



**LEGAL SERVICE
GENERAL ADMINISTRATION AND
SUPPORT SERVICES GROUP**

DSWD-GF-004 | REV 04 | 04 FEB 2025

DRN: LS-LMD-OUS-ORDEN-MEM-25-03-022853

MEMORANDUM

FOR : EDMON B. MONTEVERDE
Director IV, Protective Services Bureau (PSB)

**FROM : THE ASSISTANT SECRETARY FOR GENERAL ADMINISTRATION AND
SUPPORT SERVICES GROUP (GASSG) AND CONCURRENT
OFFICER-IN-CHARGE, LEGAL SERVICE**

**SUBJECT : LEGAL OPINION ON THE PROVISION IN THE ENHANCED
GUIDELINES ON COST SHARING AND MAINTENANCE IN THE
REGIONAL REHABILITATION CENTER FOR YOUTH (RRCY) AND
OTHER DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT
(DSWD) - MANAGED FACILITIES HANDLING CHILDREN IN CONFLICT
WITH THE LAW (CICL)**

This pertains to your Memorandum¹ seeking for legal opinion from the Legal Service (LS) on the provision in the Enhanced Guidelines on the Cost Sharing and Maintenance in the Regional Rehabilitation Center for Youth (RRCY) and other Department of Social Welfare and Development (DSWD)-managed facilities handling Children in Conflict with the Law (CICL).

The provision in the abovementioned guideline states:

VIII. PROCEDURES ON ACCESSING THE COLLECTED COST OF SHARE:

xxx

F. SENDING OF DEMAND LETTER

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3. After the fifteen-day grace period and the payable accounts remain outstanding, the FO-Finance Management Division shall endorse the matter to the DSWD - Legal Service through the FO - Legal Unit. The FO - Legal Unit shall provide the Court with the jurisdiction of the CICL's case regarding the status of the LGU accounts and seek the Court's viable assistance to ensure the compliance of the referring LGU as stated in the contract set forth by the FO and LGU through its Local Social Welfare and Development Office.

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In this regard, you now seek clarification on the following matters:

1. Statement of the above-cited provision if it is appropriately stated; and
2. Other measure/s to ensure the compliance of the referring LGUs with their obligations.

A Technical Assistance (TA) was conducted on 23 January 2025 at the LS Conference Room, between LS and PSB, to further clarify the issues surrounding the non-payment of Local Government Unit (LGU) shares for RRCYs and the jurisdictional concerns raised by the proposed guidelines. According to PSB,

¹ Annex A – Memorandum from PSB dated 03 December 2024



there were no prior DSWD guidelines outlining the cost-sharing arrangements between the LGUs and the RRCYs. The PSB further noted that the RRCY data is outdated, and not all shares of the LGUs are being collected as required. While the directive was to issue a Demand Letter in line with the prior Memorandum from FMS², non-compliance remains an issue.

To further resolve the gaps that must be addressed on the above-mentioned provision in the draft enhanced guidelines, LS and PSB deemed it proper to invite a representative from the Financial Service (FS), as one of the critical issues that must be addressed is the respective cost of share of the LGUs. Consequently, another TA was conducted on 03 February 2025, with LS, PSB and FMS in attendance.

During the TAs, LS reiterated the potential negative consequences of sending a demand letter to the LGUs and resorting to legal action, emphasizing that such an approach could inadvertently discourage collaboration and compliance, especially when the primary goal is to secure the best interests of the children and facilitate a functioning, sustainable partnership between the DSWD and LGUs. The discussions highlighted the importance of adopting a more diplomatic and solution-oriented approach, which begins with initiating open dialogue between relevant stakeholders. LS proposed that rather than immediately resorting to formal legal actions, there should be an effort to resolve issues through dialogue, mediation, and negotiation.

