

Memorandum Circular No. 0 5,
Series of 2020

To : ALL CONCERNED

SUBJECT: 2020 RULES OF PROCEDURE FOR COMPLAINTS
HANDLING AND RESOLUTION

DATE : 15 June 2020

Pursuant to the powers granted to the Anti-Red Tape Authority (the “Authority”) under Section 17 paragraphs (d), (e), and (m) of Republic Act No. 9485 as amended by Republic Act No. 11032 and of Section 6 Rule XIV of the Implementing Rules and Regulations of RA No. 11032 that the Authority shall issue further guidelines in the investigation including the procedure or process flow in handling complaints, the following 2020 Rules of Procedure for Complaints Handling and Resolution are hereby promulgated:

RULE I

APPLICABILITY AND CONSTRUCTION

Section 1. **Title** – These Rules shall be known as the **“2020 Rules of Procedure for Complaints Handling and Resolution of the Anti-Red Tape Authority”**.

Section 2. **Coverage**–These Rules shall apply pursuant to the Authority’s exercise of its powers and functions as enumerated under Section 17 of Republic Act No. 9485, as amended by Republic Act No. 11032.

Section 3. **Construction** – Subject to the requirements of due process, these Rules shall be construed with the objective of assisting the parties in obtaining just, expeditious and inexpensive resolution of their complaints or concerns.

Section 4. **Supplementary Application of Rules of Court and other Pertinent Laws** – In the absence of any applicable provision in these Rules, the pertinent provisions in the Revised Rules of Court of the Philippines, the Revised Rules on Administrative Cases in Civil Service and Rules of Procedure of the Office of Ombudsman may be applied by analogy or in a supplementary character and effect.



RULE II

DEFINITION OF TERMS

Section 5. **Definitions** – The terms and phrases defined in Section 4, Rule I of the Implementing Rules and Regulations of Republic Act No. 11032 shall be given the same meaning when used herein. In addition, the terms hereunder shall be construed as follows:

- (a) **Authority** – refers to the Anti-Red Tape Authority composed of the Director General and the incumbent Deputy Director Generals.
- (b) **Case-** refers to any matter received by the Authority in the exercise of its mandate under the law whether the same is later on classified as a complaint or a concern;
- (c) **Complainant** – any person who has personal knowledge of facts relating to violation of the provisions of Republic Act No. 9485, as amended by Republic Act No. 11032. Such person may also execute a Special Power of Attorney to authorize any representative to represent him in all stages of investigation. In case of juridical persons, such complainant must be duly authorized by its Board of Directors through a Secretary's Certificate or through a Partners' Resolution, as the case maybe.
- (d) **Complaint** – narration of facts, written or electronic, of the alleged violation of RA 9485, as amended by RA No. 11032. Except in anonymous complaints, the complainant shall state his/her full name, address and contact details in the complaint. In all cases, the complaint shall include available evidence to prove the allegations of the complainant. A complaint will all the essential elements required as mentioned shall be docketed with a specific tracking number following the numerical format – CTN – YEAR/MONTH/DAY-NUMBER and thereafter assigned to a Complaints Officer;
- (e) **Complaints Officer** – an officer of the Authority, under the Public Assistance Division (PAD) who initially receives, records, and process cases from any source;
- (f) **Concern** –if the complaint does not contain all the essential elements of a complaint as defined under par. (b), the complaint shall be treated as a concern and the Complaints Officer shall reach out to the complainant for completion of the lacking information or documents. Pending completion of the necessary information from the complainant, the case shall be docketed with a specific tracking number following the numeral formal - UDK-YEAR/MONTH/DAY-NUMBER for proper recording and tracking purposes.
- (g) **Ex-parte** – refers to the act or manner of conducting a proceeding where only one party is present without representation from or to other parties;
- (h) **Forum Shopping** – refers to the filing of several administrative actions or civil or criminal complaints either simultaneously or successively before agencies or tribunals having concurrent jurisdiction over a case against the same party involving the same essential facts, circumstances, acts, causes of action or relief, and raising substantially all the same issues. Such case can either be pending in, or already resolved adversely by, some other tribunal or agency;

- (i) **Head of Agency** – refers to Department Secretary or highest ranking official primarily responsible for the implementation of the provisions of the law and shall be held accountable to the public in rendering fast, efficient, convenient and reliable service;
- (j) **Hearing Officer** - an officer of the Authority that handles complaints referred for further investigation. Said investigation may be initiated *motu proprio* pursuant to section 17 (d) of R.A. No. 11032;
- (k) **Law** - refers to Republic Act No. 9485, as amended by Republic Act No. 11032;
- (l) **Motu proprio** – refers to an action taken by the Authority on its own initiative;
- (m) **Original Document** – refers to any of the following:
 1. An “original” of a document is the document itself or any counterpart intended to have the same effect by a person executing or issuing it. An “original” of a photograph includes the negative or any print therefrom. If data is stored in a computer or similar device, any printout or other output readable by sight or other means, shown to reflect the data accurately, is an “original”.
 2. A “duplicate” is a counterpart produced by the same impression as the original, or from the matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques which accurately reproduce the original.

A duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the authenticity of the original, or (2) in the circumstances, it is unjust or inequitable to admit the duplicate in lieu of the original.
- (n) **Person Complained of** - refers to the person who is the subject of a complaint while the proceeding is with the Legal and Public Assistance Office;
- (o) **Prima Facie Case** – refers to the evidence which, if unexplained or uncontradicted, is sufficient to sustain a judgement in favor of the issue it supports, but which may be contradicted by other evidence;
- (p) **Red Tape** – any regulation, rule, or administrative procedure or system that is ineffective or detrimental in achieving its intended objectives and, as a result, produces slow, suboptimal, and undesirable social outcomes;
- (q) **Respondent** – refers to the person who is the subject of a complaint when the proceedings is with the Investigation, Enforcement and Litigation Office;
- (r) **Substantial evidence**—is that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.
- (s) **Ticket Number** – a unique identification number assigned for each case received by the Authority through any of the recognized modes of receiving a complaint or concern. This

number shall be used in tracking the progress of the case. The ticket number can be in any of the following forms:

1. UDK – YEAR/MONTH/DAY – NUMBER – for concerns which are pending completion of the necessary information from the complainant; [e.g. UDK-20200612-1]
2. CTN – YEAR/MONTH/DAY – NUMBER – for complaints which has the essential elements of a complaint as defined under paragraph d. [e.g. CTN-20200621-1]

RULE III

JURISDICTION OF THE ANTI-RED TAPE AUTHORITY

Section 1. **Jurisdiction**– The Authority shall initiate investigation, *motu proprio* or upon receipt of a complaint, or assist complainants in filing cases for acts constituting:

- a) Failure to set-up the most current and updated Citizen’s Charter;
- b) Violation of the Zero-Contact Policy except during preliminary assessment of request and evaluation of sufficiency of submitted requirements;
- c) Selling, offering to sell, or recommending specific brands of fire extinguishers and other fire safety equipment to any applicant or requesting party or business entity by the Bureau of Fire Protection or any of its officials or employees;
- d) Refusal to accept application or request with complete requirements being submitted by an applicant or requesting party without due cause;
- e) Imposition of additional requirements other than those listed in the Citizen’s Charter;
- f) Imposition of additional costs not reflected in the Citizen’s Charter;
- g) Failure to give the applicant or requesting party a written notice on the disapproval of an application or request;
- h) Failure to render government services within the prescribed processing time on any application or request without due cause;
- i) Failure to attend to applicants or requesting parties who are within the premises of the office or agency concerned prior to the end of official working hours and during lunch break;
- j) Failure or refusal to issue official receipts;

- k) Fixing and/or collusion with fixers in consideration of economic and/or other gain or advantage; and
- l) All other acts in violation of the provisions of RA No. 9485, as amended by RA No. 11032.

RULE IV

HOW INSTITUTED

Section 1. Forms of Complaint. The Authority will receive complaints filed in any of the following forms:

- a. Formal complaint through a sworn statement;
- b. Duly signed letter complaint;
- c. Complaints received from any of the official electronic platforms of the Authority such as but not limited to email, facebook, twitter, Instagram;
- d. Referral letter from other government agencies;
- e. Referral from Regional Offices of the Authority, Anti-Red Tape Units and ARTA Complaints' Desk in different government agencies;
- f. Duly accomplished Public Assistance Form¹ for walk-in parties; and
- g. Anonymous complaint.

Section 2. Contents of the Complaint. Except in *motu proprio* cases, no complaint shall be deemed instituted unless it is sufficient in form and substance. A complaint to be considered sufficient in substance and form must contain the following:

- a. Full name, address, and contact details of complainant;
- b. Details of acts complained of;
- c. Full name of person/s complained of;
- d. Name of agency of the person/s complained of;
- e. Available documents or any evidence to prove the violation;

¹ See **Annex "A"** – Public Assistance Form

- f. If the complainant is a juridical entity, the complaint must be accompanied by proof of authorization of its representative executing the complaint either in the form of a Secretary's Certificate or Partnership Resolution, as the case maybe; and
- g. Accompanied by a Certification of No Case Involving the Same Issues and Same Parties²;
- h. If there is an application for Automatic Approval or Automatic Extension, the complaint must be accompanied by an Affidavit of Completeness³

RULE V

FILING AND SERVICE

Section 1. Filing and Service of Pleadings and other Documents

All pleadings and documents required from the parties in connection with a case shall be filed either personally or through registered mail or private courier or electronic mail (complaints@arta.gov.ph; legal@arta.gov.ph). In case of filing by mail, the date of mailing shall be considered the date of filing thereof while filing by electronic mail, the date of receipt of the acknowledgement email from the Authority shall be considered the date of filing.

Section 2. Service of Notices, Resolutions and Orders

Notices and copies of resolutions or orders issued by the Authority shall be served by electronic mail and if practicable, by personal service or by registered mail or private courier to the government agency concerned.

RULE VI

PROCEEDINGS WITH THE LEGAL AND PUBLIC ASSISTANCE OFFICE (LPAO)

Section 1. Preliminary Evaluation.

All cases, in whatever form, shall be recorded, docketed with a ticket number and assigned to a Complaints Officer for preliminary evaluation to determine whether the case falls within the jurisdiction of the Authority and whether the complaint is sufficient in form and in substance.

If the case falls within the jurisdiction of the Authority, the Complaints Officer shall determine if the essential elements of a complaint as mentioned in the Section 2, Rule IV are complied with. Otherwise, the case shall be treated as a concern and the Complaints Officer

² See **Annex "B"** – Certification of No Case Involving the Same Issues and Same Parties

³ See **Annex "C"** – Affidavit of Completeness

shall send a Request for Completion⁴ communicate to the complainant for the completion of his lacking requirements. In the meantime, the concern shall be archived pending its completion. Should the Complainant fail to comply within three (3) working days from receipt of the Request for Completion, the case will be recommended for closure for lack of interest of the complainant.

Section 2. Issuance of Notice of Referral.

If it appears from the allegations in the complaint that the act complained of is outside the jurisdiction of the Authority, the Legal and Public Assistance Office (LPAO) shall issue a **Notice of Referral**⁵ to the appropriate government agency for its appropriate action on the complaint.

Section 3. When Case is Deemed Instituted.

A case is deemed instituted if the allegations in the complaint are within the jurisdiction of the Authority and the complaint is determined to be sufficient in form and in substance. The complaint shall be assigned to a lawyer for appropriate action.

Section 4. Issuance of Notice to Explain.

Within seven (7) working days from the institution of the complaint, the LPAO shall issue a **Notice to Explain**⁶ against the person complained of, copy furnished the Head of Agency, requiring him/her to submit his/her explanation of the alleged violation of the law within seven (7) working days. The Notice shall include a copy of the complaint with annexes received by the Authority. On the other hand, the **Explanation** to be submitted by the person complained of should include all available evidence to support his defense.

Within ten (10) working days upon receipt of the Explanation or in case of failure to file the same despite due notice, the LPAO shall issue its recommendation on whether to close⁷ the complaint or refer the same for investigation⁸ if there is substantial evidence to support the complaint.

Section 5. Issuance of Order of Automatic Approval or Order of Automatic Extension

If there is a prayer in the complaint for the issuance of an *Order of Automatic Approval* or *Order of Automatic Extension*, the LPAO shall, at its discretion, immediately call⁹ for a summary hearing, within three (3) working days from receipt of the complaint, to determine the allegations of existence of requisites for the issuance of an *Order of Automatic Approval* or *Order of Automatic Extension* as provided under the Implementing Rules and Regulation of the Authority.

During the summary hearing, the Complainant will be required to submit original documents to prove his allegation of submission of all requirements and payment of all required fees and to sign an Affidavit of Completeness of submission. The representative of

⁴ See **Annex “D”** – Request for Completion

⁵ See **Annex “E”** – Notice of Referral.

⁶ See **Annex “F”** – Notice to Explain.

⁷ See **Annex “G”** – Findings and Recommendation for Closure; **“G-1”** - Notice of Closure.

⁸ See **Annex “H”** – Findings and Recommendation for Investigation.

⁹ See **Annex “I”** – Notice of Summary Hearing.

the government agency complained of, on the other hand, will be required to submit original documents to rebut the claim of the Complainant.

Should the complainant or his representative fail to appear despite due notice, his prayer for issuance of the Order covered by his rule shall be archived. Should there be no representative from the government agency complained of despite due notice, the Authority shall resolve the application on the basis of available documents. Should both parties fail to appear, the LPAO shall consider the possible closure or termination of the case.

Within seven (7) working days for simplex and complex transactions or twenty (20) working days for highly technical transactions, from the conclusion of the summary hearing, the LPAO shall submit a recommendation¹⁰ to the Director General or to Deputy Director General for Legal on whether or not to grant the application for Automatic Approval or Automatic Extension.

The Order of Automatic Approval or Extension¹¹ shall contain a directive for the government official concerned to submit his Compliance within three (3) working days from receipt. Should the government official fail to comply, the case will be referred to the Investigation, Enforcement and Litigation Office (IELO) of the Authority for further investigation and filing of the appropriate case if necessary.

No motion for reconsideration on the Order of Automatic Approval or Automatic Extension shall be entertained.

RULE VII

PROCEEDINGS WITH THE INVESTIGATION, ENFORCEMENT AND LITIGATION OFFICE (IELO)

Section 1. Issuance of Notice of Clarificatory Hearing

Upon receipt of LPAO's recommendation that there is substantial evidence to support the allegation, the IELO shall issue a **Notice of Clarificatory Hearing**¹² to set the case for hearing and to require the parties or their authorized representatives to appear on said date to thresh out the facts, defenses and issues to be resolved.

No requests for postponement shall be allowed. However, parties may be represented by their duly authorized representatives through a Special Power of Attorney, Secretary's Certificate, or Office Order issued by the supervising authority, as the case may be.

In case of absence of any one of the parties despite due notice, the Hearing Officer may terminate the proceedings and issue an Order requiring the parties to file their respective Verified Position Paper. The **Order**¹³ shall be issued to the parties on the same day of the scheduled Clarificatory Hearing.

¹⁰See **Annex "J"** – Findings and Recommendation for Application of Automatic Approval / Automatic Extension.

¹¹See **Annex "K"** – Order of Automatic Approval / Automatic Extension

¹²See **Annex "L"** – Notice of Clarificatory Hearing

¹³See **Annex "M"** – Order in case of non-appearance of any party.

The Hearing Officer shall have full control of the proceedings during the clarificatory hearing including the manner of conducting¹⁴ the same. The proceedings shall be recorded and the minutes shall contain the agreement of the parties as to:

- a. Submitted facts by the Complainant;
- b. Submitted defenses by the Respondent;
- c. Statement of issues to be resolved;
- d. Any other agreement including but not limited to amicable settlement or voluntary compliance not contrary to law, public moral or policy; and
- e. An agreement that all notices and resolutions of the Authority shall be furnished to the parties through their nominated email address which notice shall be sufficient proof of receipt.

The Hearing Officer shall immediately issue the Order stating the above agreements of the parties and directing them to file their Verified Position Paper with supporting documents within a period of seven (7) working days from termination of the hearing. A copy of the Order¹⁵ shall be furnished to the parties on the same day.

Within twenty (20) working days from receipt of the Verified Position Paper or termination of the hearing, the Hearing Officer shall issue his Resolution¹⁶. If the Hearing Officer finds that there is a *prima facie* case for violation of the law, the Resolution shall be accompanied by a Formal Complaint to be filed with the Civil Service Commission, Office of the President, Office of the Ombudsman or appropriate courts as the case may be. On the contrary, if the Hearing Officer finds that there is no *prima facie* case for violation of RA No. 11032, he shall issue a Resolution recommending the closure of the complaint.

No motion for reconsideration on the Resolution shall be entertained.

Section 2. Complaints Involving Fixing and/or Collusion with Fixers

If the Authority receives a report on any allegation of fixing and/or collusion with fixers in consideration of economic and/or other gain or advantage, the report¹⁷ shall be referred to IELO for the conduct of the proper fact-finding investigation to gather relevant evidence to support the claim.

The IELO shall have full control and supervision of the proceedings for the conduct of its fact-finding investigation and shall directly report the results of such investigation to the Director General or Deputy Director General for Legal for approval of any action to be taken.

¹⁴Includes video conference if practicable.

¹⁵See **Annex “N”** – Order in case of appearance of parties.

¹⁶See **Annex “O”** – Resolution

¹⁷See **Annex “P”** – Findings and Recommendation for Fixing and Collusion with Fixers

RULE VIII

ISSUANCE OF NOTICE OF WARNING

Section 1. Legal Basis.

Under Sec 17(c) of the law, the Authority has the power to monitor and evaluate the compliance of agencies covered under Section 3 of the law and issue notice of warning to erring and/or noncomplying government employees or officials.

Section 2. Proceedings for Issuance of Notice of Warning

The Authority, upon receipt of a complaint or upon recommendation of its Compliance, Monitoring and Evaluation Office (CMEO) shall issue a **Compliance Order**¹⁸ against an erring and/or noncomplying government employee or official for its non-compliance with the provisions of the law or any of the circulars and regulations issued by the Authority.

The Compliance Order shall notify the erring and/or noncomplying government employee of the specific provision of the law or circular or regulation which he has not complied with and to explain within three (3) working days from receipt a Response for such noncompliance.

Should the erring and/or noncomplying government employee fail to submit his Response despite due notice, within the prescribed period, or should his Response be not justified, the Authority, upon recommendation of the Deputy Director General for Operations and approved by the Director General, shall issue a Notice of Warning¹⁹ to the erring and/or noncomplying government employee.

Should the same government employee be the subject of a subsequent Compliance Order, the case shall be referred to the IELO for appropriate investigation and determination of filing of case.

RULE IX

ISSUANCE OF REQUEST FOR COMMENT IN EXERCISE OF EMPOWERMENT FUNCTIONS

Section 1. Legal Basis.

By virtue of its mandate under Section 17 of the law, the Authority exercises empowerment functions on all agencies covered by Section 3 of the law to reduce red tape and expedite business and nonbusiness related transactions in government. Specifically, the Authority has the power to:

¹⁸ See **Annex “Q”** – Compliance Order

¹⁹ See **Annex “R”** – Notice of Warning

- a. Recommend policies, processes and systems to improve regulatory management to increase the productivity, efficiency, and effectiveness of business permitting and licensing agencies;
- b. Review proposed major regulations of government agencies, using submitted regulatory impact assessments, subject to proportionality rules to be determined by the Authority;
- c. Provide technical assistance and advisory opinions in the review of proposed national or local legislation, regulations or procedures.

Section 2. Request for Comment

Should the Authority receive a complaint alleging that a regulation, rule, procedure or issuance of any of the government agencies covered by the law constitutes red tape, the Authority, through the Deputy Director General for Operations, shall issue a **Request for Comment**²⁰ against the government agency concerned requiring said agency to submit a Position Paper within seven (7) working days from receipt.

The contents of the Position Paper shall be:

- a. Identification of the policy problem – briefly explain the problem sought to be addressed by the regulation, rule or procedure; show evidence of the magnitude or seriousness of the problem or number of affected stakeholders; explain how current regulation, if any, fails to address the policy problem;
- b. Objectives of government action – briefly identify clear and specific policy objectives of government action;
- c. Legal basis of the regulation – provide the legal basis of the regulation, rule, procedure or issuance as well as the legal or policy justification for each step or procedure and requirements;
- d. Consideration of alternative options – list all options that were considered to achieve the objective;
- e. Relevant Stakeholders – list of stakeholders consulted; issues and concerns raised by stakeholders and action proposed and/or done by the government agency on issues and concerns;
- f. Rapid Assessment of the Regulation, Rule, Procedure or Issuance – state the benefits of the regulation to the stakeholders; state if the regulation has negative effects to the stakeholders; brief assessment on how the benefits outweigh the negative effects.

²⁰See **Annex “S”** – Request for Comment

The Position Paper shall be signed by the Head of Agency and submitted to the Better Regulations Office of the Authority through personal filing, registered mail or electronic submission at betterregulations@arta.gov.ph

Section 3. Evaluation of the Position Paper

Within seven (7) working days from receipt of the Position Paper, the Better Regulations Office shall submit its report to the Deputy Director General for Operations.

At his discretion, the Deputy Director General for Operations or his designated representative, may call for a clarificatory hearing to thresh out issues which arise after the submission of the Position Paper.

Section 4. Recommendation of the Authority

Within seven (7) working days from the conclusion of the clarificatory hearing, if any, or from submission of the report by the Better Regulations Office, the Authority shall submit its policy recommendation to the government agency concerned on the alleged red tape in the issuance of its regulation, rule, procedure.

A copy of the Authority's policy recommendation to the government agency shall also be furnished to the Office of the President and the Congressional Oversight Committee on Ease of Doing Business.

RULE X

APPEALS FROM RESOLUTION

Section 1. Appeal from Resolution or Notice

Any party aggrieved by the Authority's Resolution issued under Section 1, Rule VII or Notice issued under Section 2, Rule VIII may appeal to the Office of the President within fifteen (15) days from receipt of the Resolution under the applicable laws.

RULE XI

MISCELLANEOUS PROVISIONS

Section 1. Separability Clause

In the event that any of the provision of these Rules or any part hereof is declared invalid, illegal or unconstitutional, the provisions not affected shall remain in force and effect.

Section 2. Effectivity

These Rules shall take effect fifteen (15) days after publication in the Official Gazette or in a newspaper of general circulation.

These Rules shall govern all cases filed after their effectivity and also all pending proceedings except to the extent that in the opinion of the Authority, their application would not be feasible or would work injustice in which case the procedures under the IRR of RA No. 11032 shall govern.

Issued this 15th day of June 2020.

APPROVED:



Atty. Ernesto V. Perez, CPA
Deputy Director General for Legal



Atty. Eduardo V. Bringas
*Deputy Director General for Administration
and Finance*



Atty. Jeremiah B. Belgica, REB, EnP
Director General