September 10, 2020

MEMORANDUM TO:

OIC, Office of the Asst. Schools Division Superintendent
Chief Education Supervisors, CID and SGOD
Elementary and Secondary Public School Principals
Unit Heads
All Concerned

ALTERNATIVE DISPUTE RESOLUTION SYSTEM :
MEDIATION UNIT COMPOSITION FOR SDO MARIKINA

Pursuant to Regional Memorandum No. NCR 137, s. 2019, in line with the provision of DepEd Order No. 15, s. 2012 or the DepEd Policy Framework for the Implementation of the Alternative Dispute Resolution (ADR), the Division Mediation Unit which is tasked to perform the duties and responsibilities stated in the above-cited DepEd Order shall be composed of the following:

Chairman: DR. ELISA O. CERVEZA
Chief Education Supervisor, CID
Officer-In-Charge
Office of the Assistant Schools Division Superintendent

Members: DR. ELIZALDE Q. CENA,
Chief Education Supervisor, SGOD

ATTY. CEASAR AUGUSTOS E. CEBUJANO
Attorney III, Head, Legal Services Unit

MR. CLARO L. CAPCO
Administrative Officer V, Administrative Services

Secretariat: MS. AGNES C. FRANCO
Registrar I, Records Unit

MS. NINA E.S. ENRIQUEZ
Administrative Assistant III, Legal Services Unit

Attached is the full text of the said Memorandum and DepEd Order for information and guidance.

FOR WIDE AND IMMEDIATE DISSEMINATION.

SHERYLL T. GAYOLA
Assistant Schools Division Superintendent
Officer-In-Charge
Office of the Schools Division Superintendent
MEMORANDUM
No. NCR-147 s. 2019

TO:
Schools Division Superintendents
Administrative Services Division
Regional Legal Unit
Division Office Attorney III/Legal Coordinator/s
Division Administrative Services Office
Public Schools Heads and Teachers
Accredited Mediators
All Concerned

FROM:
WILFREDO L. CABRAL
Director III
Officer-in-Charge
Office of the Regional Director

SUBJECT:
Alternative Dispute Resolution System-Mediation in DepEd- NCR

DATE:
September 2, 2019

In line with the provision of DepEd Order No. 15, s. 2012 or the DepEd Policy Framework for the Implementation of the Alternative Dispute Resolution (ADR) System-Mediation, the attached guidelines shall be observed whenever complaints and cases which could be the subject of mediation are filed in public schools, Schools Division Offices and Regional Office.

The Schools Division Superintendents are hereby advised to establish their respective Division Mediation Units and compose its members in accordance with Section 7 of the provided guidelines. The composition of each Division Mediation Units must be submitted to this Office (Attn: Administrative Services Division and Regional Legal Unit) within 15 days from receipt of this memorandum.

Finally, to maintain the efficient operation of the mediation units, the Schools Division Superintendents are highly encouraged to include in their respective Division Office plans, the provision of funding for the activities of the mediation units as enunciated under Section 14 of the provided guidelines.

Immediate dissemination of and compliance with this Memorandum is desired.

Enc.: ADR System-Mediation in DepEd-NCR

---Work toward excellence... play to win!
ALTERNATIVE DISPUTE RESOLUTION (ADR) SYSTEM - MEDIATION IN THE DEPARTMENT OF EDUCATION - NATIONAL CAPITAL REGION (DEPED-NCR)

SECTION 1. POLICY STATEMENT

Pursuant to the Philippine Constitution\(^1\), Executive Order No. 523 dated April 7, 2006 which instituted the use of Alternative Dispute Resolution (ADR) in all government agencies in line with Republic Act No. 9285 otherwise known as the "Alternative Dispute Resolution Act of 2004," DepEd shall promote the use of alternative dispute resolution for a speedy resolution of disputes in the Department. To this end, the DepEd recognizes the importance of resolving disputes through the use of alternative dispute resolution processes, particularly mediation.

DepEd has adopted the policy framework and guidelines on mediation as a means to provide autonomy or freedom among disputants to make arrangements in resolving their disputes through the issuance of DepEd Order No. 15 s. 2012.

For this purpose, DepEd NCR hereby adopts this rules to govern mediation in the Region, using the framework postulated under the said DepEd Order No. 15, s. 2012.

SECTION 2. OBJECTIVES

The purpose of mediation is to provide a fast, fair and non-adversarial process for managing disputes. Specifically, it aims to:

a. Manage disputes at the lowest possible level;
b. Provide an alternative procedure and enhance the existing mechanism in managing disputes; and
c. Develop the capabilities of personnel in managing disputes at all levels.

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\(^1\) Philippine Constitution, Art. III, Sec. 16

"All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies."
SECTION 3. DEFINITION OF TERMS

A. ADR - refers to any process used to resolve a dispute or controversy, other than by adjudication of a presiding judge of a court or an officer of a government agency, as defined in Republic Act No. 9185, wherein a neutral third party participates to assist in the resolution of issues which includes voluntary mediation for the purpose of this framework.

B. DepEd - refers to the Department of Education which includes the Regional Office, Division Offices, District Offices and public elementary and secondary schools.

