

**[CDA MEMORANDUM CIRCULAR NO. 2013-21,
September 13, 2013]**

**REVISED GUIDELINES GOVERNING THE CONDUCT OF
CONCILIATION-MEDIATION PROCEEDINGS BEFORE THE
COOPERATIVE DEVELOPMENT AUTHORITY (CDA)**

Pursuant to Section 8 of RA 6939, which provides, "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 Authority prior to the filing of appropriate action before the proper courts," the Authority hereby adopts and promulgates the following Guidelines:

Section 1. Scope – These Guidelines shall govern the conduct of conciliation or mediation proceedings before the CDA.

Section 2. Coverage – These Guidelines shall apply to all disputes among members, officers, directors and committee members, and intra-cooperative, inter-cooperative, inter-federation or inter-federation disputes shall, as far as practicable, be settled amicable in accordance with the conciliation or mediation mechanism, 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 through 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 procedures 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 neutral third-party facilitates the negotiation between disputing parties to reach a voluntary, mutually

satisfactory outcome.

- c) **Conciliation-Mediation Officer** is an employee of the Authority designated to act as such in relation to such requests for mediation and conciliation. The extension office director shall have the authority to appoint other CDA Regional employees qualified to act as mediator/conciliator.
- d) **Conflict Coaching** is a stage in the conciliation-mediation process, the objective of which is to clarify the issues and interests of each party.
- e) **Certificate of Non-Settlement** is a document issued by the Primary Cooperative or Union/Federation Conciliation-Mediation Committee in case of failed or refused Conciliation-Mediation.
- f) **Certificate of Non-Resolution** is a document issued by the CDA in case of failed or refused Conciliation-Mediation.
- g) **Failed Conciliation-Mediation** is a situation where no settlement is reached by the disputants after the conflict coaching has started.
- h) **Refused Conciliation-Mediation** is a situation when one or both parties refused to enter Conciliation-Mediation or failed to appear despite notice or despite signing of the Agreement to Conciliate-Mediate.
- i) **Conciliated-Mediated Settlement Agreement** is written agreement following successful conciliation-mediation proceedings prepared and duly signed by the parties with the assistance of the Conciliator-Mediator.
- j) **Party in interest** is any member, officer, committee or cooperative who stands to be benefited or injured by the settlement agreement.

Section 4. Exclusions Matters. The following matters are not covered by mediation and conciliation proceedings:

- a) Violation of Article 47 of RA 9520 (Dealings of Directors, Officers or Committee Members);
- b) Violation of Article 48 of RA 9520 (Disloyalty of Directors);
- c) Violation of Article 49 of RA 9520 (Illegal Use of Confidential Information);
- d) Violation of Article 83 of RA 9520 (Right to Examine);
- e) All matters relating to franchise or certificate of public convenience and necessity of public service cooperatives as stated in Article 111 (2) of RA 9520;
- f) Non-compliance with other laws as stated under Article 125 of RA 9520;
- g) Violation of Article 140 of RA 9520(Penal Provisions);
- h) Issues which are criminal in nature cognizable by the regular or special courts;
- i) Violation of Article 125 of RA 9520 (Prohibition);
- j) Other disputes which is not subject to a compromise; and
- k) Other matters which fall under the administrative and regulatory functions or matters that pertain to compliance with the mandatory requirements of law and related issuances.

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