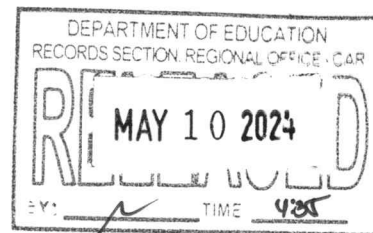




Republic of the Philippines
Department of Education
CORDILLERA ADMINISTRATIVE REGION



May 07, 2024

REGIONAL MEMORANDUM

274-2024

**LEGAL ASSISTANCE FACILITY FOR TEACHERS ON MATTERS
OF LOAN CONTRACT AND OBLIGATIONS**

To: All Teachers
All DepEd CAR Personnel
All other concerned

1. One component of the MATATAG is to “GIVE SUPPORT FOR TEACHERS TO TEACH BETTER.” One of the strategies to the said component is to “*provide a free legal assistance facility for teachers on matters concerning loan contract and obligations.*”
2. The Department of Education CAR has established the DepEd CAR HelpDesk to address concerns of all DepEd CAR personnel and its stakeholders relative to its services. A Question and Answer on loan contracts and obligations has been recently added to the “Legal Matters” tab;
3. This will also be the facility for submission of queries or tickets relative to loan contract and obligations concerns.
4. To view the Questions and Answers or to submit a ticket, please visit www.helpdesk.depedcar.ph. Queries may also be sent directly to car.legalunit@deped.gov.ph.
5. For information and dissemination.

ESTELA P. LEON-CARIÑO EdD, CESO III
Director IV/Regional Director

Enclosure:
Q&A on Loan Contract and Obligations



Address: DepEd-CAR Complex, Wangal, La Trinidad, Benguet, 2601
Telephone No: (074) 422 – 1318
Email Address: car@deped.gov.ph



DepEd Tayo Cordillera



<https://depedcar.ph>

1. What is a loan?

Loan is commonly known as the lending of money by one individual, entity or corporation to another party in exchange for repayment.

A “loan” is “anything furnished for temporary use to a person at his request, on condition that it shall be returned, or its equivalent in kind, with or without compensation for its use.”¹

Webster’s Third International Dictionary defines a loan similarly, as “something lent for the borrower’s temporary use on condition that it or its equivalent be returned.”²

2. What is a loan contract?

*By the contract of loan, one of the parties delivers to another, either something not consumable so that the latter may use the same for a certain time and return it, in which case the contract is called a commodatum; or money or other consumable thing, upon the condition that the same amount of the same kind and quality shall be paid, in which case the contract is simply called a loan or mutuum.*³

A loan contract is a real contract, not consensual, and, as such, is perfected only upon the delivery of the object of the contract.⁴

3. Who can contract a loan?

Any person that has “capacity to act” or the power to do acts with legal effect can contract a loan.

4. Who are the parties of a loan contract?

The parties to a contract of loan are:

- a. Obligee (CREDITOR)
- b. Obligor (DEBTOR)

5. What are the obligations of the parties of a loan contract?

Obligations of the Debtor

- Pay the amount loaned in good faith including interest, if stipulated in writing, within a given period [Art 1953, Art. 1956, Civil Code]

¹ Black’s Law Dictionary 936 (6th ed.1990)

² Webster’s Third New International Dictionary 1326 (Philip Babcock Gove ed., 1993)

³ Article 1933, Civil Code of the Philippines

⁴ Naguiat v. Court of Appeals, G.R. No. 118375, October 3, 2003

Obligations of the Creditor

- Respect the contract, the law, follow legal procedures, and act in good faith.

6. What are the usual fees when contracting a loan?

The **effective interest rate (EIR)** measures the actual cost of borrowing money. It is the rate that best measures the true cost of credit.⁵

Personal loans with low interest rates in the Philippines have EIRs ranging from 12% to 30%. The EIR includes monthly interest charges and service fees, such as personal loan processing fees and documentary stamp tax.⁶

Fees usually include:

