

b. Negotiation. Intercourse between two or more states conducted for the purpose of affecting an understanding between them; or the conduct of discussions between the parties to a dispute designed to produce a settlement of the dispute.¹

c. Conciliation. The process of referring a dispute to a commission of persons who are empowered to examine the facts and to submit a report containing recommendations for the settlement of the dispute: their recommendations or proposals, however, do not have the binding effect of an award or judgment, as is the case in arbitration.¹

d. Arbitration. The submission of a disputed matter for decision to private, unofficial persons, selected in a manner provided by law or agreement. There are two kinds, compulsory or voluntary. Compulsory exists where the consent of one of the parties is enforceable by statutory enactment (Labor Code) either in a Court of law or before a justice of peace. Voluntary where it is affected by mutual agreement of the parties by means of a rule of court or otherwise.¹

e. Settlement or Agreement – shall refer to the compromise, which the parties in the mediation/conciliation conference have agreed upon.²

¹MATERIALS ON MEDIATION AS A SPEEDY AND INEXPENSIVE ALTERNATIVE PROCEDURE FOR SETTLING DISPUTES, REFERENCE AND RESEARCH BUREAU LEGISLATIVE RESEARCH SERVICE

²REVISED PROCEDURES FOR MEDIATION AND CONCILIATION OF COOPERATIVE DISPUTES IN THE COOPERATIVE DEVELOPMENT AUTHORITY

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

SECTION 4. Request for a dialog. – A written request for a dialog may be filed with the cooperative office. It shall contain the following:

- a. The name/s, address/es, contact details of the requesting party/ies
- b. The name/s, address/es, contact details of the requested party/ies.
- c. For the sake of confidentiality, the issue and subject matter of the controversy will not be written in the request.

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. Invitation. – Upon receipt of such request for a dialog, an invitation shall be issued by the Extension Office/Central Office as the case may be, asking the party/ies being requested to file their comments/answers thereto within fifteen (15) days from the receipt of the invitation.

SECTION 8. The Dialog. – Upon receipt of the comments/answers from the party/ies being requested to talk with, 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 which is the cooperative office.

SECTION 9. 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 Cooperative Development Authority;
- d. A copy of the cooperative's articles of cooperation and by-laws; and
- e. Other documents that may be deemed necessary for the conference.

(b) 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.

(c) A prayer may be said before the conference to ask for Divine intervention.

SECTION 10. Basic Qualifications of Prospective Mediators.¹

- 1) At least high school graduate
- 2) At least 30 years of age
- 3) No derogatory record
- 4) Willingness to learn new skills and render public service
- 5) Proficiency in oral and written communication in English and Pilipino

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.

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. Confidentiality of Records. The mediation proceedings and all incidents thereto shall be kept strictly confidential, unless otherwise specifically provided by law, and all admissions or statements made therein shall be inadmissible for any purpose in any proceeding.¹

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 requesting party fails to appear, after two (2) consecutive invitations, the dispute shall be disposed of through an appropriate resolution.

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 mediation and conciliation committee.

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 procedures shall take effect upon the approval by the BOARD OF DIRECTORS of DE LA SALLE CREDIT COOPERATIVE.

DISCLAIMER: Most of the sections are lifted from: Revised Procedures for Mediation and Conciliation of Cooperative Disputes in the Cooperative Development Authority.