

[NCMB, November 16, 1998]

**MANUAL OF PROCEDURES IN THE SETTLEMENT AND
DISPOSITION OF CONCILIATION AND PREVENTIVE MEDIATION
CASES**

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 263-265 of the Labor Code, as amended by RA 6715, the herein Manual of Procedures in the Settlement and Disposition of Conciliation and Preventive Mediation Cases is hereby adopted and promulgated.

Rule I

Title and Construction

SECTION 1. Title — This Manual of Procedures in the settlement and disposition of conciliation and preventive mediation cases shall be known as the National Conciliation and Mediation Board's Manual of Procedures for Conciliation and Preventive Mediation Cases.

SECTION 2. Construction — This 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 an integral component of the collective bargaining process.

Rule II

Seal of the NCMB

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

Rule III

Definition of Terms

SECTION 1. Definition of Terms —

1. **Bargaining Deadlock** — refers to a situation in a collective bargaining negotiations wherein parties have not reached a mutually acceptable settlement.
2. **Bureau of Labor Relations** — means the Bureau of Labor Relations and/or the Labor Relations Division in the Regional Office of the Department of Labor and Employment.

3. **Collective Bargaining Agreement** — refers to 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.
4. **Conciliation-Mediation** — refers to the process of dispute management conducted by a Conciliator-Mediator, with the end in view of facilitating amicable settlement of the labor dispute.
5. **Conciliator-Mediator** — is an officer of the Board whose principle function is to assist in the settlement and disposition of labor-management disputes through conciliation and preventive mediation, including the promotion and encouragement of voluntary approaches to labor disputes prevention and settlement.
6. **Executive Director IV** — refers to the head of the National Conciliation and Mediation Board.
7. **Employer** — includes any person acting in the interest of an employer directly or indirectly. The term shall not include any labor organization or any of its officers or agents except when acting as an employer.
8. **Employee** — includes any person in the employ of a particular employer. The term shall not be limited to the employees of a particular employer, unless the Code so explicitly states. It shall include any individual whose work has ceased as a result or in connection with any current labor dispute or because of unfair labor practice if he has not obtained any other substantially equivalent and regular employment.
9. **Grievance** — refers to any question by either the employer or the union regarding the interpretation or implementation of any provision of the collective bargaining agreement or interpretation or enforcement of company personnel policies.
10. **Grievance Procedures** — refer to the procedures for the adjustment and resolution of grievances arising from the interpretation or implementation of collective bargaining agreement and those arising from the interpretation or enforcement of company personnel policies.
11. **Improved Offer Balloting** — refers to a referendum by secret balloting by the members of the Union on the improved offer of the employer.
12. **Inter-Union Disputes** — refer to any conflict between and among legitimate labor organizations involving questions of representation for purposes of collective bargaining. It also includes all other conflicts which legitimate labor organizations may have against each other based on any violations of their rights as labor organizations.
13. **Intra-Union Disputes** — refer to any conflict between and among union members, and includes all disputes or grievances arising from any violation of or disagreement over any provision of the constitution and by-laws of a union, including cases arising from chartering or affiliation of labor organizations or

from any violation of the rights and conditions of union membership provided for in the Code.

14. **Labor or Industrial Dispute** — includes any controversy or matter concerning terms or conditions of employment or the association or representation of persons in negotiating, fixing, maintaining, changing or arranging the terms and conditions of employment, regardless of whether or not the disputants stand in the proximate relationship of employers and employees.
15. **Labor Standards Laws** — refer to the minimum terms and conditions of employment set by law under the Labor Code of the Philippines, as amended and other related laws.
16. **Lockout** — means the temporary refusal of an employer to furnish work as a result of a labor or industrial dispute.
17. **Lockout Vote** — refers to the secret balloting undertaken by the members of the Board of Directors of a corporation or association or of the partners in a partnership to determine whether or not to declare a lockout in a meeting called for the purpose.
18. **Med-Arbiter** — is an officer in the Regional Office or in the Bureau authorized to hear, conciliate, mediate and decide representation cases, or to assist in the disposition of intra or inter-union disputes.
19. **National Conciliation and Mediation Board** — NCMB, or the Board, for short, means the National Conciliation and Mediation Board established under Executive Order No. 126.
20. **National Labor Relations Commission** — NLRC, for short, refers to the National Labor Relations Commission or any of its divisions or any of its Regional Arbitration Branches.
21. **Notice of Lockout** — refers to the notification filed by an employer with the appropriate NCMB regional branches informing the latter of its intention to lockout.
22. **Notice of Strike** — refers to the notification filed by a duly registered labor union with the appropriate NCMB regional branches informing the latter of its intention to go on strike.
23. **Picketing** — is the right of workers to peacefully march to and fro before an establishment involved in a labor dispute generally accompanied by the carrying and display of signs, placards and banners intended to inform the public about the dispute.
24. **Preventive Mediation Cases** — refer to labor disputes which are the subject of a formal or informal request for conciliation and mediation assistance sought by either or both parties or upon the initiative of the NCMB.