- i. Monthly Interest Charge
 - It's the interest rate applied to the total due or outstanding balance and any unpaid personal loan fees and charges. The interest is compounded monthly. Borrowers continue to pay it until the loan balance is fully paid.
- ii. Processing Fee
 - Lenders charge a fixed service fee to cover the cost of processing the personal loan application, including credit checks and administrative costs. The personal loan processing fee in the Philippines is deducted from the loan amount.
- iii. Documentary Stamp Tax: ₱1.50 for every ₱200 for loans exceeding ₱250,000
 - The Bureau of Internal Revenue (BIR) requires a Documentary Stamp Tax (DST) of ₱1.50 per ₱200 of a loan amount over ₱250,000 for personal use or any loan amount for business purposes. Like the processing fee, the DST is deducted from the loan proceeds. Loans under ₱250,000 for personal use are exempted from the DST payment.
- iv. Disbursement Fee
 - Disbursement fees aren't as common as other personal loan fees in the Philippines. Every time the loan amount, or a portion of it, is disbursed to you, a disbursement fee is taken out of your proceeds. Simply cash out your loan proceeds once to save money on this fee.
- v. Notarial Fee

⁵ BSP CIRCULAR NO. 730 – TRUTH AND TRANSPARENT LOAN PRICING AND DISCLOSURE

⁶ <https://www.moneymax.ph/personal-loan/articles/personal-loan-charges-fees>

- A fee that covers the notarial act and notarization by a notary public
- This is also called attorney's fee, this personal loan fee covers the preparation and acknowledgement of the loan contract.

The minimum required information to be disclosed to the borrower:

- a. Loan amount;
- b. Upfront charges/deductions collected;
- c. Net proceeds of the loan;
- d. Schedule of payments;
- e. EIR; and
- f. Conditional charges, if any.
- g. Other which the credit provider may want to disclose

7. Can a DepEd teacher be administratively charged for non-payment of loan, contracting loans, and/or lending money?

Yes, DepED Order No. 49 Series of 2006, Section 2 provides that an administrative complaint may be filed for

- 7.1. Borrowing money by superior officers from subordinates or lending by subordinates to superior officers;
- 7.2. Lending money at usurious rates of interest;
- 7.3. Willful failure to pay just debts or willful failure to pay taxes due the government;

The term "*just debts*" shall apply to:

1. Claims adjudicated by a court law; or
2. Claims the existence and justness of which are admitted by the debtor.

- 7.4. Contracting loans of money or other property from persons with whom the office of the employees concerned has business relations.

- **Note:** The respondent may also be charged with conduct prejudicial with the best interest of the service depending on the circumstances of the case.

8. What is the procedure of the Department of Education in Administrative Cases on the grounds mentioned above (7)?

- Administrative proceedings

Who may file:

- a. May be commenced *motu proprio* by the:
 - Secretary of Education
 - the Regional Director, in case of DepEd Officials and teaching and non-teaching personnel, and

- the Schools Division Superintendents in case of non-teaching personnel within their jurisdiction
- b. May also be commenced upon sworn written complaint of any other persons

Where to file the administrative complaint:

- a. Against non-teaching personnel - with the School Superintendents
- b. Against teachers and against their personnel of regional offices - with the Regional Directors concerned
- c. Against Presidential Appointees and employees at the Central Offices - with the Legal Division of the Central Office

The Secretary of Education can take cognizance of any complaint or administrative cases filed before any office of the Department of Education.

9. What are the corresponding penalties for violations of DepEd Rules related to loans?

- 9.1. What is the corresponding penalty for Borrowing Money by Superior Officers from Subordinates or Lending by Subordinates to Superior Officers?
 - 1st offense* – Reprimand;
 - 2nd offense* – Suspension for one (1) to thirty (30) days;
 - 3rd offense* – Dismissal
- 9.2. What is the corresponding penalty for Lending Money at Usurious Rates of Interest?
 - 1st offense* – Reprimand;
 - 2nd offense* – Suspension for one (1) to thirty (30) days;
 - 3rd offense* – Dismissal
- 9.3. What is the corresponding penalty for Willful Failure to Pay Just Debts or willful failure to pay taxes due to the government?
 - 1st offense* – Reprimand;
 - 2nd offense* – Suspension for one (1) to thirty (30) days;
 - 3rd offense* – Dismissal
- 9.4. What is the corresponding penalty for Contracting Loans of Money or Other Property from Persons with whom the Office of the Employees concerned has Business Relations?
 - 1st offense* – Dismissal
- 9.5. What is the corresponding penalty for Conduct Prejudicial to the Best Interest of the Service?
 - 1st offense* – Suspension for six (6) months and one (1) day to one (1) year
 - 2nd offense* – Dismissal