

REVISED RULES AND PROCEDURES IN THE COMMITTEE ON ALTERNATIVE DISPUTE RESOLUTION (CADR)

RULE 1 TITLE AND CONSTRUCTION

Section 1. *Title* – These Rules shall be known as the 2019 Rules and Procedure in the Committee on Alternative Dispute Resolution.

Section 2. *Construction*. – The Rules shall be applied liberally on cases referred to the Committee on Alternative Dispute Resolution (CADR) in order to amicably settle the issues between the parties involved. The CADR members shall not be bound by technicalities of law while the Committee assists in arriving at a resolution that would mutually benefit the opposing parties.

RULE 2 POLICY

Section 3. *Compliance with the Law*. – Republic Act (RA) No. 9285, otherwise known as Alternative Dispute Resolution Act of 2004, and Executive Order No. 97 by President Benigno C. Aquino III in 2012, mandates government agencies to establish a system in resolving disputes filed before them. Thus, the CADR was established in PAGCOR in order to help resolve differences between and among the employees/parties.

Section 4. *Purpose*. – PAGCOR affirms its compliance with the law. Towards this end, PAGCOR shall encourage and actively promote the use of Alternative Dispute Resolution (ADR) as an important means to achieve speedy and impartial justice and efficient tool for the resolution of appropriate cases.

The purpose of this policy is to limit and resolve, if not avoid, the existence of animosity between and among PAGCOR personnel and interested parties, which, if not properly addressed, may result in the elevation of their disputes to the courts of law. In such scenario, the employees' morale, efficiency, effectiveness and financial capacities will be severely affected.

In this regard, these Rules are formulated in order to settle disputes among employees in a speedy, cost-free, just and equitable way.

Section 5. *Alternative Mode of Dispute Resolution*. The CADR shall use mediation as the mode in finding resolution to each case brought before it.

RULE 3 COVERAGE AND NATURE OF DISPUTE

Section 6. *Who are covered by these Rules.* – These Rules shall apply to the following persons who are involved in disputes raised before the CADR:

- a. All PAGCOR personnel, whether on probationary or regular employment status, assigned in any PAGCOR office, branch or satellite offices/premises, who may be the complainant and/or the person complained of; and,
- b. Non-organic PAGCOR personnel, who may be the complainant or the person complained of, who had a professional or personal transaction/obligation with a PAGCOR employee/s.

Section 7. *Scope of Dispute for Mediation.* – The following disputes between and/or among PAGCOR employees and interested parties may be subjects for mediation:

- a. Alimony- An allowance made to one spouse by the other for support and is fixed with a view to enable the party entitled thereto to confront obligations for current necessities.¹
- b. Support – comprises of everything indispensable for sustenance, dwelling, clothing, medical attendance, education and transportation, in keeping with the financial capacity of the family. The education of the person entitled to be supported shall include his schooling or training for some profession, trade or vocation, even beyond the age of majority.²

Support shall be in proportion to the resources or means of the giver and to the necessities of the recipient.³

The Family Code of the Philippines is explicit that family members should take care of each other and with a provision that the children's welfare rest on their parents. Support shall be dealt on a case to case basis and shall be limited only up to the period the child/children being supported reaches the age of majority or until such time that he is gainfully employed.

- c. Non Payment of Just Debt– or claims the existence and justness of which are admitted by the debtor⁴ which may include, but not limited to payment or settlement of transaction/s with monetary considerations.
- d. Light Offenses- includes act which is purely personal on the part of the private complainant and the person complained of and there is

¹ Gorayeb vs. Hashim, G.R. 25577, March 3, 1927

² Article 194 of the Family Code of the Philippines

³ Article 201 of the Family Code of the Philippines

⁴ Section 23, Rule XIV of the Omnibus Rules Implementing the 1987 Administrative Code

no apparent injury committed to the government.⁵ Provided, that no formal charge yet has been issued to the Respondent on the subject light offense.

- e. Other Matters – disputes not included in the above mentioned enumeration but may be settled through amicable mediation.

The aggrieved party shall file his complaint or letter requesting for assistance, as the case maybe, before the office of the Corporate Investigation Department, addressed to the Chairman of the CADR, through the CADR Secretary. In his complaint/ letter request, the aggrieved party shall attest that he has not filed any suit involving the same party for the same cause of action in any court of jurisdiction.

