

[NCMB REVISED PROCEDURAL GUIDELINES, October 15, 2004]

REVISED PROCEDURAL GUIDELINES IN THE CONDUCT OF VOLUNTARY ARBITRATION PROCEEDINGS

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 Articles 260-262 (b) of the Labor Code, as amended by RA 6715 and Department Order No. 40-03, the following guidelines governing proceedings before a voluntary arbitrator are hereby adopted and promulgated:

Rule I TITLE AND CONSTRUCTION

Section 1. Title. These guidelines shall be known as the NCMB Revised Procedural Guidelines in the Conduct of Voluntary Arbitration Proceedings.

Section 2. Construction. These guidelines shall be liberally construed to carry out the objectives of the Labor Code of the Philippines, as amended, to promote voluntary arbitration as a preferred mode of labor or industrial dispute settlement and as an integral component of the collective bargaining process.

Section 3. Directory and Suppletory Application of the Guidelines and Rules of the Court. The rules governing the proceedings before a voluntary arbitrator shall be the subject of agreement among the parties to a labor dispute and their chosen arbitrator. In the absence of agreement on any or various aspects of the voluntary arbitration proceedings, the pertinent provisions of these Guidelines and the Revised Rules of Court shall apply by analogy or in a directory or suppletory character and effect.

Rule II DEFINITION OF TERMS

Section 1. Definition of Terms.-

- a) **"Board"** - refers to the National Conciliation and Mediation Board AND ITS REGIONAL BRANCHES created under Executive Order No. 126, as amended.
- b) **"EXECUTIVE DIRECTOR"** - refers to the head of the Board.
- c) **"Regional Branch"** - refers to any of the Regional Branches of the Board.
- d) **"Voluntary Arbitration"** - refers to the mode of settling labor-management disputes by which the parties select a competent, trained and impartial third person who shall decide on the merits of the case and whose decision is final AND executory.
- e) **"Voluntary Arbitrator"** - refers to any person who has been accredited by the Board as such, or any person named or designated in the collective bargaining agreement by the parties as their voluntary arbitrator, or one chosen BY THE PARTIES with OR WITHOUT the assistance of the BOARD, pursuant to a selection procedure agreed upon in the CBA OR ONE APPOINTED BY THE BOARD IN CASE EITHER OF THE

PARTIES TO THE CBA REFUSES TO SUBMIT TO VOLUNTARY ARBITRATION. THE TERM INCLUDES PANEL OF VOLUNTARY ARBITRATORS.

1) **PERMANENT ARBITRATOR** - THE VOLUNTARY ARBITRATOR SPECIFICALLY NAMED OR DESIGNATED IN THE COLLECTIVE BARGAINING AGREEMENT BY THE PARTIES AS THEIR VOLUNTARY ARBITRATOR.

2) **AD-HOC ARBITRATOR** - THE VOLUNTARY ARBITRATOR CHOSEN BY THE PARTIES IN ACCORDANCE WITH THE ESTABLISHED PROCEDURES IN THE CBA OR THE ONE APPOINTED BY THE BOARD IN CASE THERE IS FAILURE IN THE SELECTION OR IN CASE EITHER OF THE PARTIES TO THE CBA REFUSES TO SUBMIT TO VOLUNTARY ARBITRATION.

f) **"Collective Bargaining Agreement"** - CBA for short, refers to the contract between a duly recognized or certified exclusive bargaining agent of workers and the employer concerning wages, hours of work and all other terms and conditions of employment in the appropriate bargaining UNIT.

g) **"Grievance"** - is a complaint arising from the interpretation or implementation of the collective bargaining agreement (CBA) and those arising from interpretation or enforcement of COMPANY RULES AND REGULATIONS, personnel policies, AND ESTABLISHED PRACTICES, OR SUCH OTHER CONTROVERSY INVOLVING EMPLOYER-EMPLOYEE RELATIONSHIP.

h) **"Grievance Procedure"** - refers to the system of grievance settlement as provided FOR in the collective bargaining agreement. It usually consists of successive steps starting at the level of complainant and his immediate supervisor and ending, when necessary, at VOLUNTARY ARBITRATION.

