

Primer on

Collective Negotiation Agreement



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Q. Are non-member rank-and-file employees entitled to CNA incentives?

A. Yes. As an accredited employees' organization, the concerned union represents not only its members but the entire rank-and-file employees. Hence, the CNA incentive is available even to non-member rank-and-file employees, subject to their payment of agency fee pursuant to PSLMC Resolution No.1, s. 1993.

What is Collective Negotiation Agreement or CNA?

Collective Negotiation Agreement or CNA is a contract negotiated between an accredited employees' organization as the negotiating unit and the employer/management on the terms and conditions of employment and its improvements that are not fixed by law.

Who can enter into a Collective Negotiation Agreement or CNA?

An accredited union and the employer/management can enter into a Collective Negotiation Agreement.

When can a union start negotiation with management?

After a certificate of union accreditation is issued and within one (1) year the union shall submit its CNA proposal to management.

When shall the CNA take effect?

Upon its signing by the parties and ratification by majority of the rank-and-file employees in the negotiating unit to be done within ninety (90) calendar days. Otherwise, the application for registration shall be denied. (PSLMC Res. No. 02, s. 2007)

Knowing the
**SUBJECT of
negotiation**

What

can be negotiated?

1. schedule of vacation and other leaves;
2. personal growth and development;
3. communication system-internal (lateral and vertical), external;
4. work assignment/reassignment/detail/transfer;
5. distribution of work load;
6. provision for protection and safety;
7. provision for facilities for handicapped personnel;
8. provision for first aid medical services and supply;
9. physical fitness program;
10. provision for family planning services for married women;
11. annual medical/physical examination;
12. recreational, social, athletic and cultural activities and facilities;
13. CNA incentive pursuant to PSLMC Resolution No. 4, s. 2002 and Resolution No. 2, s. 2003; and
14. such other concerns which are not prohibited by law and CSC rules and regulations

FAQS**Other Frequently
Asked Questions****Q. What is CNA incentive?**

A. *This is cash incentive in whatever form provided for in the CNAs and its supplements, which is granted in PSLMC Resolution No. 04, s.2002 and PSLMC Resolution No. 02, s. 2003, or the rationalized cash incentive granted to the government employees concerned who have contributed either in productivity or cost savings in an agency, in fulfillment of the commitments in the CNAs or supplements thereto.*

It excludes such other items that are negotiable, in cash or in kind, listed under Section 2, Rule XII, PSLMC Resolution No. 2, s. 2004, and non-negotiable concerns specified in PSLMC Resolution No. 04, s. 2002 and PSLMC Resolution No. 02, s. 2003 and DBM Budget Circular No. 2006-1 dated February 1, 2006.

Q. Where can the CNA incentive be sourced?

A. *The incentive shall be sourced solely from savings generated as a result of the cost-cutting measures/systems improvement agreed upon by the union/association and the agency management. Hence, the incentive cannot be given upon signing of the agreement by the parties, otherwise, it will partake of the nature of a signing bonus.*

Q. Can an agency/union grant CNA Signing Bonus?

A. *No. Signing Bonus has been declared illegal by the Supreme Court (Social Security System vs. Commission on Audit, 384 SCRA 548 dated July 11, 2002).*

SUBJECT of negotiation



Examples of NEGOTIABLE Items

REPRESENTATION IN COMMITTEES: The rank and file employees representatives to various Committees in the agency shall be named/appointed by the accredited employees' organization. The consent and approval of the management to the said designation is not required.

STUDY LEAVE: The study leave is a time-off from work not exceeding six (6) months with pay for qualified officials and employees to help them prepare for their bar or board examinations or complete their master's degree subject to the terms and conditions provided under the Omnibus Rules on Leave.

UNION TIME OFF: Should always yield to the exigency of the service, priority of which is public service delivery. Union time off is in recognition of the employees' participation rights, the management and the union may agree on a number of days of official time off per year, to be granted to the union's Board of Directors, other executive officers and members for the purpose of attending general assemblies and meetings, activities and conferences called by any government agency or other organization/institution. Availment therefore is, however, subject to the usual notification requirements and the exigency of the service. This privilege is non-cumulative and non-commutative.

In the issuance of the certificate of registration signed by the CSC Chair, the CSC-PRO points out the provisions in the agreement which are non-negotiable, hence unenforceable, despite the registration of the agreement.

What are the legal bases for the grant of CNA incentives?