C. Complaint - refers to any allegation of any act or omission which may appear to be unreasonable, unfair, oppressive, discriminatory, illegal, unjust, improper or inefficient involving DepEd officials and employees and those under the Department’s jurisdiction which may be subject of mediation.

D. Dispute - refers to any disagreement among parties that may result in a complaint.

E. Disputants - refers to the parties involved or having a stake in a conflict or controversy.

F. Complainant - refers to any person filing a complaint.

G. Mediator - refers to a neutral/third party official or employee of DepEd certified by the Department to handle or conduct a mediation process.

H. Mediation - refers to the process that facilitates communication and negotiation that assists the disputants towards reaching a voluntary and mutually acceptable settlement agreement.

I. Mediation Unit - refers to a unit established in the DepEd offices in charge of monitoring the implementation of mediation program at their respective levels.

J. Initial Conference - refers to the mandatory initial meeting in which the disputants involved in a conflict/dispute are called to appear before a mediator to discuss the process, benefits and advantages of mediation. Its purpose is to determine the readiness and willingness of the disputants to submit their dispute to mediation.

K. Private Caucus - refers to the process wherein the mediator, at his/her discretion, conducts separate sessions privately and in confidence with each of the disputing parties. This is the exploratory stage during the mediation process, where each party is encouraged to speak more openly about issues and potential options for settlement.
L. Settlement Agreement - refers to mutual concessions or the consensus arrived at by the contending parties during the mediation proceedings reduced into writing and signed by the disputants and the mediator.

M. Motu Proprio Cases - refers to cases initiated by the disciplining authority as provided in DepEd Order No. 49, S. 2006.

N. Confidential Information – refers to privileged communication shared by the parties for the purpose furthering the mediation proceeding.

SECTION 4. SUBJECT OF MEDIATION

The following shall be subject to mediation:

A. Complaints/Disputes concerning an act or omission of DepEd officials/employees which maybe the subject or mediation and which fall under light offenses where the corresponding penalty is reprimand pursuant to Section 58 of DepEd Order No. 49, S. 2006. Otherwise known as the Revised Rules of Procedure of the Department of Education in Administrative Cases, such as:

a. Discourtesy in the course of official duties;
b. Improper or unauthorized solicitation of contributions from subordinate employees and by teachers or school officials from school children;
c. Violation of reasonable office rules and regulations;
d. Frequent unauthorized tardiness (habitual tardiness);
e. Gambling prohibited by law;
f. Refusal to render overtime service;
g. Disgraceful, immoral or dishonest conduct prior to entering the service;
h. Borrowing money by superior officers from subordinate employees;
i. Lending money at usurious rates of interest;
j. Willful failure to pay just debts or willful failure to pay taxes due to the government;
k. Lobbying for personal interest or gain in legislative halls and offices without authority;
l. Promoting the sale of tickets in behalf of private enterprises that are intended for charitable or public welfare purposes and even in the latter cases, if there is no prior authority;
m. Failure to act promptly on letters and requests within fifteen (15) days from receipt, except as otherwise provided in the rules implementing the Code of Conduct and Ethical Standards for Public Officials and Employees;
n. Failure to process documents and complete action on documents and papers within a reasonable period of time from preparation thereof except as otherwise
provided in the rules implementing the Code of Conduct and Ethical Standards for Public Officials and Employees;

o. Failure to attend to anyone who wants to avail himself of the services of the office or act promptly and expeditiously on public transactions;

p. Engaging in the private practice of his profession unless authorized by the Constitution, law or regulation, provided that such practice will not conflict with his official functions; and

q. Pursuit of private business, vocation or profession without the permission required by Civil Service rules and regulations.

B. Other similar offenses which the parties agreed to settle through mediation which are not contrary to laws, morals, public policy and interest, and which is within the purview of DepEd’s mediation framework.

SECTION 5. OFFENSES GOVERNED BY OTHER RULES OF PROCEDURE

The following offenses shall not be subject to mediation:

A. Sexual harassment cases as provided for in Republic Act No. 7877;
B. Child abuse cases as provided for in Republic Act No. 7610 and DepEd Order No. 40, s. 2012;
C. Cases involving Violence Against Women and Children as provided for in Republic Act No. 9262;
D. Disciplinary cases not provided under paragraph 1, Section 4 of these policy guidelines which shall be resolved pursuant to the uniform Rules on Administrative Cases;
E. Motu Proprio Cases;
F. Anonymous complaints; and
G. Work-related grievances shall, as much as possible, be resolved through the grievance machinery of the department.

SECTION 6. FORM OF COMPLAINT

The form of complaint or request for assistance shall be under oath and shall be written in a clear, simple, and concise language to inform the person complained of, about the nature and cause of accusation against him.

In any case, the requesting or complaining party shall indicate his/ her complete address or e-mail address, contact numbers and those of the party/ies complained of.
SECTION 7. MEDIATION UNIT

There shall be a Mediation Unit at the Regional Office and Division Offices. The Mediation Unit shall be constituted by the Regional Director or Schools Division Superintendents in their respective Offices and shall be composed of three (3) members who are non-mediators, with one member preferably coming from the Legal Office.

