



Republic of the Philippines
DEPARTMENT of AGRARIAN REFORM

DAR MEMORANDUM CIRCULAR NO. 12
Series of 2009

SUBJECT: DAR MANUAL ON LEGAL ASSISTANCE

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**ARTICLE I**

**PURPOSE**

Section 1. **Purpose.** - This manual is issued for the purpose of setting forth, defining and consolidating the pertinent provisions of law, policies and rules to be observed by DAR lawyers and legal officers in rendering free legal assistance to tenant farmers, agricultural lessees and other qualified agrarian reform beneficiaries, including members of their immediate farm household, and other stakeholders of the program.

This includes the handling of agrarian cases such as agrarian law implementation (ALI), Judicial, Quasi-Judicial, and all other agrarian-related cases in connection with an agrarian dispute, including mediation and rendition of legal opinion and other forms of legal services.

**ARTICLE II**

**CLIENTELE**

Section 2. **Persons Qualified for Legal Assistance and Representation.** - Pursuant to Republic Act No. 3844, as amended by Republic Act No. 6389, Presidential Decree No. 946, as amended, Executive Order No. 129-A and Republic Act No. 6657, as amended, the Department of Agrarian Reform thru the Legal Affairs Office (LAO) is mandated to render free legal assistance, particularly representation of indigent farmer-beneficiaries including the immediate members of their families, and other qualified beneficiaries under Section 22 of R.A. No. 6657, in all agrarian-related cases mentioned in the preceding Section, where, after due evaluation/investigation, it is determined that the interest of justice will be duly served.

Section 3. **Merit of the case.** - A case shall be considered meritorious if after proper evaluation of the factual and legal basis, it appears that the applicant is qualified and there is a reasonable ground to sustain a case in the proper forum. Accordingly, the

DAR lawyer or legal officer assigned shall assist and/or represent the party concerned. On the contrary, the DAR lawyer or legal officer must submit his report why such case should not be pursued. The report must be submitted to his immediate supervisor who shall submit his recommendation to the BALA Director for final determination whether the request for legal assistance is proper or not. In the Regional/Provincial level, final determination shall be made by the Chief Regional or Provincial lawyer concerned.

**ARTICLE III**  
**JUDICIAL, QUASI-JUDICIAL AND AGRARIAN LAW**  
**IMPLEMENTATION (ALI) CASES**

Section 4. **Procedure in Accepting Cases.** - The following procedure shall be observed in the acceptance for representation of judicial and quasi-judicial cases and in the handling of ALI cases:

- a) **Interview and Data/Documentation Requirements** - Prospective client seeking legal assistance or representation shall first be interviewed by a lawyer/legal officer or personnel assigned to interview clients to ascertain his qualifications. In addition to the required data in the Interview Sheet, the applicant shall submit copy of Certificate of Land Ownership Award (CLOA), Emancipation Patent (EP), Certificate of Land Transfer (CLT), leasehold contract, receipts of payment of lease rentals, and/or other relevant documents, as may be necessary.
- b) **Conflict of Interests.** - In relation to Section 5 (a) hereof, the DAR lawyer/legal officer, during the evaluation and documentation, shall make a thorough determination to avoid representing parties with conflicting interests, where one party is represented by the lawyer/legal officer from other offices while the case of the other party is handled by another DAR lawyer/legal officer.
- c) **Case Control Number** - The case shall be assigned a case control number consecutively numbered from January up to the end of December of each year, which shall indicate the Provincial/Regional Office handling the case. In the Central Office, assignment of case control number shall be undertaken by the Division concerned. The same procedure shall be adopted in the field offices handling the case.

- d) **Assignment of Cases** - After a case is given a case control number, the same shall be assigned to a lawyer/legal officer by the Chief of the Office concerned for proper legal action.

Section 5. **Handling of Cases.** - The following procedures shall be observed in the handling of cases:

- a. **Screening and Representation of Parties.** - A meticulous study of the case pursuant to Sections 2 and 4(a and b) hereof shall be observed to ascertain the qualification of the applicant and to avoid representation of conflicting interests of two (2) parties by DAR counsels pursuant to Section 4 (b) hereof. A DAR counsel shall not be allowed to represent a client whose interest is adverse to the claim of the client whose case is being handled by another DAR counsel.
- b. **Order of Priority.** - In the screening of prospective clients, the following order of priority shall be considered:
1. Holder of Emancipation Patent (EP)/Certificate of Land Ownership Award (CLOA);
  2. Holder of Order of Award /Certificate of Land Transfer (CLT);
  3. Agricultural Lessees and share tenants;
  4. Regular Farmworkers;
  5. Seasonal Farmworkers;
  6. Other Farmworkers; and
  7. Others directly working on the land

In cases wherein the above order of priority is not in issue, the first-come-first-serve rule in accordance with the preceding Section hereof shall apply.