The following are the bases for the grant of CNA Incentives:

1. **PSLMC Resolution No. 4, s. 2002** *"Grant of Collective Negotiation Agreement (CNA) Incentive for National Government Agencies, State Universities and Colleges and Local Government Units"*
2. **PSLMC Resolution No. 2, s. 2003** *"Grant of Collective Negotiation Agreement (CNA) Incentive for Government Owned and Controlled Corporations (GOCCs) and Government Financial Institutions (GFIs)"*
3. **Administrative Order No. 135 dated December 27, 2005** *"Authorizing the Grant of Collective Negotiation Agreement (CNA) Incentive to Employees in Government Agencies"*
4. **Department of Budget and Management Budget Circular No. 2006-1 dated February 1, 2006** *"Grant of Collective Negotiation Agreement (CNA) Incentive"*
5. **COA Resolution No. 2006-009 dated June 6, 2006** *"Guidelines on the Disposition/Resolution of Appeals/Petitions for Review/Requests for Reconsideration of Various Disallowances on the Grant of Collective Negotiation Agreement (CNA) Incentive by Various National Government Agencies (NGAs), Local Government Units (LGUs), Government Owned and Controlled Corporations (GOCCs) and Government Financial Institutions (GFIs) Pending with Commission Proper."*

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**Examples of
NON-NEGOTIABLE Items**

HOUSING PROGRAM: If the program is limited to the management's act of securing unit allocations for interested and qualified employees and the payment shall be made the said employees, then there is nothing objectionable thereto, otherwise, the same becomes non-negotiable.

SERVICE VEHICLE: What can be negotiated is the provision by the agency, upon written request of the accredited employees' union, of a service vehicle for the use of the said union in attending official meetings called by any government agency or other organizations/institutions on matters concerning the welfare of the employees, subject to availability of vehicles and existing policies of the agency on travel and use of vehicles.

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**Examples of
NON-NEGOTIABLE Items**

CHRISTMAS BONUS/CASH GIFT: If this is the traditional Christmas bonus and cash gift paid in May of each year with the remaining half payable in November, then this is authorized, otherwise the same is non-negotiable.

LOYALTY BONUS: This cannot be over and above the loyalty award (cash gift) of not less than P100 but not more than P1,000 for every year of service under CSC Memorandum Circular No. 6, s. 2002.

ASISTANCE/AID/INSURANCE:

BEREAVEMENT ASSISTANCE: The grant of bereavement/death assistance is already covered by GSIS.

DEATH BENEFIT: This will entail appropriation of funds. Besides, GSIS already provides for death benefit in case of death of the GSIS member.

CALAMITY AID: Its grant and implementation should be in accordance with presidential announcements.

INSURANCE: The government already provides retirement and life insurance through the GSIS. Any additional insurance shall be at the expense of the employees.

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**Examples of
NON-NEGOTIABLE Items**

Other MONETARY BENEFITS:

FRINGE BENEFITS: There is a need for legal authority or basis for the grant of these benefits, whether by law or presidential issuance. In the absence of such authority, these are non-negotiable concerns.

LONGEVITY PAY: This is the same as the step increment under Joint CSC-DBM Circular No. 1, series of 1990.

YEAR-END BENEFITS: The grant must comply with Presidential announcements. Any additional year-end benefit will entail appropriation of funds.

14TH MONTH PAY: Not allowed since the grant will entail budgetary/funding allocation.

HEALTH CARE/MAINTENANCE:

ANNUAL HEALTH CARE BENEFIT; HOSPITALIZATION ASSISTANCE; and MEDICAL, DENTAL, AND OPTICAL HEALTH MAINTENANCE PROGRAM: Only annual medical/physical examination is allowed under Section 2, Rule XIII of the Amended Rules and Regulations of Executive Order No. 180.

WORK-CONNECTED INJURY: Section 55 of the Omnibus Implementing Rules on Leave provides for six (6) months rehabilitation leave for job-related injuries and payment of medical attendance, necessary transportation, subsistence and hospital fees of the injured employee. To avail of this benefit, the provisions of CSC-DBM Joint Circular No. 01, s. 2006, otherwise known as the Guidelines for Availing of the Rehabilitation Privilege, must be strictly complied with

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**Examples of
NON-NEGOTIABLE Items**

LEAVES:

CHRONIC ILLNESS/DISEASE LEAVE: Grant of this leave has no legal basis. The concerned employee can apply for sick leave and then for vacation leave, if the (sick) leave credits have been exhausted/consumed.