A. COMPOSITION

1. Regional Mediation Unit
   a. Chairman – Assistant Regional Director/Authorized Personnel
   b. Members:
      1. Chief of the Administrative Services Division or his/her Representative
      2. Head of the Regional Legal Unit or his/her Representative
      3. A legal unit or a Senior Personnel

2. Division Mediation Unit
   a. Chairman – Assistant Schools Division Superintendent/Division Chief
   b. Members:
      1. A Division Chief
      2. Head of the Division Legal Unit/Legal Coordinator or his/her Representative
      3. Administrative Officer V of the Administrative Unit or his/her representative

3. In considering the composition of the Mediation Unit, the following should be taken into account:

   a. Members of the Mediation Unit must be knowledgeable on legal and ADR proceedings of the Department;
   b. Members of the Mediation Unit must possess integrity and should be able to keep confidential all information received; and
   c. Members of the Mediation Unit must be advocates of Alternative Dispute Resolution.

4. A Secretariat composed of at least two (2) members shall be selected/designated by the Mediation Unit.

B. FUNCTIONS

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2 Mediators may be members of the Mediation Unit, should the appropriate exemption from the Central Office be issued or should the mediator does not opt to participate in the mediation proceeding.
The Mediation Unit shall manage disputes at their respective levels, which includes monitoring and evaluation of the implementation of the mediation program and the performance of the mediators. The Unit shall maintain a roster of trained mediators.

In addition to the roster of trained mediators as appended under DepEd Order No. 15 s. 2012, a memorandum indicating the names of qualified mediators shall be issued.

SECTION 8. MEDIATION PROCESS

A. FOR TEACHING AND TEACHING RELATED-PERSONNEL

1. Processing of Complaint

All complaints against teaching and teaching related personnel which were filed or submitted to the Office of the Regional Director or Office of the Schools Division Superintendent, shall be processed for determination on whether it is appropriate for mediation under Section 4 of this policy guidelines.

2. The Regional Director shall then refer the mediatable case/complaint to the Regional Mediation Unit or Schools Division Office concerned, with attention directed to the Division Mediation Unit. The Schools Division Superintendent may refer the mediatable case/complaint to the Division Mediation Unit, only when all the issues alleged in the complaint are subject for mediation.

3. The Mediation Unit shall conduct Mediation Orientation for the following:
   a. Provide the parties a general overview of the mediation and its proceedings.
   b. Determine the following:
      i. if it is practicable for disputants to attend the mediation proceedings; and
      ii. there is a need for emergency relief which makes referral to mediation impracticable.
   c. Docket the Complaint
      i. In the event that that the parties agree to mediation, the case/matter shall then be docketed using the reference code numbers (Form No. 1) As provided in Annex A
   d. Facilitate the Selection of Mediator
      i. The Mediation Unit shall provide a roster of mediators from which the disputing parties will select their common choices; and
ii. In case the disputing parties do not have a common choice on a mediator, the Mediation Unit shall select a mediator by raffle.

4. Transmittal to Mediator

The Mediation Unit shall transmit the Complaint to the selected Mediator within three (3) days from the conduct of Mediation Orientation.

In the event where no Mediation Orientation was conducted by the Mediation Unit due to time constraints, the assigned Mediator shall conduct said orientation.

5. Initial Conference

The initial conference shall be conducted within fifteen (15) working days from the date of acceptance by the selected mediator. The disputants may agree on the schedule of the subsequent conferences, if warranted.

During the initial conference, the disputants shall sign an agreement to mediate (Form No. 5 Annex C) and agree to abide by these policy guidelines. The mediator will then commence with the mediation process. However, if any or the disputants fail to appear during the initial conference despite due notice, the mediator shall schedule another conference.

Failure of one of the disputants to attend two (2) sessions without prior notice and/or justifiable cause shall warrant the termination of the mediation and the case shall be referred to the proper office or Disciplining Authority for appropriate action or disposition.

6. Period for Settlement/ Extension

If no settlement agreement is reached within thirty (30) working days from the date of the initial conference, the mediator may close and terminate the mediation proceedings unless there is a written request from all disputants to extend the process.

In no case shall the extension exceed thirty (30) working days and the case will be returned to the Mediation Unit for appropriate action.

7. Execution and Enforcement of Settlement Agreement

When the disputants reach a settlement, an agreement (Form No. 6/ Annex D) shall be prepared and signed by the disputants with the assistance of their respective counsels if there are any, and by the mediator.
The disputants and their respective counsels shall endeavor to make the terms and conditions of the settlement agreement complete and shall stipulate adequate provisions for the contingency of breach and the possibility of conflicting interpretations of its provisions.

If the disputants so desire, the settlement agreement may be deposited with the appropriate clerk of the regional trial court of the place where one of the disputants reside. Where there is a need to enforce the settlement agreement, a petition may be filed by any of the disputants with the same court.

8. The Mediation Unit shall forward the agreement/mediation report to the Regional Director.

9. For cases where no settlement was reached, the Regional Director shall issue an order to conduct or continue with the investigation of the case.

B. FOR SCHOOLS DIVISION NON-TEACHING PERSONNEL

1. Processing of Complaint

All complaints against non-teaching personnel shall be submitted to the Schools Division Superintendent who shall determine whether it is appropriate for mediation under Section 4 of this policy guidelines. Should the case/complaint be subject to mediation, the same proceedings of stated under A (items 3-9), Section 8 hereof shall be followed.