The Department of Agrarian Reform reserves the right to withdraw the legal representation if found later that the Office has no jurisdiction or the client concealed material facts during the screening process pursuant to Sections 2, 4(a) and 5 hereof that affects his qualifications for legal representation. However, said client may be referred to any proper agency having jurisdiction on the matter.

Section 6. **Case Build-Up.** - A DAR lawyer/legal officer assigned to a case may conduct personal interview of the parties and their witnesses. If there is a need to verify the veracity of the statements of the party (s), a field verification over the property

involved must be conducted to confirm the information given by the client. Thereafter, shall commence the preparation of an appropriate initiatory pleading duly signed by him and countersigned by the Division Chief.

Section 7. **Preparation and Signing of Pleadings.** - The DAR counsel concerned, after having prepared all the requirements, both testimonial and documentary evidences, of the parties and their witnesses, shall prepare the required pleading based on the facts and documents gathered.

All pleadings and motions to be filed in courts, quasi-judicial bodies and other offices shall be duly signed by the assigned counsel. In the absence of the latter, and in case of immediate relief, such as prayer for the issuance of an interlocutory order by the court, quasi-judicial and other administrative bodies, Petitions for Injunction, Temporary Restraining Order (TRO), Cease and Desist Order (CDO) and other similar incidents that requires immediate action, the pleading may be signed by any available lawyer or legal officer of the Bureau/Regional/Provincial office concerned. The Chief of the Litigation Division (DARCO), Regional Chief, or the Provincial Chief, Legal Division concerned, as the case may be, may assign any available counsel to sign the pleading/s.

Section 8. **Uniform System of Appearances and Representation.** All pleadings to be filed must bear the name of the Office, stated as: "*BUREAU OF AGRARIAN LEGAL ASSISTANCE*" to ensure a uniform system of appearances and representations of DAR clientele nationwide pursuant to the Memorandum dated February 6, 2006 of the Undersecretary for Policy, Planning and Legal Affairs Office (PPLAO), to wit:

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Section 9. **Party(s) represented by private counsel.** - When a party is already represented by a private counsel, the Office is not bound to provide legal assistance to avoid conflict of representation. The requesting party may avail of the services of the Office only upon withdrawal of appearance in writing of his private counsel.

Section 10. **Withdrawal of Counsel.** - A DAR counsel may withdraw his appearance upon approval of the Division Chief under the following justifiable instances:

- a) Where it is subsequently ascertained that the client is not qualified to be represented pursuant to Sections 2, 4 and 5 hereof;
- b) When the client subsequently engages a *de parte counsel* or is provided with a *de officio* counsel by the court where the case is pending;
- c) When it appears that there is a conflict of interests in relation to Sections 4 and 5 hereof;
- d) In ALI cases where the decision of the DAR Secretary which is adverse to the client is affirmed by the Office of the President, the DAR counsel shall withdraw his appearance from representing the client and refer him to other government agencies or legal aid organizations for further legal assistance; (Decision of the Office of the President is the final arbiter on all administrative cases within the executive branch of government which is binding upon all other government agencies.)
- e) In cases where two (2) opposing parties are both represented by the Office, and neither of the counsels voluntarily withdraws his representation, the BALA Director shall decide pursuant to the Order of Priority under Section 5.b of this guideline, who among the counsels should retain representation. Should any of the two opposing counsels intends to voluntarily withdraw his representation, he should seek prior approval of the BALA Director before filing notice of withdrawal; and
- f) In cases where the Department is impleaded, approval of the withdrawal of appearance would either be with the Director concerned or the Secretary, as the case may be.

Section 11. **Continuing Handling of Cases by the Counsel on Record.** - In cases where the decision is brought on appeal, the counsel on record shall continue to handle the same case except in cases under paragraph d of the immediate preceding Section.