DAY-OFF FOR TRAVEL and TRAVEL LEAVE:: This type of leave has no legal basis.

EMERGENCY LEAVE/SPECIAL LEAVE PRIVILEGES: Under existing civil service rules, only three (3) days special leave are allowed every year. The employee can avail of one (1) type of leave for three (3) days or a combination of any of the leaves for a maximum of three (3) days in a given year. Special leave privileges are non-cumulative and non-convertible to cash.

OTHERS:

EMPLOYMENT OF NEXT OF KIN: This must be read together with the constitutional, statutory and civil service provisions on merit and fitness. Pursuant to its constitutional mandate to strengthen the merit system, the Commission issued CSC Memorandum Circular No. 3, series of 2001, enjoining the agency head, in the exercise of his/her sound discretion, to select from among the top five (5) ranking applicants deemed most qualified for appointment to the vacant position.

Knowing the
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negotiation**



What cannot be negotiated?

Compensation Matters

1. Increases in salary;
2. allowance;
3. travel expenses; and
4. other benefits that are specifically provided by law

**Examples of
NON-NEGOTIABLE Items**

ALLOWANCES:

CHRISTMAS GROCERY ALLOWANCE

RICE ALLOWANCE

SUBSISTENCE ALLOWANCE

BONUSES:

ANNIVERSARY BONUS: Only anniversary bonus during milestone years is allowed. A milestone year refers to the 15th anniversary or foundation day and every fifth year thereafter.

BIRTHDAY MONTH BONUS



are the essential provisions of a CNA?

Generally, a CNA contains the following essential provisions:

- Declaration of Principles;
- Coverage/Scope of Representation;
- Union Recognition and Security;
- Union Rights and Privileges;
- Management Prerogatives and Responsibilities and Union Responsibilities and Accountability;
- Recruitment, Placement and Career Development;
- Health and Safety
- Cost-cutting Measures
- Employee Benefits Program;
- Grievance Machinery;
- Dispute Resolution;
- Entirety and Modification Clause;
- Separability Clause;
- Effectivity and Duration

Knowing the
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**Examples of
NEGOTIABLE Items**

BULLETIN BOARDS and UNION OFFICE: Adequate office space may be provided by management from an already existing structure/ office space in the agency. If the provision for a union space will entail the construction of a new structure, then the same is non-negotiable as this would need appropriation of funds. The agency may likewise allow the use of its machines, office equipment and other facilities where the union officers/members are assigned, subject to existing agency rules and regulations.

COMPENSATORY TIME-OFF (OVERTIME PAY): Administrative Order No. 103 dated August 31, 2004 directs agency heads to adopt a scheme that will allow employees rendering overtime to be compensated through time/days off work in lieu of overtime pay, in accordance with the guidelines issued by the Department of Budget and Management (DBM) and the Civil Service Commission (CSC), Joint CSC-DBM Circular No. 2. series of 2002 providing for a uniform policy on the availment of compensatory time-off in lieu of overtime pay.

