REVISED PROCEDURES FOR MEDIATION AND CONCILIATION CASES IN THE CDA

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Pursuant to the provisions of Section 8, Republic Act No. 6938, authorizing the Cooperative Development Authority to mediate and conciliate disputes within a cooperative or between cooperatives, the Authority hereby promulgates the following procedures for the request/petition for 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."
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> SECTION 1. Title — The following shall be known as the Procedures for Mediation and Conciliation Cases Before the Cooperative Development Authority.
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> SECTION 2. Definition of Terms — As used in these procedures, the term:
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> a. 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 the disputes.
>
> b. Mediation shall refer to a process whereby a conciliator designated by the Authority as mediator takes a more active part in assisting the parties reach an amicable solution to the problem/s and helps the conflicting parties develop or come out with an acceptable solution to their problem.
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> The mediator may submit his own proposal/s for the settlement of the disputes.
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> c. 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 far as practicable, the Legal Officer assigned to each Extension Office shall act as mediator/conciliator. The Extension Director shall have the authority to appoint other CDA Regional employees to act as mediator/conciliator in the absence of such Legal Officer.

SECTION 3. Complaint — A letter/request/complaint for mediation/conciliation may be filed with the nearest Extension Office having jurisdiction over the cooperative. It may be in the form provided herein as Annex "A". It shall contain the following:

> a. The name/s and address/es of the complainant/s;
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> b. The name/s and address/es of the persons being complained of;
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> c. The issues and subject matter of the controversy;
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> d. A certification that the complaint has undergone the grievance mechanisms outlined in the cooperative's by-laws, except when the dispute to be mediated or conciliated is between a primary cooperative and a federation or union; and
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> e. The definite prayer of the complainant for the resolution of the complaint.

SECTION 4. Grounds for Complaint for Mediation and/or Conciliation — a) Matters involving the internal affairs of the cooperative, such as but not limited to the rights and privileges of members, the rules and procedures for meetings of the General Assembly, Board of Directors, or the different cooperative committees, the rules and procedures for the election and qualifications for officers, directors or committee members; the allocation and distribution of surpluses and reserves and 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 matters may involve the area of operations of the cooperatives and other such matters involving disputes between cooperatives.

SECTION 5. 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. No. 6938;
b. Violation of Article 49, R.A. No. 6938;
c. Violation of Article 50, R.A. No. 6938;
d. Violation of Article 84, R.A. No. 6938;
e. Matters involving the grant and exercise of a franchise, a 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. No. 6938;
g. Non-Compliance with other laws as stated in Article 119, R.A. 6938;
h. Violation of Article 124, R.A. 6938;
i. Violation of Section 3 (o), R.A. 6938; and
j. Criminal cases cognizable by the regular and/or special courts

SECTION 6. Comments — Upon receipt of such complaint, an order shall be issued BY the Extension Office requiring the persons being complained of to file their comments/answers thereto within fifteen (15) days from the receipt of the order.

SECTION 7. 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 to File Pleadings, Affidavits or any other paper;
d. Motion to declare Petitioner/Respondent in Default; and
e. Motion for Intervention.

SECTION 8. Conference — Upon receipt of the comments from the person being complained of, the Extension Office shall issue a notice of conference to all parties concerned stating the date, time and venue of the conference.

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 the 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.

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(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 room where the conference is to be held must be comfortable to all so that its atmosphere shall be conducive to the settlement of disputes.

SECTION 10. Purpose of Conference — At the start of the conference, it shall be made 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. The conference shall also define the issues clearly before any discussion.

SECTION 11. Conduct of Conference — (a) It is not required that the parties are represented by legal counsels for the purpose of mediation and conciliation. However, they may be at or near the conference in order to provide whatever legal advice their clients may require.

> (b) A mediation/conciliation conference is not judicial proceeding per se. Hence, the technical rules and procedures shall not be applicable in such cases.
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> (c) The conduct of the conference shall be non-adversarial in nature and shall proceed with the end in view of settling any internal dispute within the cooperative.
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> (d) All parties involved or interested in the dispute shall be afforded the opportunity to ventilate their views concerning the dispute.

SECTION 12. Notes — Notes of the proceedings of the conference shall be made by mediator/conciliator and shall form part of the records of the case.

SECTION 13. 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 14. Motion for Postponement — No motion for postponement of a scheduled conference shall be entertained by the Authority.

SECTION 15. Settlement or Agreement — (a) Once all the issues have been ventilated and disposed of and parties have reached an agreement, it shall be reduced into writing and attested 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 problem.
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> (c) Copies of the Agreement shall be furnished to the parties at the soonest possible time for their own records.

SECTION 16. Responsibility of Mediator/Conciliator — The conclusion of an agreement does not per se terminate the responsibility of mediator/conciliator over the case. He must monitor the implementation and compliance therewith to ensure that the parties have indeed normalized their relationship.

SECTION 17. Certificate of Non-Resolution — (a) In the event that after the holding of the conferences and the issues have not been resolved to the full satisfaction of all the parties concerned, a certificate of non-resolution shall be issued to both parties, stating the reasons for non-resolution. Such certificate may be the basis for the filing of any action in the courts.

> (b) If no mediation or conciliation conference succeeds within three (3) months from the filing of the petition or letter/request, a certificate of non-resolution shall be issued by the Authority prior to the filing of appropriate action before the proper courts.

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(c) If no conference succeeds due to the non-attendance of either or both parties within the three month period, a certificate of non-resolution may be issued stating the non-attendance of the parties and other pertinent information.

SECTION 18. Repealing Clause — Any rules, regulations, issuances and the likes which are contrary or inconsistent with any of the provisions of these procedures are hereby repealed.

SECTION 19. Effectivity — These procedures shall take effect upon their approval by the Board of Administrators of the Authority.

Adopted: 12 Sept. 2000

(SGD.) JOSE C. MEDINA, JR.
Chairman

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