Our opinion

This level submits that the statement of the above-cited provision should be revised, and recommends the implementation of additional measures to ensure the maximum compliance of the referring LGUs with their obligations. We deem it more appropriate to prioritize cooperative dialogue over legal action to foster stronger partnerships and facilitate more efficient resolution of disputes among concerned government agencies. Hence, the provisions under the *Procedures for Accessing the Collected Cost of Share of LGUs* on the proposed enhanced guidelines should be revised to reflect a collaborative approach to collecting the LGUs' shares, and additional measures should likewise be added in the proposed guidelines to ensure the timely settlement of LGU obligations and support the effective and continuous implementation of juvenile intervention programs for CICL.

Please see our discussion below:

1. The "Sending of Demand Letter" section in the proposed enhanced guidelines addresses the non-payment or settlement of the referring LGU's payable accounts after the first and final demand letters, as well as the respective grace periods, have passed.

To further evaluate the propriety of the sending of Demand Letter, we deemed it proper to define it in its legal sense. A demand letter is a precursory initiative by individuals or entities as an attempt to resolve a dispute, usually over a form of payment owed by one party to another. These letters are an attempt by one party in the dispute to settle the matter before pursuing formal legal action in court. Often referred to as demand letters or letter requests, they are commonly used in situations such as debt collection, contract violations, and other conflicts as part of pre-legal procedures.³

Our operations and intergovernmental relationships must be grounded in the principles of cooperation and collaboration to ensure effective governance. As such, we are not inclined to pursue formal legal action against referring LGUs. Further, we are also not comfortable with the issuance of demand

² Annex B – FMS Memorandum dated 15 June 2023 with a subject "Financial Management Guidelines No. 39 series of 2023 Additional Guidance on Collections of LGUs Share in the Care and Maintenance of the Child in Conflict with Law"

³ Callahan & Blaine, *Business Litigation*, March 3, 2020

letters, as they are closely associated with legal escalation and may be perceived as adversarial in nature.

Relative to the sending of a demand letter, we take a closer look at the language of the proposed procedure on accessing the collected cost of share which provides:

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F. SENDING OF DEMAND LETTER

- 1. After the lapse of the thirty-day grace period to settle the payable accounts of the concerned LGU, the FO shall send the demand letter to settle the obligation within fifteen (15) days upon receipt;*
- 2. If the concerned LGU fails to settle its account within the period stated in the first demand letter, a final demand letter shall be sent to settle the payable accounts within fifteen (15) days upon receipt; and*
- 3. After the fifteen-day grace period and the payable accounts remain outstanding, the FO-Finance Management Division shall endorse the matter to the DSWD - Legal Service through the FO - Legal Unit. The FO - Legal Unit shall provide the Court with the jurisdiction of the CICL's case regarding the status of the LGU accounts and seek the Court's viable assistance to ensure the compliance of the referring LGU as stated in the contract set forth by the FO and LGU through its Local Social Welfare and Development Office.*

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A reading of the above-cited clause would, however, give us a vague understanding whether it provides the court with jurisdiction with respect to the failure of the LGUs to comply with its obligation to pay or contribute its share in the maintenance cost of RRCYs.

Meanwhile, the 2019 Revised Rules on Children in Conflict with the Law⁴, did not expressly accord Court jurisdiction over the administration and conflicts arising on disputes between the Implementing Agency and LGUs on matters involving the care and maintenance of Bahay Pag-asa or rehabilitation center or other appropriate facility operated or accredited by DSWD.

Applying the definition of Demand Letter as a precursor to a legal action in line with the language of the above provisional clause in the proposed guidelines, it is essential to recognize that a demand letter serves as a formal notice that could trigger legal action. While it does not grant the court jurisdiction, it initiates a process that might lead to legal claims and allow the court to exercise jurisdiction, if the complaint falls within the legal framework. This is particularly relevant when LGUs fail to meet their financial obligations for maintaining RRCYs, which are crucial facilities for the rehabilitation of CICL.