However, in the event that there is no DAR counsel available within the province, the Regional Legal Chief shall appoint a substitute counsel from among the other provinces within the region taking into consideration the proximity and convenience of the counsel to be appointed. In the absence of substitute counsel within the region, the case may be forwarded to BALA Central Office for handling of the same.

Notwithstanding the elevation of the case to the Litigation Division – BALA, it is incumbent upon the Legal Division in the field to coordinate closely with the former in order to insure the availability of the client to the office for some urgent matters.

Section 12. **Records to be Transmitted to BALA.** - In cases falling within the contemplation of Section 11, second paragraph of this guideline, the complete records, together with the brief summary of the case, shall immediately be forwarded to the Office of the Director, BALA, ATTENTION: Litigation Division. The records in the case folder should be itemized with a table of contents chronologically arranged. Documents written in local dialects should preferably be translated into English and the translation must be attached to the record.

Section 13. **Pauper Litigants.** - Pursuant to Section 16 of Presidential Decree No. 946 and other related laws, the privilege to litigate as pauper must be availed of through DAR counsel at the inception of the case until its final termination. It is understood that the DAR counsel must comply with the requirements that may be prescribed by the courts or quasi-judicial bodies before such privilege can be granted.

#### ARTICLE IV NON-JUDICIAL SERVICES

Section 14. **Coverage.** - The following are classified as Non-Judicial services:

- a. Legal counseling and information
- b. Resolution of Agrarian Law Implementation (ALI) Cases
- c. Conduct of Mediation and Conciliation
- d. Legal Research and Rendition of Legal Opinion
- e. Policy Formulation
- f. Resource person on agrarian law, rules and regulations, and related jurisprudence
- g. Conduct of training, seminar and workshops
- h. Review of Contracts

- i. Legal Assistance to persons undergoing investigation/interrogation, inquest and persons under detention

**Section 15. Request for Legal Counseling and Information.** Requests for legal counseling and information in person or through phone calls should be addressed and acted upon immediately by the office concerned. However, if the issue or concern is complicated, the requesting party must be required to put it in writing.

All requests in writing must be acted upon within fifteen (15) days pursuant to R.A. No. 6713.

**Section 16. Mediation and Conciliation.** - Requests for mediation/conciliation must first be evaluated by the office concerned to determine whether or not the issue presented is agrarian related. Otherwise, advise the party to bring the matter to the proper forum.

If agrarian related, the party shall be required to accomplish the prescribed Interview Sheet. Thereafter, the Division Chief shall assign the case to a lawyer/legal officer who shall immediately schedule the same for mediation conference with notice to all parties thereof. Conferences shall be limited to three (3) settings and shall be terminated within a reasonable period but not exceeding three (3) months from acceptance of the case whether or not a settlement have been reached by the parties.

DAR lawyers/legal officers conducting mediation or conciliation conferences shall maintain impartiality at all times and shall encourage the parties to come to an agreement. If a settlement is reached, the lawyer/legal officer shall prepare a compromise agreement for the signature of the parties. Otherwise, apprise the parties of their options available under the law. The lawyer/legal officer should report the result of mediation/conciliation to his Division Chief who shall determine whether one of the parties may be represented by the Office. The former cannot act and represent either party to the case.

**Section 17. Request for Legal Opinion.** Legal opinion may be rendered on issues involving policy determination, in which case, a written request shall be addressed before the Office of the Secretary/Office of the Undersecretary for Legal Affairs. Request for legal opinion on any other subject or matters may be covered by the provisions of M.C. No. 10, Series of 1997 (**Guidelines on the Rendition of Legal Opinions**).



Section 18. **Documentation.** - Requests for the preparation of affidavits, notices and other documents must be attended to immediately.

These services include the administration of oaths and acknowledgement of documents by lawyers duly commissioned by the Court as notaries public.

Section 19. **Outreach Program/Services and Other Activities.** - The Legal Affairs Office (LAO), through the Office of the BALA Director which has functional supervision over all DAR lawyers/legal officers, is mandated by law to conduct outreach programs and services particularly to farmer-beneficiaries and other CARP stakeholders. Thus, DAR lawyers/legal officers may conduct the following outreach activities, among others:

1. Agrarian Justice information dissemination to all CARP stakeholders;
2. Conduct seminars and workshops about the rights and obligations of farmer-beneficiaries;
3. Conduct dialogues with farmers and landowners on related issues and concerns; and
4. Interact with other government offices and agencies like the LBP, DENR, DA, Local Government Units, Land Registration Authority, etc. on agrarian and other related matters.