2. The Mediation Unit shall forward the agreement/mediation report to the Schools Division Superintendent for disposition.

3. For cases where no settlement was reached, the Schools Division Superintendent shall issue an order to conduct or continue with the investigation of the case.

SECTION 9. THE PARTIES

1. APPEARANCE OF PARTIES

The parties shall appear in person. In the case of agencies and/or organizations, the parties may appoint representatives to act for and on their behalf at the mediation. The parties shall confer upon their representatives the necessary full authority or special power of attorney to enter into mediation and sign agreements.

2. APPEARANCE OF COUNSEL

The parties may appear with or without a counsel. The absence or unavailability of a counsel shall not prevent the mediation to proceed.
The parties may seek outside professional advice that will aid them in making informed decisions and in understanding the implications of any proposal. Also, the parties may seek independent and/or technical advice before a settlement agreement is signed and they are free to make whatever choices they desire regarding specific settlement options.

The counsel may be consulted by the parties but he/she (counsel) shall not be allowed to participate during the mediation. In general, the counsel will act only as an observer.

The Department Attorneys and Legal Staff of the Division Offices and Regional Offices of the National Capital Region shall not in any way take part in the mediation proceedings, except as mediator or member of the mediation unit.

SECTION 9. THE MEDIATOR AND MEDIATION DAYS

1. Qualifications of a Mediator

The mediator shall possess the following qualifications:

a. Has the willingness to assist the parties to settle their disputes amicably;

b. Displays patience, empathy and integrity;

c. Has completed forty (40) hours of training on mediation and the corresponding forty (40) hours of internship;

d. Certified by a recognized mediation training institution and by DepEd as a mediator.

2. Clustering of Mediators and Mediation Day

To provide the parties the opportunity to select their mediator whom they can trust to facilitate the mediation process and to take advantage of the existence of other mediators in adjoining Division Offices, a cluster, composed of a number of adjoining Schools Division Offices shall be established.

Under the clustering scheme, parties are allowed to choose their mediator from the roster of accredited mediators of the SDOs within the cluster, should they fail to choose a mediator assigned in their Schools Division.

A Memorandum of Understanding shall be signed by the Schools Division Offices to further guide each Division Offices.

The Clusters shall be as follows:

Cluster 1 | Schools Division Office of Valenzuela
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<td>Schools Division Office ofNavotas</td>
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<td>Cluster 4</td>
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<td>Cluster 5</td>
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<td>Schools Division Office of Mandaluyong</td>
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<td>Cluster 6</td>
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<td>Schools Division Office of Pasay</td>
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Each Schools Division in a cluster shall assign their respective mediation day.

All duties and responsibilities as prescribed are considered as obligatory.

Mediation conducted during holidays or any other non-working days shall entitle the mediator of the corresponding service credit, compensatory time-off, or overtime pay, as the case may be, at the discretion of the head of office of that office where the mediator is stationed.

3. Disclosure of Interest

The mediator shall immediately disclose to the Mediation Unit as well as to the disputing parties, all circumstances that are likely to create an impression of bias or prevent him from acting promptly. Upon receipt of the disclosure, the Mediation Unit shall select another mediator by raffle unless the disputing parties decide otherwise.

4. Duties and Functions

The mediator shall:

a. Abide by the terms of the Agreement to Mediate (Form No. 5) and the Code of Conduct for Mediators (Annex E)

b. Facilitate the negotiations between the parties toward a mutually acceptable solution; and
c. Assist the parties in drawing up the written settlement agreement.

In case of failure of the mediation and the case is elevated to a court of law, the mediator who mediated such a case shall inhibit himself/herself in the litigation and/or investigation of the same case in whatever capacity.

The mediator shall not make any ruling, finding or recommendation with respect to the dispute, even with the express request of all the parties involved.

SECTION 10. CONFIDENTIALITY

1. CONFIDENTIALITY OF PROCEEDINGS

a. All mediation proceedings shall be kept strictly confidential. No transcript or any audiovisual recording shall be taken during the mediation process through the use of any technology such as cellular phones and video cameras.

b. All notes and admissions of the parties involved in the dispute shall not be admitted in any judicial or quasi-judicial proceedings.

c. The mediator may take down personal notes which shall not form part of the records of the mediation process. These personal notes shall be destroyed immediately upon termination of the mediation process.

d. Any violation of the confidentiality requirement shall be dealt with administratively without prejudice to the filing of other criminal and civil cases by parties-in-interest.

2. DISCUSSION OF CONFIDENTIAL NATURE OF MATTERS TAKEN DURING THE PROCEEDINGS

The mediator shall discuss the issues of confidentiality with the parties involved in the dispute during the initial conference.

Privilege of Confidentiality

a. All information obtained through mediation shall be construed as strictly privileged and highly confidential.

b. Mediator or party involved in the dispute or the counsel for the parties shall be prohibited to disclose confidential information through all forms of media - print, broadcast or electronic.

c. In a judicial or quasi-judicial proceeding, a mediator is prohibited to testify or to execute any affidavit about any confidential information gathered during the mediation process.
Exception to the Privilege of Confidentiality

There is no privilege against disclosure under this section if the mediation communication is:

a. In an agreement evidenced by a record authenticated by all parties to the agreement;

b. Available to the public;

c. A threat or statement of a plan to inflict bodily injury or commit a crime of violence;

d. Intentionally used to plan a crime attempt to commit a crime or conceal an ongoing crime or criminal activity;

e. Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediator in a proceeding; or

f. Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a party, non-party participant, or representative of a party based on conduct occurring during the mediation.

