

[**NATIONAL CONCILIATION AND MEDIATION BOARD, July 30, 2018**]

THE REVISED NATIONAL CONCILIATION AND MEDIATION BOARD MANUAL OF PROCEDURES FOR CONCILIATION AND PREVENTIVE MEDIATION CASES 2017 EDITION

Adopted: 15 December 2017

Date Filed: 30 July 2018

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 278-280 of the Labor Code, as amended by RA 6715, the herein Revised National Conciliation and Mediation Board Manual of Procedures for Conciliation and Preventive Mediation Cases is hereby adopted and promulgated.

RULE I

Title and Construction

Section 1. Title. This Manual shall be known as the Revised National Conciliation and Mediation Board Manual of Procedures for Conciliation and Preventive Mediation Cases.

Section 2. Construction. This Revised National Conciliation and Mediation Board Manual of Procedures for Conciliation and Preventive Mediation Cases shall be liberally construed to carry out the objectives of the Labor Code of the Philippines, as amended, to promote conciliation and mediation as a preferred mode of dispute settlement and as integral component of the collective bargaining process.

Section 3. Coverage. This Manual shall cover Preventive Mediation, Notice of Strike/Lockout, Actual Strike/Lockout cases handling.

**RULE II Seal
of NCMB**

Section 1. Seal. The seal represents national unity of the Filipino people in general and the social partners in particular, in the attainment of industrial peace and prosperity, productivity and national development.

**RULE III Definition
of Terms**

1. **Branch Director** – refers to the head of a regional branch of the NCMB.
2. **Bureau of Labor Relations (BLR)** – refers to the bureau in the Department

of Labor and Employment which handles appealed cases from decisions of Mediator-Arbiters on intra/inter-union disputes. It is also the bureau which handles the processing and registration of national unions and federations.

3. **Collective Bargaining Agreement (CBA)** – the negotiated contract between a legitimate labor organization and the employer concerning wages, hours of work, and all other terms and conditions of employment in a bargaining unit, including mandatory provisions for grievances and arbitration machineries.

4. **Conciliation** – is a mild form of intervention by a neutral third party, the Conciliator-Mediator, who relying on his persuasive expertise, takes an active role in assisting parties by trying to keep disputants talking, facilitating other procedural niceties, carrying message back and forth between the parties, and generally being a good fellow who tries to keep things calm and forward-looking in a tense situation.

5. **Conciliation-Mediation Case** – refers to a request for preventive mediation, notice of strike or lockout and actual strike lockout.

6. **Conciliator-Mediator** – refers to an official of the National Conciliation and Mediation Board (NCMB) whose principal function is to settle and dispose of potential and actual labor disputes through preventive mediation and conciliation including the promotion of voluntary approaches to labor disputes prevention and settlement.

7. **Deputy Executive Director** – refers to the official who assists the Executive Director of the NCMB in performing the functions of the Board.

8. **Department of Labor and Employment (DOLE)** – the national government agency mandated to formulate policies, implement programs and serve as the policy-coordinating arm of the Executive Branch in the field of labor and employment.

9. **Executive Director** – refers to the head of the NCMB.

10. **Executive Labor Arbiter (ELA)** – refers to the head of a Regional Arbitration Branch (RAB) of the National Labor Relations Commission (NLRC).

11. **Grievance Machinery** – refers to the internal rules of procedures established by the parties in their collective bargaining agreement with voluntary arbitration as the terminal step, which are intended to resolve all issues arising from the implementation and interpretation of their collective agreement and the company personnel policies or company rules and regulations.

12. **Improved Offer Balloting** – refers to a referendum by secret balloting conducted by the NCMB on the improved offer of the employer.

13. **Intra-Union Dispute** – refers to a case involving the control, supervision and management of the internal affairs of a duly registered labor union such as those relating to specific violations of the union's constitution by laws.

14. **Inter-Union Dispute/Representation Dispute** – refers to a case involving

petition for certification election and direct certification filed by a duly registered labor organization which is seeking to be recognized as the sole and exclusive bargaining agent of the employees in the appropriate bargaining unit of the company, firm or establishment.

15. **Joint DOLE-PNP-PEZA guidelines** – refers to the guidelines prescribed to govern the official conduct of all members of the Philippine National Police (PNP), Economic Zone Police and security guards, company security guards and similar personnel during labor disputes, including the necessary coordination with the other concerned relevant government agencies.

16. **Labor Arbiter** – refers to an official of the NLRC who hears and decides labor disputes.

17. **Labor or Industrial Disputes** – refers to any controversy or matter concerning terms or conditions of employment or the association or representation of persons in negotiating the fixing, maintaining, changing or arranging the terms and conditions of employment, regardless or whether or not the disputants stand in the proximate relationship of employer and employee.

18. **Labor Standards Laws** – refer to the minimum terms and conditions of employment set by law under Book III of the Labor Code of the Philippines, as amended.

19. **Labor Union** – refers to an organization of employees in a company, firm or establishment, duly registered with the DOLE.