**ARTICLE V**  
**RECORDING, ASSIGNMENT OF**  
**CASES AND REPORTING**

Section 20. **Recording.** - Requests for legal assistance shall be recorded as follows:

1. All requests for legal assistance shall be recorded in a logbook to be maintained by the Office. The logbook shall contain columns for the following data: name of client, date of the request/application was received, control number, name of lawyer/legal officer to whom the case was assigned, nature of the case or cause of action, status, cause and date when it was disposed or terminated;

2. All Interview Sheet and other documents shall be handed to the Records Officer for recording who shall submit the same to the Division Chief concerned for proper assignment.
3. All incoming/outgoing communications/pleadings shall be recorded by the Records Officer who shall submit to the Division Chief concerned for proper disposition.
4. All requests for legal assistance should be assigned a control number by the Records Officer of the office concerned. There should be a separate control number for judicial and non-judicial cases pursuant to Section 4 (c) of this guideline.

Section 21. **Client Index Cards.** - Each case folder should have a Client Index Card (CIC). The CIC shall contain the following information: Client Name, Control and/or Docket Number, Case Title(s), Nature of the Case, Handling Legal Officer, Date Received by the Officer, Date Filed in Court/DARAB and Status. The CIC is to be kept in an index box labeled and organized alphabetically.

It is the responsibility of the records officer to regularly update the CICs and to see to it that they are maintained alphabetically.

Section 22. **Proper Record Keeping of Case Folders.** - To preserve the integrity of office files, no case folder/papers/documents may be removed from the file without being brought to the attention of the records officer with the approval of the division chief concerned.

Any transfer, turn-over or reassignment of cases shall likewise be with the approval of the division chief and brought to the attention of the records officer for proper recording.

Section 23. **Assignment of Cases.** All cases duly screened and qualified for assistance shall be assigned by the Division Chief to one of his staff.

Section 24. **Reporting.** Monthly, quarterly and year-end reports in agrarian legal assistance shall be submitted on time for consolidation by the BALA Central Office.

Reports in compliance with the Legal Case Monitoring and Reporting System (LCMRS) and database requirement of the Department shall likewise be submitted on time with the Legal Affairs Office (LAO)/Management Information System (MIS).

**ARTICLE VI  
SANCTIONS**

Section 25. **Disciplinary Measures.** - Disciplinary action pursuant to civil service laws, rules and regulations may be meted out against lawyers/legal officers found to have violated the provisions of this guideline, particularly those who:

1. Handle cases of persons who are not qualified for legal services or those who are not entitled to services specifically mentioned in Sections 2, 4 and 5 of this guideline;
2. Handle cases outside of their court residency assignment without appropriate written authorization from the Division Chief concerned;
3. Failed to comply with the provision of the Rules of Court/DARAB particularly on the matter of appeal and/or motion for reconsideration prejudicial to the client's interests.

**ARTICLE VII  
RULE OF CONDUCT**

Section 26. **Rule of Conduct for DAR Lawyers/Legal Officers.** - DAR lawyers/legal officers should primarily play the role of peacemakers. They must be imbued with a high sense of fairness, excellence, integrity and professionalism in the performance of their functions. Cases must be so evaluated that only meritorious ones are entertained and only deserving persons are extended free legal assistance.

DAR lawyers/legal officers must always be courteous in their language and demeanor towards clients and the general public.

No DAR lawyer/legal officer shall take custody of cash or valuable of a client. If there are any fees to be paid, the client should be asked to be the one to pay for them. In amicable settlement, the DAR lawyer/legal officer should also refrain from taking custody of any money or valuable which is the object or subject of settlement.

The provisions of Memorandum Circular No. 10, Series of 2007 (**Code of Conduct for the Officials and Employees of DAR**) shall be observed and shall form an integral part of this circular.

**ARTICLE VIII**  
**FINAL PROVISIONS**

Section 27. **Repealing Clause.** - All issuances, circulars and memoranda or any portion thereof inconsistent herewith are hereby repealed or modified accordingly.

Section 28. **Effectivity.** - This circular shall take effect immediately upon approval by the Secretary.

September 11, 2009, Quezon City, Philippines.



**NASSER C. PANGANDAMAN**

**Secretary**

Department of Agrarian Reform  
Office of the Secretary



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