In this regard, we deem it proper to use the term Notice of Payment of Cost of Care and Maintenance instead of a Demand Letter, pursuant to the Rule Nos 82(c), (d), and (e) of the Revised Implementing Rules and Regulations (RIRR) of RA 9344 as amended by RA 10630⁵.

⁴ OCA Circular No. 97-2019, June 28, 2019

⁵ Rule 82.c. Notification and Payment of Cost of Care and Maintenance

The DSWD, LGUs or NGOs having custody of the child either in a "Bahay Pag-asa" or Youth Centers, shall notify the parents and the concerned LGUs, where the offense was committed or where the child resides, as the case may be, within two (2) weeks after admission, indicating the corresponding amount needed for the care and maintenance of the child for the duration of his or her stay in the Home or Center. Specific instructions on the payment modes shall also be given to facilitate the payment.

2. In line with responsibilities of LGUs in supporting the rehabilitation of CICL, Section 50 of Republic Act (RA) No. 9344, as amended by R.A. No. 10630⁸, outlines the obligation of the LGU to ensure sufficient funds are available for the care and maintenance of CICL in RRCY and other facilities managed by the DSWD, to wit:

Section 10. *Section 50 of Republic Act No. 9344 is hereby amended to read as follows:*

"SEC. 50. Care and Maintenance of the Child in Conflict with the Law. – x x x

"The LGUs expected expenditures on the local juvenile intervention program for children at risk and children in conflict with the law shall be included in the LGUs annual budget. Highly-urbanized cities and provincial governments should include a separate budget for the construction and maintenance of the 'Bahay Pag-asa' including the operation of the JJSC within the 'Bahay Pag-asa'."

Furthermore, Section 4 of RA No. 10630 provides for the establishment of the Juvenile Justice and Welfare Council (JJWC) under the administrative supervision of the DSWD and is tasked with overseeing the effective implementation of the Act and ensuring coordination among national agencies involved in juvenile justice and welfare.

To operationalize its mandate at the local level, the law also creates Regional Juvenile Justice and Welfare Committees (RJJWCs) in every region. These committees function under the JJWC's supervision and are responsible for implementing the law at the regional and local government levels, ensuring inter-agency coordination to support the welfare, rehabilitation, and reintegration of CICL.

In support of these objectives, Section 9-A and Section 63 of R.A. No. 9344, as amended, enumerates the duties and functions of the RJJWC and reinforces the fiscal responsibility of LGUs, to wit:

Section 5. *Section 9 of Republic Act No. 9344 is hereby amended to read as follows:*

"SEC. 9-A. Duties and Functions of the RJJWC. – The RJJWC shall have the following duties and functions:

"(a) To oversee and ensure the effective implementation of this Act at the regional level and at the level of the LGUs;

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Section 13. *Section 63 of Republic Act No. 9344 is hereby amended to read as follows:*

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If no payment is made to the receiving institutions after three (3) notices, Rule 82.d and Rule 82.e shall apply.

Rule 82.d. If the Child is Not a Resident of the LGU Where the Offense was Committed

In the event that the child in conflict with the law is not a resident of the municipality or city where the offense was committed, the Court, upon its determination, may require the city or municipality where the child in conflict with the law is a resident to shoulder the cost of the child's care and maintenance.

Rule 82.e. Determination of Capacity to Pay

In all cases, the capacity of the child's parents or those persons liable to support the child, to pay all or part of the expenses for the child's care and maintenance, shall be determined by the LSWDO of the city or municipality where the said child resides.

⁸ AN ACT STRENGTHENING THE JUVENILE JUSTICE SYSTEM IN THE PHILIPPINES, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9344, OTHERWISE KNOWN AS THE "JUVENILE JUSTICE AND WELFARE ACT OF 2006" AND APPROPRIATING FUNDS THEREFOR

"The LGUs concerned shall make available, from its own resources or assets, their counterpart share equivalent to the national government contribution of Five million pesos (P5,000,000.00) per rehabilitation center."