Thereafter, the complaint/request letter shall be calendared for mediation conference and the interested parties shall be notified in writing or through Text or Short Messaging Service (SMS) or telephone call, whichever is most convenient and practicable under circumstances.

Section 8. Nature of the Proceeding. – The nature of the proceedings before the CADR shall be non-adversarial, thus, the representation of a party by a counsel is not required.

The proceedings shall be conducted in a manner that shall satisfy due process, equitable to all concerned and in accordance with justice. Information obtained through mediation shall be privileged and confidential.

Non-appearance by one of the parties shall not delay the mediation. Upon motion of the party present during the mediation, the conference may be reset to another date or may proceed. In this case, the CADR may take note of the demands of the present party which shall be relayed to the other party.

The PAGCOR personnel who failed to appear on the scheduled mediation without reasonable and just excuse shall be deem to have waived his right to appear before the CADR.

RULE 4 MEDIATION PROPER

Section 9. Conduct of Mediation. Upon the existence of a quorum, the mediation conference shall proceed and shall be presided by the Chairman of the CADR in the following manner:

⁵ Rule 11, Section 59, 2017 RACCS.

- a. After the conference is called to order, the Chairman of CADR shall hear the parties individually. The complainant/aggrieved party shall be given the chance to explain his complaint and requests.
- b. Subsequently, the other party shall be called and shall be informed of the assertions of the other party and the latter's terms for settlement to which he may agree or disagree with. In such case, he is given a similar opportunity to be heard and raise counter-proposal to settle the dispute.
- c. Thereafter, both parties are called to appear before the CADR and inform them of their options. In case both parties are amenable to settle, their agreement shall be put in writing and shall be based on the parties' voluntary and free-will. Both parties must consent that they shall be bound by PAGCOR internal policies and other applicable laws in drafting the agreement.

The CADR shall assist the parties in drafting the contract, making sure that the same has clear and concise terms and conditions and is within the bounds of the applicable laws. The parties shall also expressly state that they shall faithfully comply and observe the executed agreement.

- d. In the event that parties interposed objections during the course of mediation, the CADR members may intervene and suggest alternatives which may aid both parties in arriving at a fair and reasonable terms.

In cases of alimony, support, and settlement of just debts, the financial capacity of the PAGCOR employee shall be of primordial consideration. Thus, the internal policies and guidelines of the Auxiliary Services Department and Accounting Department shall be considered on the terms of support and payment of just debt.

In the case of light offenses, the provisions of Rule 11, Section 59, 2017 Rules on Administrative Cases in the Civil Service is instructive.

- e. The discussions during the conference shall be embodied in the "Minutes of the Meeting" prepared by CADR Secretary and duly signed by the CADR Chairman and by the parties. The minutes shall categorically state whether or not there was a successful mediation.

An audio-recording of the proceeding shall be kept by the Committee for future reference.

- f. Upon conclusion of the mediation, the CADR shall recap the conditions and terms agreed upon by the parties and shall formalize the same through a written contract. The parties are given copies of

the final contract which should be notarized at their expense. The Secretary of the CADR must have a copy of the notarized contract for filing.

RULE 5 MODE OF SETTLEMENT

Section 10. Salary Deduction. In cases of alimony, support or payment of just debt, settlement may be made through the personnel's salary deduction in accordance with PAGCOR's guidelines. In which case, the CADR shall oblige the employee to execute an Authorization for Salary Deduction⁶ from his bi-monthly basic salary pay and/or from the bi-monthly Additional PAGCOR Provident Fund Share 1 (APPFS1) and/or from his Mid-year Bonus, Christmas Bonus, 13th Month Pay, Additional Provident Fund Advances 1 and 2.

Thus, if the source of settlement will be from the bi-monthly, Mid-year Bonus, Christmas Bonus, and 13th Month Pay, the Authorization for Salary Deduction Authority shall be sent to the Accounting Department for disposition.

On the other hand, if the settlement shall be sourced from the bi-monthly Additional PAGCOR Provident Fund Share 1 (APPFS1) and/or from his Additional Provident Fund Advances 1 and 2, the Authorization for Salary Deduction shall be forwarded to the Provident Fund Unit of the Auxiliary Services Department for their appropriate action.

