

**[NCMB PROCEDURAL GUIDELINES, JUNE 1, 2001,
June 01, 2001]**

**PROCEDURAL GUIDELINES IN THE EXECUTION OF VOLUNTARY
ARBITRATION AWARDS/DECISIONS**

Pursuant to the mandate of the National Conciliation and Mediation Board under Executive Order No. 126, as amended by Executive Order No. 251, and in order to implement Article 262-A of the Labor Code, as amended by RA 6715, the herein Procedural Guidelines in the Execution of Voluntary Arbitration Awards/Decisions is hereby adopted and promulgated.

RULE 1

Title and Constructions

SECTION 1. Title. — These Guidelines shall be known as the NCMB Procedural Guidelines in the Execution of Voluntary Arbitration Awards/Decisions and shall apply when all efforts towards voluntary compliance with the voluntary arbitration awards/decisions failed.

SECTION 2. Construction. — These Guidelines shall be liberally construed to carry out the objectives of the Labor Code of the Philippines to promote voluntary arbitration as a preferred mode of dispute settlement and as an integral component of the collective bargaining process.

SECTION 3. Suppletory Application of Rules of Court, NLRC Manual on Execution of Judgment and Jurisprudence. — In the absence of any applicable provision in these Guidelines, and in order to carry out its objectives, the pertinent provisions of the Revised Rules of Court of the Philippines, the NLRC Manual on Execution of Judgment and prevailing jurisprudence may, in the interest of expeditious execution of an award/decision, and whenever practicable and convenient be applied by analogy or in a suppletory character and effect.

SECTION 4. Definition of Terms. — For purposes of this Guidelines, the following terms are defined as follows:

- a. AWARD/DECISION — as used in this Guidelines refers to any order, resolution, award or decision of the voluntary arbitrator.
- b. BOARD — refers to the National Conciliation and Mediation Board.
- c. GARNISHMENT — the levy of money, goods or chattels and/or an interest thereon, belonging or owing to a losing party in the possession or control of a third party.
- d. LEVY — the act of taking possession, actual or constructive, by the sheriff or duly designated officer of sufficient property of the losing party to satisfy the decision, order or award.

e. SHERIFF — any public officer tasked with the service or enforcement of writs and processes, including any award/decision of the voluntary arbitrator, performing the duties of a sheriff, and shall include NLRC Sheriffs, DOLE Regional Sheriffs, NCMB designated sheriffs and Sheriffs of the Regular Courts.

f. THIRD PARTY CLAIM — a claim whereby a person, not a party to the case, asserts title or right to the possession of the property levied upon.

g. WRIT OF EXECUTION — an order directing the sheriff to enforce, implement or satisfy the awards/decision of the voluntary arbitrators.

RULE II

The Sheriff

SECTION 1. Duties. — The sheriff serves all writs, executes all processes and carries into effect any award/decision as defined herein.

SECTION 2. Responsibility and Bond. — Only bonded sheriffs may serve writs of execution involving the taking, holding or delivering of money or property in trust for the prevailing party. The bond of the sheriff as required by law shall be determined by the Board conditioned, among others, for the delivery or payment to the Government or to the persons entitled thereto of all properties, real or personal, that may officially come into his control and custody.

SECTION 3. Norm of Conduct. — The sheriff must conduct himself at all times in an upright manner. His first and primary duty is to implement the writ of execution and, in accomplishing the same every reasonable effort should be exercised to achieve the purpose of the writ.

RULE III

The Writ of Execution

SECTION 1. Execution Upon Final Awards/Decisions. — Execution shall issue only upon a judgment or order that finally disposes of an action or proceeding, except in specific instances where the law provides for execution pending appeal.

SECTION 2. Issuance, Form and Contents of a Writ of Execution. — The writ of execution must issue in the name of the Republic of the Philippines from the Office of the Voluntary Arbitrator or the Labor Arbiter requiring the sheriff or duly designated officer to execute their award/decision; must contain the dispositive portion of the award/decision sought to be executed; and must require the sheriff or duly designated officer to whom it is directed substantially as follows:

a. If the execution be for the payment of a sum of money by the losing party, the writ shall be served by the sheriff upon the losing party or in case of death of the losing party, upon his successor-in-interest, executor or administrator before proceeding to satisfy the award/decision out of the personal property of such party and, if no sufficient personal property can be found, then out of his real property;

b. If the execution be for the reinstatement of any person to any position, office or employment, such writ shall be served by the sheriff upon the losing party or in case of death of the losing party upon his successor-in-interest, executor or administrator and such party or person may be punished for contempt if he disobeys such decision or order for reinstatement.

SECTION 3. Execution in Cases of Death of Party. — Where a party dies after the finality of the award/decision, execution thereon may issue or one already issued may be enforced in the following cases:

- a. In case of death of the prevailing party, upon the application of his successor-in-interest, executor or administrator;
- b. In case of death of the losing party, against his successor-in-interest, executor or administrator;
- c. In case of death of the losing party after execution is actually levied upon any of his property, the same may be sold for the satisfaction thereof. The sheriff making the sale shall account to his successor in interest, executor or administrator for any surplus in his hands.

SECTION 4. Issuance of a Writ. — The voluntary arbitrator may upon his initiative or motion of any interested party, issue a writ of execution on a judgment within five (5) years from the date it becomes final and executory requiring the sheriff to execute the final decision, order or award. No motion for execution shall be entertained nor a writ be issued unless the Voluntary Arbitrator is in possession of the records of the case which include an entry of judgment where the case has been appealed.

In case of the absence or incapacity of the voluntary arbitrator, the Labor Arbiter in the region where the movant resides may issue the writ of execution in accordance with preceding paragraph.