i) **"SUBMISSION AGREEMENT"** - REFERS TO A WRITTEN AGREEMENT BY THE PARTIES SUBMITTING THEIR CASE FOR ARBITRATION CONTAINING THE ISSUES, THE CHOSEN ARBITRATOR AND STIPULATION TO ABIDE BY AND COMPLY WITH THE RESOLUTION INCLUDING THE COST OF ARBITRATION.

j) **"NOTICE TO ARBITRATE"** - REFERS TO A FORMAL DEMAND MADE BY ONE PARTY TO THE OTHER FOR THE ARBITRATION OF A PARTICULAR DISPUTE IN CASE OF REFUSAL OF ONE PARTY IN A CBA TO SUBMIT TO ARBITRATION.

k) **"ARBITRATION CLAUSE"** - IS A PROVISION IN THE COLLECTIVE BARGAINING AGREEMENT (CBA) REQUIRING THAT GRIEVANCES, IF UNSETTLED, SHALL BE FINALLY RESOLVED BY A VOLUNTARY ARBITRATOR.

l) **"WAGE DISTORTION"** - MEANS A SITUATION WHERE AN INCREASE IN PRESCRIBED WAGE RATES RESULTS IN THE ELIMINATION OR SEVERE CONTRACTION OF INTENTIONAL QUANTITATIVE DIFFERENCES IN WAGE OR SALARY RATES BETWEEN AND AMONG EMPLOYEE GROUPS IN AN ESTABLISHMENT AS TO EFFECTIVELY OBLITERATE THE DISTINCTIONS EMBODIED IN SUCH WAGE STRUCTURE BASED ON SKILLS, LENGTH OF SERVICE, OR OTHER LOGICAL BASES OF DIFFERENTIATION.

m) **"PRODUCTIVITY INCENTIVE PROGRAMS"** - REFERS TO A FORMAL AGREEMENT VOLUNTARILY ESTABLISHED BY THE LABOR-MANAGEMENT COMMITTEE CONTAINING A PRODUCTIVITY IMPROVEMENT PROGRAM THAT WILL PROMOTE GAINFUL EMPLOYMENT, IMPROVE WORKING CONDITIONS, MAINTAIN INDUSTRIAL PEACE AND RESULT IN INCREASED PRODUCTIVITY, INCLUDING COST SAVINGS, AS WELL AS A PRODUCTIVITY GAINSHARING PROGRAM WHEREBY THE EMPLOYEES ARE GRANTED PRODUCTIVITY BONUSES.

Rule III

PLEADINGS AND APPEARANCE

Section 1. *Caption and Title.* In all cases submitted to a voluntary arbitrator by the parties, the aggrieved party shall be called "Complainant," and the opposing party, the "Respondent."

The full names of the parties, as far as they are known, shall be stated in the original caption of the original pleading, award or decision and in all summons, notices and processes to be served upon them. The caption shall be as follows:

Republic of the Philippines
Office of the Voluntary Arbitrator
NAME OF VOLUNTARY ARBITRATOR & BUSINESS ADDRESS

CASE NO. xxxxxxxxxxxxxxxxxxxxxxxxx

IN RE: Voluntary Arbitration Between

Complainant

-and-

Respondent

Issues Involved:
xxxxxxxxxxxxxxxxxxxxxx

IN ORDER TO SYSTEMATIZE MONITORING OF VOLUNTARY ARBITRATION CASES, THE ADOPTION OF A STANDARDIZED NUMBERING SYSTEM OF CASES SHALL BE USED. THE DOCKET OF THE INDIVIDUAL ACCREDITED VOLUNTARY ARBITRATION CASES SHALL INCLUDE THE FOLLOWING:

1. ACCREDITATION NUMBER
2. REGION WHERE THE CASE ORIGINATES
3. NUMBER OF CASE SUBJECT OF ARBITRATION
4. MONTH WHEN THE CASE IS SUBMITTED TO THE ARBITRATOR
5. YEAR WHEN THE CASE IS SUBMITTED THE ARBITRATOR



Section 2. *Where to File Pleadings.* All pleadings relative to the voluntary arbitration case shall be filed directly with the chosen voluntary arbitrator at his designated business or professional office COPY FURNISHED THE REGIONAL BRANCH OF THE BOARD HAVING JURISDICTION OVER THE WORKPLACE OF THE COMPLAINANT.

Section 3. *Service of Copies of Pleadings.* The party filing the pleadings shall serve the opposing party or parties with a copy or copies thereof in the manner provided for in these Guidelines.