The daily courtesy funds and "tips" being received by PAGCOR gaming personnel which are in the custody of the Service Fund Committee (SFC) are not covered by this Rule.

Section 11. Other Matters. – The CADR may convene to discuss other matters or issues brought to its attention for clarification and appropriate action, which may include the following, to wit:

- a. When one of the parties consults/ updates the CADR regarding the status of his/her case.
- b. When one of the parties seeks re-evaluation of the executed agreement with just and reasonable cause. In case of payment of just debt, the CADR shall have the right to fix a reasonable interest rate should it find the same to be unconscionable.
- c. When one of the parties request for the restructuring of his salary deduction in fulfilling his obligation in the agreement.
- d. When one of the parties moved for the termination of agreement due to the following reasons:

⁶ Sample Form Attached as Annex A

- d.1. Annulment, Abandonment or Death of the Spouse.
- d.2. When the child reaches the age of majority or has completed his schooling or training for some profession, trade or vocation.
- d.3. When the debt has already been satisfied or fully paid.
- d.4. When the obligation in the agreement has been fulfilled.

In all instances, the CADR shall have the right to verify the facts stated and shall notify the parties on the matters and issues raised before its resolution.

Section 12. *Agenda per meeting.* – The CADR shall conduct mediation meeting with a minimum agenda of one (1) case per meeting and a maximum of two (2) cases per meeting. The CADR shall hold mediation conference, as may be necessary, in order to unclog the docket of cases filed before the Committee Secretary.

RULE 6 DOCUMENTS AND RECORDS

Section 13. *Custodian of CADR Records.* – The CADR Secretary shall act as the custodian of all the records of the CADR. The records of the CADR shall include but not limited to the following:

- a. Complaint or request for assistance.
- b. Agreement of the parties.
- c. Authority for Salary Deduction.
- d. Minutes of the Meeting.
- e. Advice of Deduction for the Accounting Department and Auxiliary Services Department (Provident Fund).

CADR records shall be made available to the parties upon written request and subject to existing laws and guidelines.

Section 14. *Audio-Records of the Proceedings.* – The proceedings in the CADR are recorded via audio recording and shall be under the custody of the CADR Secretary. CADR is not obliged to transcribe the audio-recording of the proceedings and parties who wish to have a copy thereof may submit a written request to the CADR for its approval.

RULE 7 TERMINATION OF MEDIATION

Section 15. *Termination of the Mediation Proceeding.* – The mediation proceeding is deemed terminated when there are no more issues left to be resolved. As such, mediation is concluded to be:

- a. Successful Mediation- When both parties reached an amicable agreement and the issues raised during the mediation conference were settled.
- a. Failed Mediation- Despite efforts of CADR 1.) both parties did not reach an amicable settlement or 2.) in case a settlement has been reached, but one of the parties has breached the agreement at anytime, without just or reasonable excuse.

RULE 8 JURISDICTION ON FAILED MEDIATION

Section 16. *Automatic Jurisdiction of Corporate Investigation Department (CID)* – In case of failed mediation, the CADR shall endorse the case to the CID for appropriate action.

The CID shall conduct its preliminary investigation on the forwarded case in accordance with the 2017 RACCS.

Upon endorsement and receipt of the case by the CID, the CADR loses jurisdiction on the case.

RULE 9 ENFORCEMENT OF RIGHTS BEFORE THE COURTS

Section 17. *Enforcement of Rights before the Courts.* – These Rules shall not preclude the aggrieved party from enforcing his rights against the other before the Courts of Law by virtue of non-compliance with the duly executed agreement. As such, the aggrieved party may seek redress before Courts at his own volition and expense.

RULE 10 MISCELLANEOUS PROVISIONS

Section 18. *Separability Clause.* – In case any clause, sentence, section or provision of these Rules or its application to any person or circumstance is held unconstitutional or invalid by a competent court, the other sections or provisions that are not affected by such shall continue to be in force and effect.

Section 19. *Repealing Clause.* – Rules, regulations, guidelines, memorandum and other issuances that are inconsistent hereof are repealed and modified accordingly.

Section 20. – *Effectivity Clause.* – These rules and procedures shall take effect immediately upon the approval of the Board of Directors of PAGCOR with the issuance of a resolution to that effect.

Ermita, Manila, January 28, 2019.