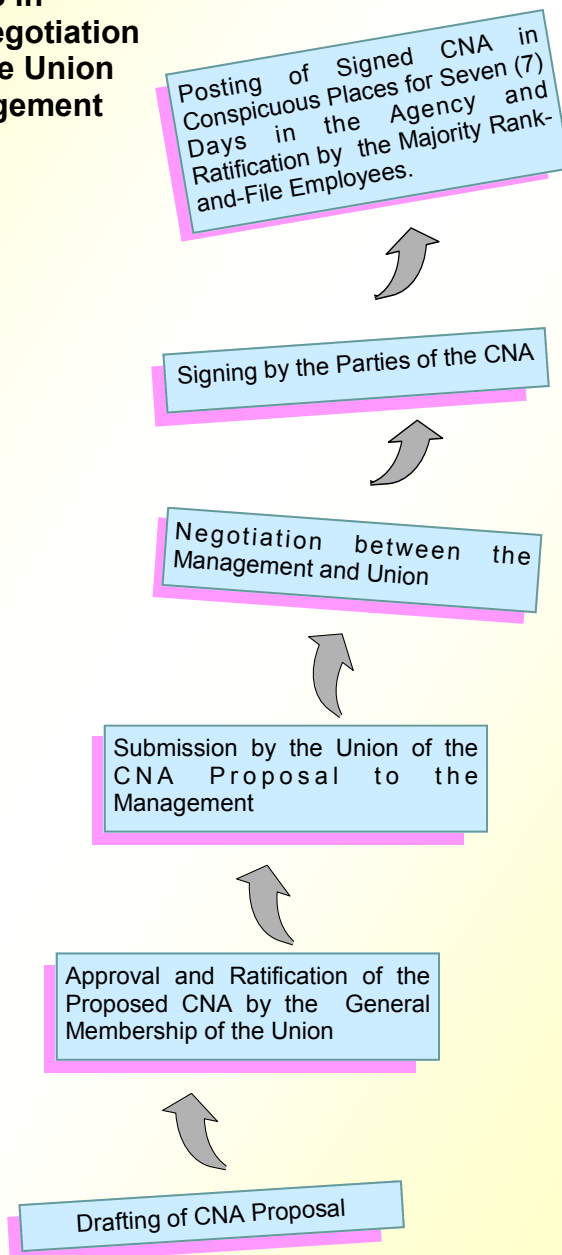
FLEXITIME WORK SCHEDULE: The period of one (1) hour before reporting for work or leave one (1) hour earlier from work can be implemented through the adoption of a Flexitime Work Schedule. It should not, however diminish the 40-hour work-week required by law (RA 2262).

HAZARD PAY: Republic Act No. 9336 allows upon recommendation of the Department Head and approval of the Secretary of Budget and Management, the payment of hazard duty pay to officials and employees who are actually assigned to, and performing their duties in strife-torn or embattled areas as may be determined and certified by the Secretary of National Defense. Hazard pay shall only be granted for the duration or existence of such period.

Other Benefits granted by Law

1. **Republic Act No. 8972 “Solo Parents’ Welfare Act of 2000”**
An Act providing for benefits and privileges to solo parents and their children, appropriating funds therefore and for other purposes
2. **Republic Act No. 9262 “Anti-Violence Against Women and Children Act of 2004”**
An Act defining Violence Against Women and their Children, providing for protective measures for victims, prescribing penalties therefore, and other purposes
3. **Republic Act No. 9710 “The Magna Carta of Women”**
An Act providing for the Magna Carta of Women
4. **Republic Act No. 8552 “Domestic Adoption Act of 1998”**
An Act establishing the rules and policies on the domestic adoption of Filipino children and for other purposes.
5. **CSC Memorandum Circular No. 2, s. 2012**
Special Emergency Leave to employees affected by natural calamities/Disasters
6. **CSC Memorandum Circular No. 25, s. 2010**
Guidelines on the Availment of the Special Leave Benefits for Women under R.A. No. 9710
7. **CSC Memorandum Circular No. 8, s. 2004**
Guidelines on the Grant of Parental Leave to Solo Parents

STEPS in Collective Negotiation between the Union and Management



Q. What is the duration of the CNA?

A. A CNA shall in no case have a life time of more than three (3) years. (Section 11, PSLMC Resolution No. 2, s. 1991)

Q. What is check-off?

A. A check-off is a method of deducting from an employee's pay at a prescribed period, the amounts due the union for fees, fines, assessments (The Labor Code). It is also a process or device whereby the employer, on agreement with the union, recognized as the proper bargaining representative, or on prior authorization from its employees, deducts union dues or agency fees from the latter's wages and remits them directly to the union (ABS-CBN Supervisors Employees Union Members vs. ABS-CBN Broadcasting Corporation, 304 SCRA 489)

Q. Is the grant of retirement benefit in the form of promotion with increase in salary allowed in the CNA?

A. No. Joint CSC-DBM Circular No. 3 dated November 8, 1991 prohibits promotion with increase in salary during the 6-month period immediately preceding the date of compulsory retirement of an employee or during the 6-month period after the approval of the General Appropriations Act providing for the retirement benefit of an employee retiring under the optional mode.

Q. Why can't "Security of Tenure" be granted to employees with a temporary status, as part of the negotiable items in the CNA?

A. Only permanent employees have security of tenure such that they cannot be removed or suspended except for cause as provided by law and after due process. Casual employees can be separated from the service anytime, there being no need to show cause. As regards appointees under temporary status, they may be terminated without necessarily being replaced by another. They may also be replaced within the twelve month period by qualified eligibles or even non-eligibles.