3. Waiver of Privilege

The privilege of confidentiality of information may be waived in writing during the mediation proceedings by the mediator and the parties involved in the dispute.

4. Prohibition/Exceptions

A mediator shall not make a report, assessment, evaluation, recommendation, finding or other forms of communication regarding a mediation to a court or agency or other authority that makes a ruling on a dispute that is the subject of a mediation, except:

a. To state that a mediation took place or was terminated or that a settlement was reached; and

b. As permitted to be disclosed under Section 1.0.4 of this policy guidelines.

SECTION 11. MEDIATION OF PENDING CASES

A pending administrative case may be subjected or referred to the mediation process under the following requisites:
SECTION 12. TERMINATION OF PROCEEDINGS

1. Grounds for Termination

The process shall be terminated when:

- A party withdraws from the mediation process;
- A written settlement agreement is executed and duly signed by the parties;
- No settlement agreement is reached;
- Death; and/or
- There are circumstances which exist as described in sub-paragraphs c and d of Section 10.4 of this policy guidelines.

2. Motions for Re-Opening

As a rule, only one motion or request from both parties for the re-opening or mediation proceedings shall be entertained subject to the approval of the Mediation Unit. (Please refer to Form No. 11, Annex G)

SECTION 13. INCENTIVES, COMPENSATION AND FUNDING

The mediators and members of the Mediation Unit shall not request, solicit, receive or accept any gift or any type of compensation from the parties for the mediation he/she is handling. The grant of honoraria for mediators and members of the Mediation Units as incentive shall be subject to the existing rules and regulations of the COA and DBM.

SECTION 14. ADVOCACY AND WAYS FORWARD FOR THE MEDIATION UNIT AND MEDIATORS

The Regional Office and Schools Division Offices shall include the following in its regular legal-related activities, to wit:

1. Conduct of advocacy activities and regular orientation on ADR and the mediation process and its benefits to all its employees in the school, division and regional offices during appropriate events/activities such as during executive meetings, inset, teacher's induction program, school head development program, and the like.
2. Continuous Capacity Building to be initiated by the Regional or Division Offices, shall be conducted for the Mediators or Members of the Mediation Units.

   a. Accredited Mediators shall undergo annual training for at least twenty-four (24) hours for their Continuing Professional Development.

   b. Training for new Mediators for the Regional and Division Offices shall be conducted at least every two (2) years from the implementation of this Mediation Guidelines.

   c. Benchmarking activities shall be conducted by Mediation Unit Members to improve the Mediation Units and Mediator’s performance.

3. Conduct of Meetings

   a. Semi-annual meetings with the Mediation Unit Members for coaching and updating and to share best practices shall be held at the Regional Office, whenever practicable; and

   b. Clustered Meetings may be held at the initiative of each cluster for a definite purpose.

4. Production of infomercials, flow charts and pamphlets to advocate ADR.

SECTION 15. RECORDKEEPING AND FORMS

All forms pertaining to the case must be kept confidential by the Mediation Unit. No person other than the mediator in charge of the case and the members of the Mediation Unit is allowed to view the case filed. Minutes of the mediation sessions prepared by the mediators to guide them in the process shall be destroyed upon termination or completion of the mediation process.

The original forms appended under DepEd Order No. 15, s. 2012 shall still be utilized.

SECTION 16. EFFECTIVITY

These policy guidelines shall take effect immediately.
DepED ORDER
No. 15, s. 2012

DEPED POLICY FRAMEWORK FOR THE IMPLEMENTATION OF THE ALTERNATIVE DISPUTE RESOLUTION (ADR) SYSTEM-MEDIATION

To: Undersecretaries
   Assistant Secretaries
   Bureau Directors
   Directors of Services, Centers and Heads of Units
   Regional Directors
   Schools Division/City Superintendents
   Heads, Public Elementary and Secondary Schools
   All Others Concerned

1. For the information and guidance of all concerned, the Department of Education (DepED) hereby issues the enclosed Policy Framework for the Implementation of Alternative Dispute Resolution (ADR) System-Mediation in DepED.

2. To implement this program, a Mediation Unit shall be established in the Central, Regional and Division Offices to be constituted by the Head of Office and composed of three (3) members who are non-mediators with one (1) member preferably from the Legal Division in the Central and Regional Offices and from the Administrative Unit in the Division Offices.

3. All DepED officials and employees in the Central, Regional and Division Offices who have completed the classroom training and internship on mediation conducted by the DepED through the Conflict Resolution (CoRe) Group shall comprise the roster of mediators.

4. For more information, all concerned may contact Ms. Sonia R. de Leon, Chief Administrative Officer, Employees Welfare and Benefits Division (EWBD), DepED Central Office at telephone no.: (02) 633-7229.

5. Immediate dissemination of and strict compliance with this Order is directed.

[Signature]
ATTY. ALBERTO T. MUYOT
Undersecretary
Officer-in-Charge
Encl.:  
As stated

References: DepEd Order: No. 22, s. 2007  
DepEd Memorandum: Nos. 100 and 492, s. 2010

To be indicated in the *Perpetual Index* under the following subjects:

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Model: ADR  
854-January 26, 2012/2-14
ALTERNATIVE DISPUTE RESOLUTION (ADR) SYSTEM – MEDIATION
IN THE DEPARTMENT OF EDUCATION

Section 1. Policy Statement

Pursuant to Executive Order No. 523 dated April 7, 2006 which instituted the
use of Alternative Dispute Resolution (ADR) in all government agencies in line with
Republic Act No. 9285 otherwise known as the “Alternative Dispute Resolution
(ADR) Act of 2004,” the Department of Education (DepEd) shall promote the use of
alternative dispute resolution (ADR) for a speedy resolution of disputes in the
Department. To this end, the DepEd recognizes the importance of resolving disputes
through the use of alternative dispute resolution processes, particularly mediation.
For this purpose, these rules shall govern the use of mediation in the Department.

The Department of Education hereby adopts the herein policy framework and
guidelines on mediation as a means to provide autonomy or freedom among
disputants to make arrangements in resolving their disputes.

Section 2. Objectives

The purpose of mediation is to provide a fast, fair and non-adversarial process
for managing disputes. Specifically, it aims to:

a. Manage disputes at the lowest possible level;
b. Provide an alternative procedure and enhance the existing mechanism in
managing disputes; and
c. Develop the capabilities of personnel in managing disputes at all levels.

Section 3. Definition of Terms

1. Alternative Dispute Resolution (ADR) – refers to any process used to resolve
a dispute or controversy, other than by adjudication of a presiding judge of a
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8. Mediation – refers to the process that facilitates communication and negotiation that assists the disputants towards reaching a voluntary and mutually acceptable settlement agreement.

9. Mediation Unit – refers to a unit established in the DepEd offices in charge of monitoring the implementation of mediation program at their respective levels.

10. Initial Conference – refers to the mandatory initial meeting in which the disputants involved in a conflict/dispute are called to appear before a mediator to discuss the process, benefits and advantages of mediation. Its purpose is to determine the readiness and willingness of the disputants to submit their dispute to mediation.

11. Private Caucus – refers to the process wherein the mediator, at his/her discretion, conducts separate sessions privately and in confidence with each of the disputing parties. This is the exploratory stage during the mediation process, where each party is encouraged to speak more openly about issues and potential options for settlement.

12. Settlement Agreement – refers to mutual concessions or the consensus arrived at by the contending parties during the mediation proceedings, reduced into writing, and signed by the disputants and the mediator.

13. Motu Proprio Cases – refer to cases initiated by the disciplining authority as provided in DepEd Order No. 49, s. 2006.

Section 4. Subject of Mediation

The following shall be subject to mediation:

1. Complaints/Grievances/Disputes concerning an act or omission of DepEd officials/employees alleged to be unreasonable, unfair, oppressive, discriminatory, illegal, unjust, improper or inefficient involving DepED officials and employees and those under the Department’s jurisdiction which maybe the subject of mediation and which fall under light offenses where the corresponding penalty is reprimand pursuant to Section 58 of DepEd Order
No. 49, s. 2006, otherwise known as the Revised Rules of Procedure of the Department of Education in Administrative Cases, such as:

a. Discourtesy in the course of official duties;
b. Improper or unauthorized solicitation of contributions from subordinate employees and by teachers or school officials from schoolchildren;
c. Violation of reasonable office rules and regulations;
d. Frequent unauthorized tardiness (habitual tardiness);
e. Gambling prohibited by law;
f. Refusal to render overtime service;
g. Disgraceful, immoral or dishonest conduct prior to entering the service;
h. Borrowing money by superior officers from subordinate employees;
i. Lending money at usurious rates of interest;
j. Willful failure to pay just debts or willful failure to pay taxes due to the government;
k. Lobbying for personal interest or gain in legislative halls and offices without authority;
l. Promoting the sale of tickets in behalf of private enterprises that are intended for charitable or public welfare purposes and even in the latter cases, if there is no prior authority;
m. Failure to act promptly on letters and requests within fifteen (15) days from receipt, except as otherwise provided in the rules implementing the Code of Conduct and Ethical Standards for Public Officials and Employees;
n. Failure to process documents and complete action on documents and papers within a reasonable period of time from preparation thereof, except as otherwise provided in the rules implementing the Code of Conduct and Ethical Standards for Public Officials and Employees;
o. Failure to attend to anyone who wants to avail himself of the services of the office, or act promptly and expeditiously on public transactions;
p. Engaging in the private practice of his profession unless authorized by the Constitution, law or regulation, provided that such practice will not conflict with his official functions; and
q. Pursuit of private business, vocation or profession without the permission required by Civil Service rules and regulations.

2. Other similar offenses which parties agreed to settle through mediation, except those that which cannot be subject to mediation, such as but not limited to the following:

a. Sexual harassment cases as provided for in Republic Act No. 7877;
b. Child abuse cases as provided for in Republic Act No. 7610;
c. Cases involving Violence Against Women and Children as provided for in Republic Act No. 9262;
d. Disciplinary cases not provided under paragraph 1, Section 4 of these policy guidelines which shall be resolved pursuant to the Uniform Rules on Administrative Cases;
e. Issues and problems related to the Performance Evaluation System which shall be handled by the Performance Evaluation Review Committee (PERC);
f. Motu proprio cases; and
g. Anonymous complaints.

Section 5. Form of Complaint

The complaint, grievance or request for assistance which is subject for mediation may be in any form, either oral or in writing or filed through electronic means. In any case, the requesting or complaining party shall indicate his/her complete address and contact numbers and those of the party/ies complained of.

Section 6. Mediation Unit

There shall be a Mediation Unit at the Central, Regional and Division Offices of the Department of Education. The Mediation Unit shall be constituted by the Head of Office and shall be composed of three (3) members who are non-mediators with one member preferably coming from the Legal Office.

The Mediation Unit shall manage disputes at their respective levels, which includes monitoring and evaluation of the implementation of the mediation program and the performance of the mediators. The Unit shall maintain a roster of trained mediators.

Section 7. The Mediation Process

1. Processing of Complaint/Grievance/Request for Assistance

All complaints/grievances/requests for assistance shall be submitted to the Head of Office where the respondent/party complained of is employed. This will then be forwarded to the Division/Regional/Central Mediation Units for determination whether:

a. it is appropriate for mediation under Section 4 of this policy guidelines;

b. it is practicable for disputants to attend the mediation proceedings; and

c. there is a need for emergency relief which makes referral to mediation impracticable.

The Central/Regional/Division Mediation Unit shall conduct the initial evaluation within five (5) days from receipt of the complaint/grievance/request for assistance. In the event that it is recommended for mediation, it shall then be docketed using the reference code numbers (Form No. 1) as provided in Annex A.

2. Selection of Mediator

The Mediation Unit shall provide a roster of mediators (Annex B) from which the disputing parties will select their common choices. In the event that more than one common choice is made, the Mediation Unit shall make the selection. In case the disputing parties do not have a common choice on a mediator, the Mediation Unit shall select a mediator by raffle.
3. Initial Conference / Failure to Attend

The initial conference shall be conducted within fifteen (15) calendar days from the date of acceptance by the selected mediator. The disputants may agree on the schedule of the subsequent conferences if warranted.

During the initial conference, the disputants shall sign an agreement to mediate (Form No. 5/Annex C) and agree to abide by these policy guidelines. The mediator will then commence with the mediation process. However, if any of the disputants fail to appear during the initial conference despite due notice, the mediator shall schedule another conference. Failure of one of the disputants to attend two (2) sessions without prior notice and/or justifiable cause shall warrant the termination of the mediation and the case shall be referred to the proper office for appropriate action or disposition.

4. Period for Settlement/Extension

If no settlement agreement is reached within thirty (30) calendar days from the date of the initial conference, the mediator may close and terminate the mediation proceedings, unless there is a written request from all disputants to extend the process. In no case shall the extension exceed thirty (30) days. If no settlement is reached, the case will be returned to the Mediation Unit for appropriate action.

5. Execution and Enforcement of Settlement Agreement

When the disputants reach a settlement, an agreement (Form No. 6/Annex D) shall be prepared and signed by the disputants with the assistance of their respective counsels, if there are any, and by the mediator.

The disputants and their respective counsels shall endeavor to make the terms and conditions of the settlement agreement complete and shall stipulate adequate provisions for the contingency of breach and the possibility of conflicting interpretations of its provisions.

If the disputants so desire, the settlement agreement may be deposited with the appropriate clerk of the regional trial court of the place where one of the disputants reside. Where there is a need to enforce the settlement agreement, a petition may be filed by any of the disputants with the same court.

Section 8. The Parties

1. Appearance of Parties

The parties shall appear in person. In the case of agencies and/or organizations, the parties may appoint representatives to act for and on their behalf at the mediation. The parties shall confer upon their representatives the
necessary full authority or special power of attorney to enter into mediation and sign agreements.

2. Appearance of Legal Counsel

The parties may appear with or without a legal counsel. The absence or unavailability of a legal counsel shall not prevent the mediation to proceed.

The parties may seek outside professional advice that will aid them in making informed decisions and in understanding the implications of any proposal. Also, the parties may seek independent and/or technical advice before a settlement agreement is signed and they are free to make whatever choices they desire regarding specific settlement options.

The legal counsel may be consulted by the parties, but he/she (legal counsel) shall not be allowed to participate during the mediation. In general, the legal counsel will act only as an observer.

Section 9. The Mediator

1. Qualifications of a Mediator

The mediator shall possess the following qualifications:

a. Has the willingness to assist the disputing parties;
b. Displays patience, empathy and integrity;
c. Has completed forty (40) hours of classroom training on mediation and the corresponding forty (40) hours of internship;
d. Certified by a recognized mediation training institution and by DepEd as a mediator.

2. Disclosure of Interest

The mediator shall immediately disclose to the Mediation Unit, as well as to the disputing parties, all circumstances that are likely to create an impression of bias or prevent him from acting promptly. Upon receipt of the disclosure, the Mediation Unit shall select another mediator by raffle, unless the disputing parties decide otherwise.

