



Republic of the Philippines
Department of Education



FEB 17 2012

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.


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:

BUREAUS & OFFICES
COMPLAINTS

LEGISLATION
POLICY

UNIT

Madel: 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 court or an officer of a government agency, as defined in Republic Act No. 9285, wherein a neutral third party participates to assist in the resolution of issues which includes voluntary mediation for the purpose of this framework.
2. DepEd – refers to the Department of Education which includes the Central Office, Regional Offices, Division Offices, District Offices and public elementary and secondary schools.
3. 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.

4. Dispute – refers to any disagreement among parties that may result in a complaint.
5. Disputants – refer to the parties involved or having a stake in a conflict or controversy.
6. Complainant – refers to any person filing a complaint.
7. Mediator – refers to a “neutral/third party” official or employee of DepEd certified by the Department to handle or conduct a mediation process.
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 Propio 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 confidentiality 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 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.

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.