

[ADMINISTRATIVE CIRCULAR NO. 1, S. 2018, July 13, 2018]

**2018 NATIONAL COMMISSION ON INDIGENOUS PEOPLES
(NCIP) RULES OF PROCEDURE**

Adopted: 18 April 2018

Date Filed: 13 July 2018

RULE I - PRELIMINARY PROVISIONS

Section 1. Title and Scope. - This Rules shall be known as the "2018 National Commission on Indigenous Peoples (NCIP) Rules of Procedure". It shall govern the procedures for the resolution of conflicts/disputes and exercise of the NCIP's quasi-judicial powers.

Section 2. Construction, Interpretation, and Application of the Rules. - This Rules shall be liberally construed to give meaning to the provisions of the 1987 Constitution of the Republic of the Philippines, Republic Act 8371, otherwise known as "The Indigenous Peoples Rights Act of 1997" (IPRA) and other relevant legislations and to assist the parties in obtaining just, expeditious and inexpensive resolution and settlement of claims and disputes. The following shall apply in the interpretation of this rules:

- a. All doubts in the interpretation of the provisions of this Rules or any ambiguity in their application shall be resolved liberally in favor of Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs);
- b. In applying the provisions of this Rules in relation to other national laws, the integrity of the ancestral domains, culture, values, practices, institution, customary laws and traditions of the ICCs/IPs, shall be the paramount consideration;
- c. The primacy of customary laws shall be upheld in resolving all disputes involving ICCs/IPs;
- d. In resolving cases, the customary laws, traditions and practices of the ICCs/IPs in the ancestral domain where the conflicts arise shall first be applied with respect to property rights, claims of ownership, hereditary succession and settlement of land disputes;
- e. Proceedings in the NCIP shall be summary in nature and non-litigious.

RULE II - DEFINITION OF TERMS

Section 3. Definition of Terms. - The terms and phrases defined under Section 3

(a) to (p) of R.A. 8371 shall be given the same meanings when used herein; and in addition, thereto:

- a. Commission En Banc (CEB)** - shall mean the Commissioners of the NCIP acting as a quasi-judicial body;
- b. Regional Hearing Office (RHO)** - the Office tasked to adjudicate conflicting claims in accordance with this Rules;
- c. Regional Hearing Officer (RHO)** - Refers to the duly appointed or officially designated officer who heads the RHO and is authorized to hear and resolve cases filed before it in accordance with this Rules;
- d. Special Hearing Office** - Are those Offices created by the CEB with the primary purpose of aiding or furthering the quasi-judicial functions of the NCIP;
- e. Amicus Curiae** - refers to a practitioner and/or a person knowledgeable on indigenous knowledge systems and practices (IKSP) and on customary laws, consulted on their expertise as friends of the court;
- f. Primacy of Customary Laws** - refers to the legal concept that when there are disputes, customary laws must be applied first before the parties involved seek recourse through the NCIP or the regular Courts;
- g. Original Jurisdiction** - is the authority of the CEB or the RHO to entertain a case in accordance with this Rules for the first time, try it, and set forth judgment on the law and facts.

RULE III - POWER AND AUTHORITY TO HEAR AND RESOLVE CASES (Jurisdiction)

Section 4. Original Jurisdiction of the RHO. - The NCIP, through its RHOs, shall have jurisdiction over the following cases arising between and among parties belonging to the same ICCs/IPs group:

- a. All claims and disputes involving rights of ICCs/IPs: Provided, however that no such dispute shall be brought to the NCIP unless the parties have exhausted all remedies provided under the customary laws. For this purpose, a certification shall be issued by the Council of Elders/Leaders who participated in the attempt to settle the dispute that the same has not been resolved, which certification shall be a condition precedent to the filing of a petition with the NCIP;
- b. Violation of any provisions of RA 8371, such as, but not limited to, unauthorized and/or unlawful intrusion upon any ancestral lands or domains as stated in Sec. 10, Chapter III, or shall commit any of the prohibited acts mentioned in Sections 21 and 24, Chapter V, Section 33, Chapter VI thereof, which are punishable under customary laws of the ICCs/IPs concerned: Provided, that the imposable penalty shall not be cruel, degrading or inhuman; nor the same amounts to excessive fines or imposition of the death penalty. However, in the event

that the aggrieved party choose to avail the remedies provided under other existing laws, the regular process in the filing of cases as provided therein shall be observed.

Section 5. Original Jurisdiction of the CEB. - The CEB shall exercise original jurisdiction over cases involving cancellation of CADTs/CALTs alleged to have been fraudulently acquired and issued, provided that such case for cancellation is filed within one (1) year from the date of registration with the Register of Deeds.

Section 6. Other Quasi-Judicial Powers. - In the exercise of its quasi-judicial powers, the NCIP shall have the power and authority:

- a. To promulgate rules and regulations governing the hearing and disposition of cases filed before it as well as those pertaining to its internal function and such rules and regulations as may be necessary to carry out the purposes of the IPRA
- b. To administer oaths, summon the parties to a controversy, issue subpoenas, requiring the attendance and testimony of witnesses and or the production of such books, papers, contracts, records, agreements and other document of similar nature as may be material to a just determination of the matter under investigation or hearing conducted in pursuance of the IPRA;
- c. To hold any person in contempt, directly or indirectly, and impose appropriate penalties therefore, and
- d. To enjoin any or all acts involving or arising from any case pending before it which, if not restrained forthwith, may cause grave or irreparable damage to any of the parties to the case or seriously affect social or economic activity.