3. Duties/Functions

The mediator shall:

a. Abide by the terms of the Agreement to Mediate (Form No. No. 5) and the Code of Conduct for Mediators (Annex E)
b. Facilitate the negotiations between the parties toward a mutually acceptable solution; and
c. Assist the parties in drawing up the written settlement agreement.
In case of failure of the mediation and the case is elevated to a court of law, the mediator who mediated such a case shall inhibit himself/herself in the litigation and/or investigation of the same case in whatever capacity.

The mediator shall not make any ruling, finding or recommendation with respect to the dispute even with the express request of all the parties involved.

Section 10. Confidentiality

1. Confidentiality of Proceedings
   a. All mediation proceedings shall be kept strictly confidential. No transcript or any audio visual recording shall be taken during the mediation process.
   b. All notes and admissions of the parties involved in the dispute shall not be admitted in any judicial or quasi-judicial proceedings.
   c. The mediator may take down personal notes which shall not form part of the records of the mediation process. These personal notes shall be destroyed immediately upon termination of the mediation process.

2. Confidentiality Issues to be Discussed
   The mediator shall discuss the issues of confidentiality with the parties involved in the dispute during the initial conference.

3. Privilege of Confidentiality
   a. All information obtained through mediation shall be construed as strictly privileged and highly confidential.
   b. A mediator or party involved in the dispute or the counsel for the parties shall be prohibited to disclose confidential information through all forms of media – print, broadcast or electronic.
   c. In a judicial or quasi-judicial proceeding, a mediator is prohibited to testify or to execute any affidavit about any confidential information gathered during the mediation process.

4. Exception to the Privilege of Confidentiality
   There is no privilege against disclosure under this section if the mediation communication is:
   a. In an agreement evidenced by a record authenticated by all parties to the agreement;
   b. Available to the public;
   c. A threat or statement of a plan to inflict bodily injury or commit a crime of violence;
   d. Intentionally used to plan a crime, attempt to commit a crime, or conceal an ongoing crime or criminal activity;
   e. Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediator in a proceeding; or
f. Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a party, non-party participant, or representative of a party based on conduct occurring during the mediation.

5. **Waiver of Privilege**

The privilege of confidentially of information may be waived orally or in writing during the mediation proceedings by the mediator and the parties involved in the dispute.

6. **Prohibitions/Exceptions**

A mediator shall not make a report, assessment, evaluation, recommendation, finding or other forms of communication regarding a mediation to a court or agency or other authority that makes a ruling on a dispute that is the subject of a mediation, except:

a. To state that a mediation took place or was terminated or that a settlement was reached; and
b. As permitted to be disclosed under Section 10.4 of this policy guidelines.

**Section 11. Mediation of Pending Cases**

A pending case may be subjected to a mediation process as long as it falls under those instances/cases covered by mediation or it is within the jurisdiction of the Mediation Unit and that both parties agree to the process.

**Section 12. Termination of Proceedings**

1. **Withdrawal of Parties**

Any of the parties may withdraw in writing from the mediation at any time during the mediation process. *(Please refer to Form No. 10, Annex F)*

2. **Grounds for Termination**

The process shall be terminated when:

a. A party withdraws from the mediation process;
b. A written settlement agreement is executed and duly signed by the parties;
c. No settlement agreement is reached; and
d. There are circumstances which exist as described in sub-paragraphs c and d of Section 10.4 of this policy guidelines.

3. **Motions for Re-Opening**
As a rule, only one motion or request from both parties for the re-opening of mediation proceedings shall be entertained subject to the approval of the Mediation Unit. (*Please refer to Form No. 11, Annex G*)

**Section 13. Incentives, Compensation and Funding**

Mediation in DepEd is a service given for free. The mediators and members of the Mediation Unit shall not request, solicit, receive or accept any gift or any type of compensation from the parties for the mediation he/she is handling. However, pursuant to Section 5 of Executive Order No. 523, funding for ADR management shall be included in the yearly appropriations of DepEd. This fund shall include, but not limited to, expenses for travel, training, continuing education of the mediators and other incidental expenses, and the incentive structure to be set by DepEd to compensate the mediators and members of the Mediation Units for services rendered. The grant of honoraria for mediators and members of the Mediation Units as incentive shall be subject to the existing rules and regulations of the COA and DBM.

**Section 14. Advocacy**

The DepEd shall conduct regular orientation on the mediation process and its benefits to all its employees.

**Section 15. Recordkeeping**

All forms pertaining to the case must be kept confidential by the Mediation Unit. No person other than the mediator in charge of the case and the members of the Mediation Unit is allowed to view the case file. Minutes of the mediation sessions prepared by the mediators to guide them in the process shall be destroyed upon termination or completion of the mediation process.

**Section 16. Review and Evaluation**

The Secretary of Education may alter all or portions of these policy guidelines when deemed necessary. However, revisions must ensure compliance with existing pertinent laws such as ADR Act of 2004 and Executive Order No. 523, s. 2006.

**Section 17. Effectivity**

These ADR policy guidelines shall take effect fifteen (15) days after publication or posting at the DepEd website.