- a. The Secretary of Labor and Employment may take measure under existing laws to ensure compliance of decisions, order or awards of the voluntary arbitrator including the imposition of administrative fines, which shall not be less than five hundred pesos (P500.00) nor more than ten thousand pesos (P10,000.00).
- b. Effect of Bond - The posting of a bond by the employer shall not stay the execution of an order for reinstatement.

— A final and executory judgment or order may be executed on motion w
*SECTION 5. Execution by motion or by independent action.*ithin five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.

SECTION 6. Control and Supervision Over the Sheriff. — The Voluntary Arbitrator issuing the writ shall have full control and supervision over the sheriff assigned to enforce the same.

RULE IV Execution

SECTION 1. Properties Exempt from Execution. — Only the properties of the losing party shall be subject of execution, except:

- a. The losing party's family home, as provided by law or the homestead in which he resides, and land necessarily used in connection therewith;

- b. His necessary clothing and articles for ordinary personal use, excluding jewelry;
- c. Household furnitures and utensils necessary for housekeeping, and used for that purpose by the losing party and his family such as he may select, of a value not exceeding one hundred thousand pesos;
- d. Provisions for individual or family use sufficient for four (4) months;
- e. The professional libraries of attorneys, judges, physicians, pharmacists, dentists, engineers, surveyors, clergymen, teachers, and other professionals, not exceeding three hundred thousand pesos;
- f. So much of the salaries, wages, or earnings of the losing party for his personal services within the four months preceding the levy as are necessary for the support of his family;
- g. All moneys, benefits, privileges or annuities accruing or, in any manner, growing out of any life insurance;
- h. Ordinary tools and implements personally used by him in his trade, employment or livelihood;
- i. Other properties especially exempted by law.

SECTION 2. Execution of Monetary Award/Decision, How Enforced.

a. Immediate payment on demand. — The sheriff shall enforce an execution of monetary award/decision by demanding from the losing party the immediate payment of the full amount stated in the writ of execution and all lawful fees. The losing party shall pay in cash, certified bank check payable to the prevailing party, or any other form of payment acceptable to the latter, the amount of the monetary award/decision under proper receipt directly to the prevailing party or his authorized representative if present at the time of payment. The lawful fees shall be handed over under proper receipt to the executing sheriff who shall turn over the said amount within the same day to the cashier of the National Conciliation and Mediation Board.

If the prevailing party or his authorized representative is not present to receive payment, the losing party shall deliver the aforesaid payment to the executing sheriff or duly designated officer. The latter shall turn over all the amounts coming into his possession within the same day to the cashier of the Board, or if the same is not practicable deposit said amounts to a fiduciary account in the nearest government depository bank. Payment to the prevailing party or his duly authorized representatives shall be done upon orders of the voluntary arbitrator who issue the writ.

The excess, if any, shall be delivered to the losing party while the lawful fees shall be retained by the Board for disposition as provided by law. In no case shall the sheriff or the duly designated officer demand that any payment by check be made payable to him.

b. Satisfaction by Levy — If the losing party cannot pay all part or part of the obligation in cash, certified bank check or other mode of payment acceptable to the prevailing party, the sheriff shall levy upon the properties of the losing party of

every kind and nature whatsoever which may be disposed of for value and not otherwise exempt from execution giving the latter the option to immediately choose which property or part thereof may be levied upon, sufficient to satisfy the monetary award/decision. If the losing party does not exercise the option, the sheriff shall first levy on the personal properties, if any, and then on the real properties if the personal properties, are insufficient to answer for the monetary award/decision.

The sheriff shall sell only a sufficient portion of the personal or real property of the losing party which have been levied upon.

When there is more property of the losing party than is sufficient to satisfy the award/decision and lawful fees, he must sell only so much of the personal or real property as is sufficient to satisfy the monetary award/decision and lawful fees.

Real property, stocks, shares, debts, and other personal property, or any interest in either real or personal property, may be levied upon in like manner and with like effect as under a writ of attachment.

c. Garnishment of debts and credits. — The officer may levy on debts due the losing party and other credits, including bank deposits, financial interests, royalties, commissions and other personal property not capable of manual delivery in the possession or control of third parties. Levy shall be made by serving notice upon the person owing such debts or having in his possession or control such credits to which the losing party is entitled. The garnishment shall cover only such amount as will satisfy the award/decision and all lawful fees.

The garnishee shall make a written report to the voluntary arbitrator within five (5) days from service of the notice of garnishment stating whether or not the losing party has sufficient funds or credits to satisfy the amount of the award/decision. If not, the report shall state how much funds or credits the garnishee holds for the losing party. The garnished amount in cash, or certified bank check issued in the name of the prevailing party, shall be delivered directly to the prevailing party within ten (10) working days from service of notice on said garnishee requiring such delivery, except the lawful fees which shall be paid directly to the Board.

In the event there are two or more garnishees holding deposits or credits sufficient to satisfy the judgment, the losing party, if available, shall have the right to indicate the garnishee or garnishees who shall be required to deliver the amount due; otherwise, the choice shall be made by the prevailing party.

The executing sheriff shall observe the same procedure under paragraph (a) with respect to delivery of payment to the prevailing party.

SECTION 3. Execution of Non-Monetary Awards/Decisions. — A non-monetary award/decision shall be executed by the sheriff by attaching a certified copy of the award/decision to the writ of execution and serving the same to the losing party. If the losing party disobeys the same, he may be punished for contempt.

RULE V

Levy

SECTION 1. Levy on Personal Property. — To constitute a valid levy on personal property, the sheriff must take possession and control of the same in the following manner: