

**DSWD OPINION NO. 73 S. 2024**

DRN: LS-L-LO-24-09-70526-C

**MEMORANDUM**

**FOR** : **JENNIFER M. RIZO**  
Director IV, Human Resource Management and  
Development Service (HRMDS)

**FROM** : **THE ASSISTANT SECRETARY FOR GASSG**  
Concurrent Officer-in-Charge, Legal Service

**SUBJECT** : **LEGAL GUIDANCE ON PENDING CONCERNS ELEVATED  
TO THE ASSOCIATION-MANAGEMENT CONSULTATIVE  
COMMITTEE (AMCC) DURING THE PERIOD THAT THE  
AMCC IS NOT YET RECONSTITUTED**

**DATE** : **21 October 2024**

This pertains to your Memorandum<sup>1</sup> requesting for legal guidance on how to proceed with the **following matters** elevated to the Association-Management Consultative Committee (AMCC), **which has not yet been reconstituted** due to the pending effectivity and registration of the new Collective Negotiation Agreement (CNA) for 2024 to 2028 of the Department with the Civil Service Commission (CSC), namely:

1. Decision on the Appeals and Claims on the Grant of Additional Premium and CNA Incentive for FY 2023;
2. Decision on the Petition to Remove the Philippine Health Insurance Corporation (PHIC) Automatic Deduction Clause from the Memorandum of Agreement (MOA) of Contract of Service (COS) or Job Order (JO) workers;
3. Status Update on the Pantawid Pamilyang Pilipino Program (4Ps) Forecasted Savings for the Allowable Collective Negotiation Agreement (CNA) Object of Expenditures and Obligation under Current Appropriation for FY 2024<sup>7</sup>; and
4. On the following expected deliverables of the AMCC before the end of the year:
  - a. Planning and Review of the of the Memorandum of Agreement (MOA) Templates and Payment of Cost of Service Rates for Contract of Service (COS) and Job Order (JO) Workers for CY 2025; and
  - b. Deliberation on the Guidelines for the Grant of the CNA Incentives for FY 2024 and Cost of Service Additional Premium and Gratuity Pay for COS and JO Workers for FY 2024.

In order to act on the above matters, you now present three (3) options and seek legal feasibility of each, pending the reconstitution of the AMCC:

<sup>1</sup> Annex "A"

**"Option 1: The General Administration and Support Services Group (GASSG) will attend to the pending employee-related concerns**

This is based on the rationale that most of the employee-related concerns elevated to the AMCC are directly under the key result areas of the GASSG cluster.

**Option 2: Creation of an Ad Interim Committee**

This option was recommended by the LS through a Memorandum dated 18 May 2020 when the AMCC encountered a similar situation during the FY 2020 wherein the CNA 2016-2019 expired without a new CNA in place.

**Option 3: Recommendation from LS**

The third possible course of action could be a recommendation from the current LS which is more attuned to the present-day needs and concerns of the workers compared to the second option, which may no longer be relevant seeing that this was recommended four years ago."

Pending the present review, the CSC has already issued **Certificate of Registration No. 3241<sup>2</sup>** stating that the CNA of the Social Welfare Employees Association of the Philippines (SWEAP) and the DSWD is now registered and is binding between the parties from 03 October 2024 to 02 October 2028.

Notwithstanding that the questions mentioned above are now considered **moot** in view of the registration of the aforesaid CNA for 2024 to 2028, we deemed it necessary to proceed with the academic discussion for practical relief.

The Public Sector Labor-Management Council (PSLMC) Resolution No. 2, s.2022<sup>3</sup>, with subject, "Provision of Employees' Organization - Management Consultative Committee in the Collective Negotiation Agreement (CNA)", was issued by the PSLMC due to the need to create an Employees' Organization-Management Consultative Committee (EOMCC) or a similar body composed of representatives from both management and the Sole and Exclusive Negotiating Agent (SENA) which shall monitor the implementation of the CNA provisions and foster better relations between labor and management<sup>4</sup>. PSLMC Resolution No. 2, s. 2022, also specified the following duties and responsibilities of the Committee (EOMCC):

"Section 2: The Committee shall **exercise** the following duties and responsibilities during the **lifespan of the CNA**:

- a. Upon submission of the CNA proposal by the SENA, the management will present the financial records, cost-cutting or systems improvement measures and submit recommendations through a written resolution to the negotiating panel;
- b. To identify economic benefits stipulated in the CNA that were disallowed by COA, if any, and the reasons thereof and to know the actions taken by both management and employees' organization;

<sup>2</sup> Annex "B"

<sup>3</sup> Provision of Employees' Organization - Management Consultative Committee in the Collective Negotiation Agreement (CNA)

<sup>4</sup> PSLMC Resolution No. 2, s.2022, 4<sup>th</sup> Whereas Clause

- c. To monitor the implementation of CNA provisions;
- d. To resolve CNA related issues on grievance machinery pursuant to PSLMC Resolution dated October 25, 2011; and
- e. Perform other related functions as may be determined by the Committee."

Regarding **Option 1**, we believe that matters elevated to the AMCC cannot be resolved solely by the GASSG. The GASSG is established to perform functions and duties in pursuit of the DSWD's mandate, whereas the AMCC is specifically created for the purpose of fostering better relations between labor and management and monitoring the proper implementation of a valid and registered CNA. Consequently, the functions of the AMCC cannot be assumed by the GASSG.

As to **Option 2**, we respectfully submit that there is no need to create an Ad Interim Committee as the AMCC created under **Special Order (S.O.) No. 4745, series of 2023**<sup>5</sup>, with subject, "Reconstitution of the Association-Management Consultative Committee (AMCC)" is still in force and in effect. S.O. No. 4745 expresses no expiration nor a term that states that the AMCC is co-existent with the CNA for which it was reconstituted then.

The AMCC reconstituted in 2023 is sanctioned under Section 2 of Executive Order No. 2, series of 1987, entitled, "Providing Guidelines for The Exercise of the Right to Organize of Government Employees, Creating A Public Sector Labor-Management Council, and for Other Purposes", to wit:

**Section 2. All government employees can form, join or assist employees' organizations of their own choosing for the furtherance and protection of their interests. They can also form, in conjunction with appropriate government authorities, labor-management committees, work councils and other forms of workers' participation schemes to achieve the same objectives.**

We are of the considered view that **the establishment nor existence of the AMCC are not solely contingent upon the life or duration of the CNA, rather, it is a right conferred by law, not merely a matter of contractual stipulation.**

The stipulation within the CNA pertains to the creation of the AMCC and the exercise of its duties and functions during the life of the CNA. This is predicated on the fact that AMCC requires that the CNA be registered with the CSC in order to take effect pursuant to PSLMC Resolution No. 9, Series of 2023 promulgated on 14 July 2023. This is likewise opined by the CSC in its letter to the HRMDS per Memorandum dated 18 May 2020<sup>6</sup>.

<sup>5</sup> Annex "C" – S.O. No. 4745, s.2023

<sup>6</sup> Annex "D" – LS Memorandum dated 18 May 2020

Consequently, we hereby abandon our previous position in LS Memorandum dated 18 May 2020, particularly the assertion that the AMCC is solely a creation of the CNA. To reiterate, the AMCC is a labor-management committee that is not dependent on the effectiveness of the CNA. The right to establish such a committee, including the AMCC, is granted by law, not merely by a contractual stipulation.

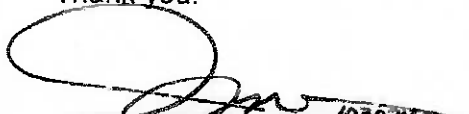
Lastly, to address **Option 3**, where you requested our recommendation based on the current needs and concerns of workers, we respectfully submit that the AMCC established under S.O. No. 4745, series of 2023, remains in effect. The Management, however, is not precluded from reconstituting the composition of its officials and members.

Please be informed that the foregoing legal opinion, is based solely on the information provided by your office, and may vary based on additional information or document/s or when the facts are changed or elaborated.

Kindly fill out the attached Customer Feedback Form and return the same to the Legal Service.

For your consideration.

Thank you.

  
ATTY. GINA V. WENCESLAO  
CMUG/JAM/10065  
10:30 AM  
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