Section 4. *Service of Pleadings, Notices and Awards.* Copies of pleadings, notices or copies of award may be served through personal service or by registered mails on the parties to the dispute; provided, that where a party is represented by counsel or authorized representative, service will be made on the latter. Service by registered mail is complete upon receipt by the addressee or his agents.

Section 5. *Representations.* The parties may personally appear in their own behalf or by representatives. In the latter case, the representative must be duly authorized to appear in writing or he can be practicing attorney-at-law.

The complete name and office address or any change in the address of counsel/representative shall be made of record and the party should be properly informed.

Section 6. *Limitation on Authority to Bind Party.* Attorneys and other representatives of parties shall be presumed to have the full authority to bind their clients or principals in all matters of procedure; but they cannot, without a special power of attorney or expressed consent, enter into a compromise agreement with the opposing party in full or partial discharge of a client's or principal's claim.

Rule IV JURISDICTION OF VOLUNTARY ARBITRATOR

Section 1. *Exclusive and Original Jurisdiction.* The voluntary arbitrator shall have exclusive and original jurisdiction over the following cases:

- 1) All unresolved grievances arising from the interpretation or implementation of the collective bargaining agreement.
- 2) All unresolved grievances arising from the implementation or enforcement of company personnel policies.
- 3) ALL WAGE DISTORTION ISSUES ARISING FROM THE APPLICATION OF ANY WAGE ORDERS IN ORGANIZED ESTABLISHMENTS
- 4) ALL UNRESOLVED GRIEVANCES ARISING FROM THE INTERPRETATION AND IMPLEMENTATION OF THE PRODUCTIVITY INCENTIVE PROGRAMS UNDER RA 6971.

For this purpose, all grievances which are not settled or resolved within seven (7) calendar days from the date of the submission for resolution to the last step of the grievance machinery shall automatically be referred to voluntary arbitration prescribed in the collective bargaining agreement.

Cases falling within the exclusive and original jurisdiction of voluntary arbitrators but filed either with the National Labor Relations Commission and its Regional Branches, or the Regional Directors of the Department of Labor and Employment or with the Board and its Branches, shall be decided by the voluntary arbitrator upon referral of said cases pursuant to paragraph 2, Article 261 of the Labor Code, as amended by RA 6715 AND DEPARTMENT ORDER NO. 40-03.

Section 2. Concurrent Jurisdiction. The voluntary arbitrator upon agreement of the parties, shall also hear and decide all other labor disputes including unfair labor practice and bargaining deadlocks. Before or at any stage of the compulsory arbitration process, parties to a labor dispute may agree to submit their case to voluntary arbitration.

SECTION 3. NUMBER OF ARBITRATORS. IF THE CBA DOES NOT SPECIFY THE NUMBER OF ARBITRATORS, THE CASE SHALL BE HEARD AND RESOLVED BY A SOLE ARBITRATOR, UNLESS THE PARTIES AGREE OTHERWISE.

Section 4. When Jurisdiction is Exercised. The voluntary arbitrator shall exercise jurisdiction over specific case/s:

- 1) Upon receipt of a Submission Agreement duly signed by both parties.
- 2) UPON RECEIPT OF THE NOTICE TO ARBITRATE WHEN THERE IS REFUSAL FROM ONE PARTY;
- 3) UPON RECEIPT OF AN APPOINTMENT/DESIGNATION AS VOLUNTARY ARBITRATOR BY THE BOARD IN EITHER OF THE FOLLOWING CIRCUMSTANCES:
 - 3.1 IN THE EVENT THAT PARTIES FAIL TO SELECT AN ARBITRATOR; OR
 - 3.2 IN THE ABSENCE OF A NAMED ARBITRATOR IN THE CBA AND THE PARTY UPON WHOM THE NOTICE TO ARBITRATE IS SERVED DOES NOT FAVORABLY REPLY WITHIN SEVEN DAYS FROM RECEIPT OF SUCH NOTICE.

Section 5. Contents of Submission Agreement. The SUBMISSION Agreement shall contain, among others, the following:

1. THE agreement to submit to arbitration;
2. THE specific issue/s to be ARBITRATED;
3. THE name of the arbitrator;
4. THE NAMES, ADDRESSES AND CONTACT NUMBERS OF THE PARTIES;
5. THE agreement to perform or abide by the decision.