25. **Reduced Offer Balloting** — refers to a referendum conducted by the Board of Directors or Trustees or the Partners of a corporation or a partnership on the reduced offer of the union.
26. **Regional Branch Director** — refers to the head of a Regional Branch of the National Conciliation and Mediation Board.
27. **Regional Director** — refers to the head of the Regional Office of the Department of Labor and Employment.
28. **Strike** — means any temporary stoppage of work by the concerted action of employees as a result of a labor or industrial dispute.
29. **Strike Area** — means the establishment, warehouses, depots, plants or offices including the sites or premises used as run-away shops of the employer struck against, as well as the immediate vicinity actually used by picketing strikers in moving to and fro before all points of entrance to and exit from said establishment.
30. **Strike Vote Balloting** — refers to the secret balloting undertaken by the members of the Union in the bargaining unit concerned to determine whether or not to declare a strike in meetings or referenda called for that purpose.
31. **Unfair Labor Practice Acts** — ULP, for short, are those acts committed either by employers or labor organizations as enumerated under Articles 248 and 249 of the Labor Code, as amended.
32. **Union** — also known as legitimate labor organization, is any association or organization of employees which exists in whole or in part for the purpose of collective bargaining or for dealing with employers concerning terms and conditions of employment, duly registered with the Department. The term includes a local/chapter directly chartered by a federation or national union which has been duly reported to the Department in accordance with Rule VI Section 2 of Book V of the Labor Code.
33. **Voluntary Arbitrator** — any person accredited by the NCMB as such, or any person named or designated in the collective bargaining agreement by the parties to act as their voluntary arbitrator, or one chosen, with or without the assistance of the NCMB, pursuant to a selection procedure agreed upon in the collective bargaining agreement.

Rule IV

Conduct and Decorum

SECTION 1. Conduct — The Conciliator-Mediator shall conduct itself with dignity and respect and to maintain a life of unblemished reputation and integrity. He shall maintain at all times impartiality and independence of judgment.

SECTION 2. Decorum — The Conciliator-Mediator shall at all time appear properly dressed.

Rule V
Strike, Lockout, Preventive Mediation Notices and Appearance

SECTION 1. Grounds for Strike and Lockout — A strike or lockout may be declared in cases of:

- a. deadlock in collective bargaining negotiations; and
- b. unfair labor practice.

SECTION 2. Notices of Strike and Lockout — Any strike or lockout must be properly covered by a notice of strike or lockout using the Board's prescribed Form No. 01 (See Annex 1^{*}).

SECTION 3. Contents of Notice — The notice shall state, among others, the names and addresses of the employer and the union involved, the nature of the industry to which the employer belongs, the number of union members and of the workers in the bargaining unit, and such other relevant data as may facilitate the settlement of the dispute, such as a brief statement or enumeration of all pending labor disputes involving the same parties.

In cases of bargaining deadlocks, the notice shall, as far as practicable, further state the unresolved issues in the bargaining negotiations and be accompanied by the written proposals of the union, the counter-proposals of the employer and the proof of a request for conference to settle the differences. In cases of unfair labor practices, the notice shall, as far as practicable, state the specific acts complained of and the efforts taken to resolve the dispute amicably.

Any notice which does not conform with the requirements herein and of the foregoing sections shall be deemed as not having been filed and the party concerned shall be so informed by the regional branch of the Board.

SECTION 4. Who may file a notice, or declare a strike or lockout, or request for preventive mediation assistance — Any certified or duly recognized bargaining representative may file a notice or declare a strike or request for preventive mediation in cases of bargaining deadlock and unfair labor practices. The employer may file a notice or declare lockout or request for preventive mediation assistance in the same cases. In the absence of a certified or duly recognized bargaining representative, any legitimate labor organization in the establishment may file a notice, request for preventive mediation assistance or declare a strike but only on grounds of unfair labor practices.

SECTION 5. Where to file notice or request — A notice of strike or lockout or request for preventive mediation assistance shall be filed with the appropriate NCMB regional branch or any of its extension offices having jurisdiction over the workplace of the union members.

- a. If the notice of strike or lockout or request for preventive mediation assistance is filed in other regions which has no jurisdiction over the workplace of the union members, the same shall be indorsed to the Regional Branch which has jurisdiction over the workplace. In this instance, the date of filing of the notice of strike or lockout or request for preventive mediation assistance shall be