20. **Lockout** – refers to the temporary refusal of an employer to furnish work as a result of a labor or industrial dispute.

21. **Lockout Vote** – refers to the majority vote of the members of the Board of Directors/Trustees of the corporation or association or of the partners in a partnership obtained by secret ballot in a meeting called for that purpose.

22. **Mediation** – is a mild intervention by a neutral third party, the Conciliator-Mediator, who advises the parties or offers solutions or alternatives to the problems with the end in view of assisting them toward voluntarily reaching their own mutually acceptable settlement of the dispute.

23. **National Conciliation and Mediation Board (NCMB)** – refers to the agency attached to DOLE principally in-charge of the settlement of labor disputes through conciliation, mediation and promotion of voluntary approaches to labor dispute prevention and settlement.

24. **National Labor Relations Commission (NLRC)** – refers to the agency attached to DOLE tasked to decide labor cases through compulsory arbitration.

25. **Notice of Lockout** – refers to the notification filed by an employer with the appropriate Regional Branch informing the latter of its intention to temporarily cease its operation due to alleged commission by a registered labor union of unfair labor practice act/s or a deadlock in collective bargaining negotiations.

26. **Notice of Strike** – refers to the notification filed by a registered labor union with the appropriate Regional Branch informing the latter of its intention to go on strike due to alleged commission by the employer of unfair labor practice act/s or a deadlock in collective bargaining negotiations.

27. **Picketing** – refers to the right of workers to march to and fro before an establishment involved in a labor dispute generally accompanied by the carrying and displaying of signs, placards, and banners intended to inform the public about the dispute.

28. **Preventive Mediation Case** – refers to the potential labor dispute subject for conciliation and mediation assistance sought by either or both parties or upon the initiative of the NCMB to avoid the occurrence of actual labor dispute.

29. **Reduced Offer Balloting** – refers to a referendum by secret balloting conducted by the Regional Branch on the reduced offer of the union.

30. **Regional Director** – refers to the head of the Regional Office of the DOLE.

31. **Regional Inter-Agency Coordinating and Monitoring Committee (RICMC)** – refers to the inter-agency body that ensures the full and effective application of the operational guidelines on inter-agency coordination and monitoring of labor disputes.

32. **Strike** – refers to any temporary stoppage of work in an establishment by the concerted action of its employees as a result of an industrial or labor dispute.

33. **Strike Vote** – refers to the vote of the union members on a pending notice of strike, obtained by secret ballot in a meeting called for that purpose.

34. **Supervision** – refers to the oversight role of the Regional Branch of the Board to ensure the free, voluntary, secrecy and sanctity of the balloting process during the conduct of a strike vote or lockout.

35. **Unfair Labor Practice Acts (ULP)** – refer to acts committed either by employers or labor organizations as enumerated under Articles 259 and 260 of the Labor Code, as amended.

36. **Voluntary Arbitration** – a mode of settling labor management disputes by which the parties select a competent, trained and impartial person who shall decide on the merits of the case and whose decision is final, executor and binding.

37. **Voluntary Arbitrator** – any person accredited by the Board as such, or any person named or designated in the collective bargaining agreement by the parties, or one chosen, with or without the assistance of NCMB, pursuant to a selection procedure agreed upon in the collective bargaining agreement or during the conciliation conference who shall hear and decide on the merits of a voluntary arbitration case.

38. **Workplace** – refers to the physical location where the workers/union members regularly perform their duties.

RULE IV

Strike, Lockout, Preventive Mediation, Notices and Appearance

Section 1. Prescribed Form. – All requests for preventive mediation, notice of strike, lockout cases shall be in the Board's FM-DOLE-NCMB-01.01(A) (See Annex 1).

Section 2. Contents of Form. – The form shall contain, among other information:

- a. the names, contact number/s, email and office addresses of the employer and the union involved;
- b. the nature of the industry to which the employer belongs;
- c. name, signature, and position of filer;
- d. total employment, number of union members, and workers involved, all segregated to male or female;
- e. effectivity of old/existing CBA;
- f. proof of service to the other party, in case of notice of strike/lockout (NS/L)
- g. unresolved issue/s;
- h. pending labor disputes involving either party;
- i. efforts taken at the plant level; and
- j. other relevant data that may facilitate the settlement of the dispute.

In case of bargaining deadlock, the proposals and counter-proposals of the parties, as far as practicable, shall be attached to the notice.

In case of unfair labor practice, the acts complained of and the efforts to resolve the dispute amicably, as far as practicable, shall be stated or attached to the notice.

Section 3. Who may file a request for Preventive Mediation, Notice of Strike or Lockout. – the following may file a request for preventive mediation, notice of strike or lockout:

- a. The president or any authorized representative of a certified or duly recognized bargaining representative in cases of bargaining deadlocks and unfair labor practices.
- b. In the absence of a certified or duly recognized bargaining representative, the president or any authorized representative of a legitimate labor organization in the establishment on grounds of unfair labor practice.
- c. The employer or any authorized representative in cases of bargaining deadlocks and unfair labor practices.