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As explicitly stipulated under Section 10 of R.A. No. 10630, LGUs are required to include their expected expenditures for the local juvenile intervention program for CICL in their annual budget. Pursuant to the duties and functions of the JJWC, it is mandated to oversee the successful implementation of juvenile justice-related programs and interventions at the regional and LGU levels.

Accordingly, and in consideration of the foregoing rationale, we respectfully recommend the following revision to Section VIII (F) of the proposed enhanced guidelines:

VIII. PROCEDURES ON ACCESSING THE COLLECTED COST OF SHARE

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F. ENSURING LGU COMPLIANCE

To ensure maximum compliance of the LGUs and effective implementation of this juvenile intervention program for CICL at the regional and LGU levels and the coordination among its member agencies, the FOs may work with the JJWC on the following actions:

- 1. A 30-day grace period shall be granted to the concerned LGU, during which the FO, shall work with the LGU to identify feasible solutions and exhaust administrative and collaborative mechanisms available. This will include initiating a joint dialogue with DSWD, Juvenile Justice Welfare Committee (JJWC), and Department of Interior and Local Government (DILG) to assess the LGU's financial status and recommend appropriate payment methods that align with its financial capacity, ensuring both compliance and sustainability. If the obligation remains unpaid after this period, the FO shall issue a Notice of Payment of Cost of Care and Maintenance, requiring settlement within fifteen (15) days upon receipt of notice;*
- 2. If the concerned LGU fails to settle its account within the period stated in the first notice, the FO shall issue a Final Notice of Payment of Cost of Care and Maintenance reiterating the directive to settle the remaining payable accounts within fifteen (15) days upon receipt of the final notice;*
- 3. After the lapse of fifteen (15)-day period following the issuance of the final notice, and the LGU concerned has not settled nor paid the outstanding cost of care and maintenance, the FO – FMD, pursuant to Republic Act (RA) No. 9285 or the Alternative Dispute Resolution Act of 2004, shall initiate engagement with the LGU, together with the JJWC and DILG, to facilitate an amicable resolution; and*
- 4. If all the aforementioned measures fail to secure compliance from the respective LGU, the FO – FMD shall refer the matter to the DSWD – Legal Service through the FO – Legal Unit, for endorsement of the matter to JJWC through the Regional Juvenile Justice Welfare Committee (RJJC) for arbitration and mediation subject for dispute resolution of the case and other appropriate intervention or remedy, in order to ensure*

the compliance of the referring LGU as outlined in the Memorandum of Agreement (MOA) (Annex __) set forth by the FO and LGU through its Local Social Welfare and Development Office (LSWDO).

Lastly, we suggest updating the 1st Legal Basis, as Section 50 has already been amended under R.A. 10630. Thus, kindly consider the enhancement under the 1st Legal Basis as follows:

II. Legal Bases

1. Section 50 of the Republic Act (RA) 9344 or the "Juvenile Justice and Welfare Act of 2006" as amended by RA 10630, provides that the expenses for the care and maintenance
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Conclusion

In view of the foregoing, we are of the considered view that a more constructive approach to addressing these disputes lies in cooperative discussions among various government agencies. This ensures that the parties involved can reach a resolution without immediately resorting to legal action. By prioritizing dialogue and cooperation, this approach strikes a balance between legal enforcement and the essential need to cultivate strong partnerships between government agencies and local authorities in the care and rehabilitation of CICL. Incorporating these revisions and enhancements will not only streamline the procedures but also ensure that the juvenile intervention programs for CICL are sustained effectively, with clear responsibilities and measures in place for the timely settlement of financial obligations by LGUs.

Please be advised that the above comments are based solely on the information provided by your office, and may vary based on the 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

MCMUG/JDVC/MGFN/10065

Approved by:


ATTY. EDWARD JUSTINE R. ORDEN

Undersecretary for GASSG

Date: 04 JUN 2025