RULE IV - MEDIATION BEFORE ADJUDICATION

Section 7. Mediation Under Customary Laws. - No case shall be brought before the CEB or the RHO unless the parties have exhausted all remedies provided for under the customary laws or indigenous dispute resolution processes of the ICCs/IPs. As proof thereof, the complainant/petitioner shall submit a Certificate of Non-Resolution (CNR) issued by the concerned council of elders/leaders.

When a complaint/petition is filed without the required CNR, the RHO shall refer the case to the concerned Council of Elders/Leaders, through the NCIP Provincial Officer or the head of the Service Center, provided that the RHO shall actively monitor the development of the proceedings under the indigenous justice system and concerned Council of Elders/Leaders.

Any prayer for the issuance of a Temporary Restraining Order (TRO) or Writ of Preliminary Injunction (WPI) shall not exempt the parties from the required mediation as provided herein.

Section 8. Referral to Mediators in Certain Cases. - When a complainant/ petitioner alleges that there is no known Council of Elders/Leaders who can mediate or if the

Elders/Leaders refuse or are disqualified to mediate, the case shall be referred to a mediator/s chosen by them from an identified pool of accredited mediators or one mutually agreed upon by the parties. In case the parties fail to agree on who will mediate or when one or both of the parties refuse to submit to mediation, the RHO shall direct the NCIP Provincial Officer, the head of the Service Center, or any qualified officer of the NCIP to mediate the case.

If no settlement or compromise is reached after mediation, the assigned mediator shall issue a certificate to that effect.

RULE V - WHERE TO FILE

Section 9. Filing of Complaints or Petitions. - Complaints or petitions which are cognizable by the NCIP shall be filed with the CEB or the concerned RHO or with the nearest NCIP Regional or Provincial Office or Service Center. Such filing with the nearest NCIP Regional Office or Provincial Office or Service Center shall interrupt the running of the prescriptive or reglementary periods.

Complaints or petitions involving ancestral domain/land or portions thereof straddling two or more ethnographic regions shall be filed with the RHO where the greater portion of the subject property is situated.

Section 10. Transmittal to the CEB and/or RHO. -The NCIP Regional Office, Provincial Office or Service Center with which the complaint is filed shall cause the transmittal of the complaint or petition within ten (10) days from receipt thereof to the CEB or the RHO, as the case may be. The NCIP receiving office shall not be required to docket the case. They shall, however, keep a record of all cases received and transmitted.

Upon receipt of the complaint/petition by the Clerk of the Commission or concerned RHO, the same shall be docketed and the date of receipt indicated by the NCIP Regional Office, Provincial Office or Service Center shall be considered as the official date of receipt of the complaint/petition.

Section 11. Special Hearing Offices, Alternative Venues. - Whenever necessary, the CEB may create special hearing offices as alternative venues for the purpose of aiding or furthering the quasi-judicial functions of the NCIP.

RULE VI - WHO MAY FILE

Section 12. Parties to a Case. - A case may be filed by any interested person/s who will be called as the "complainant" or "petitioner". The person/s against whom the case is filed shall be referred to as the "defendant" or "respondent".

In cases involving community interest, the real party in interest shall be the ICCs/IPs, represented by person/s authorized through a community resolution and selected following their customary practices.

Section 13. Indigent Party. - ICCs/IPs who are parties to a case may be authorized to prosecute their case or defend themselves as indigent litigants if the CEB or the RHO, upon application, is satisfied that they are indigent. Such authority shall exempt said parties from payment of docket, appeal, and other legal fees

including transcripts of stenographic notes as well as injunctive bond which the RHO or the CEB may order to be furnished to them.

RULE VII - PLEADINGS AND MOTIONS

Section 14. Pleadings Allowed. -Pleadings allowed shall be the complaint/petition and the answer, both of which must be verified by the parties before any officer authorized by law to administer oath. For purposes of verification of the petition/complaint or answer, the NCIP Legal Officers may administer oath.

Section 15. Complaint/Petition. - A complaint or petition is a document stating clearly the act/s of a party which violates the rights of the complainant or petitioner (cause of action). The complaint or petition shall state and narrate clearly the following:

- a) the subject of the case which should be established to be within the jurisdiction of the NCIP to resolve;
- b) the violations committed, the substance of the claim made, the grounds relied upon, and the relief being pursued;
- c) the names, residences, contact details of the plaintiff/s and defendant/s and the ICCs/IPs group to which they belong;
- d) certificate of non-forum shopping or a statement that the complainant or petitioner has not filed or commenced any other case or proceeding involving the same issues in the Supreme Court, Court of Appeals, or any division thereof, or any court or tribunal; and in the event that he/she will file such case in the future, undertake to inform the NCIP of such fact within five (5) days from knowledge;

In the absence of a complaint or petition, ICCs/IPs may fill out a complaint/petition sheet which are available at the RHO. The complaint/petition sheet may be translated in Tagalog and/or in the dialect known to the complainant/petitioner, and shall be in the form prescribed below:

REPUBLIC OF THE PHILIPPINES
OFFICE OF THE PRESIDENT

NATIONAL COMMISSION ON INDIGENOUS PEOPLES

COMPLAINT/PETITION SHEET
CASE NO.

1. _____
NAME OF COMPLAINANT/PETITIONER
(pangalan ng nagrereklamo)

2. _____
NAME OF DEFENDANT/RESPONDENT
(pangalan ng nirereklamo)

3. _____
ADDRESS OF COMPLAINANT/ PETITIONER
(tirahan ng nagrereklamo)