

Includes 2016, 2017 up to September 2018 cases

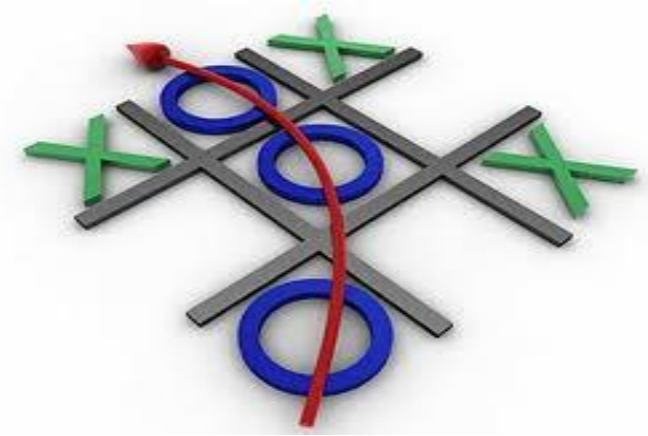
Election Law Reviewer

Alberto C. Agra

Ateneo Law School

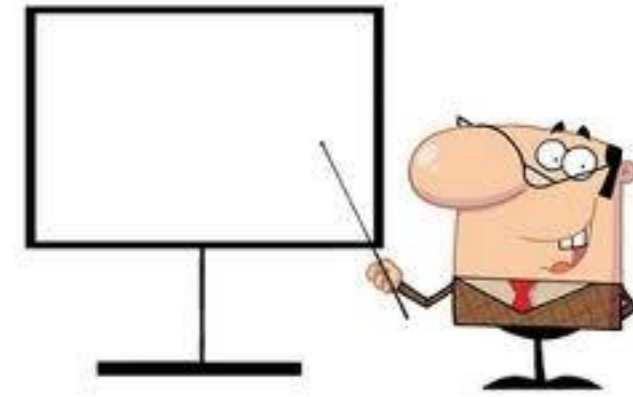
October 27, 2018

Election Laws



1. 1987 Constitution
2. Omnibus Election Code (B.P. 881)
3. Automated Election Law (R.A. 9369 amending R.A. 8436)
4. Synchronized Elections Act (R.A. 7166)
5. 1991 Local Government Code (R.A. 7160)
6. Initiative and Referendum (R.A. 6735)
7. Party-List System Act (R.A. 7941)
8. Fair Election Act (R.A. 9006)
9. Voter's Registration Act of 1996 (R.A. 8189)
10. Overseas Absentee Voting (R.A. 10590 amending R.A. 9189)
11. Biometrics (R.A. 10367)
12. Lone Candidate in Special Elections (R.A. 8295)
13. Official Sample Ballots (R.A. 7004)
14. Citizenship Retention and Re-acquisition Act (R.A. 9225)

Topics for Discussion



- [1) Philippine Elections
- [2) Commission on Elections and Election Tribunals
- [3) Voters and Voter Registration
- [4) Elective Officials and Candidates
- [4.1) Party-List System
- [5) Campaign
- [6) Contributions and Expenditures
- [7) Postponement and Failure of Elections
- [8) Automated Elections
- [9) Pre-Proclamation Cases
- [10) Post-Proclamation Cases
- [11) Election Offenses
- [12) Dispute Resolution

1) Philippine Elections



- General
- Free
- Direct
- Equal
- Secret
- Choices (Person & Policy)
- Automated (or Manual)
- All Levels
- Synchronized conduct
- Regular
- Plurality Formula (and proportional representation)
- Regulated by Law
- Supervised by Comelec
- Clean, Honest, Orderly, Peaceful and Free
- Regulated Contributions and Expenditures
- Participated in by Political Parties
- Public Disclosures

2) Commission on Elections



- **Independent 7-Person Constitutional Body** (administrative agency, public office, fixed term, permanent appointments)
- **Plenary authority** to decide all questions affecting elections except the question as to the right to vote (qualifications); **commits grave abuse of discretion when it dismisses an initiative petition on the ground that there were no funds allocated for the purpose; has the power to determine whether the propositions in an initiative petition are within the powers of a concerned *sanggunian* to enact (2017)**
- **Enjoys Fiscal Autonomy**

2) Commission on Elections



- **Wide** discretion in adopting means to carry out its mandate of ensuring **CHOPFE** (not straitjacketed by procedural rules), **fix length and starting date of election period outside the 120-day default period, does not amount to undue delegation (2016)**
- **Enforcement Power:** All election laws (persons and policies); exclusion of others; **enforce, not amend laws (2016)**
- **Judicial Power:** Qualifications and Election Contests (excludes Suffrage)
- **Quasi-Legislative:** RA 7166 uses the mandatory word "shall" to impose upon the COMELEC the duty to issue rules and regulations to implement the law (bearing of firearms) (2017)

2) Commission on Elections



- **Control and Supervision:** over BEIs and BOCs, **over election officers since its agents (2016)**
- **Jurisdiction:** Original (Regional, Provincial and City); and Appellate (Municipal, Barangay and Sangguniang Kabataan)
- **Remedies:** En Banc (MR, administrative) and Division (1st instance, judicial)
- **Process:** Division - MR to En Banc then Certiorari to SC
- **Contempt:** Judicial Proceedings (not Administrative)

2) Commission on Elections



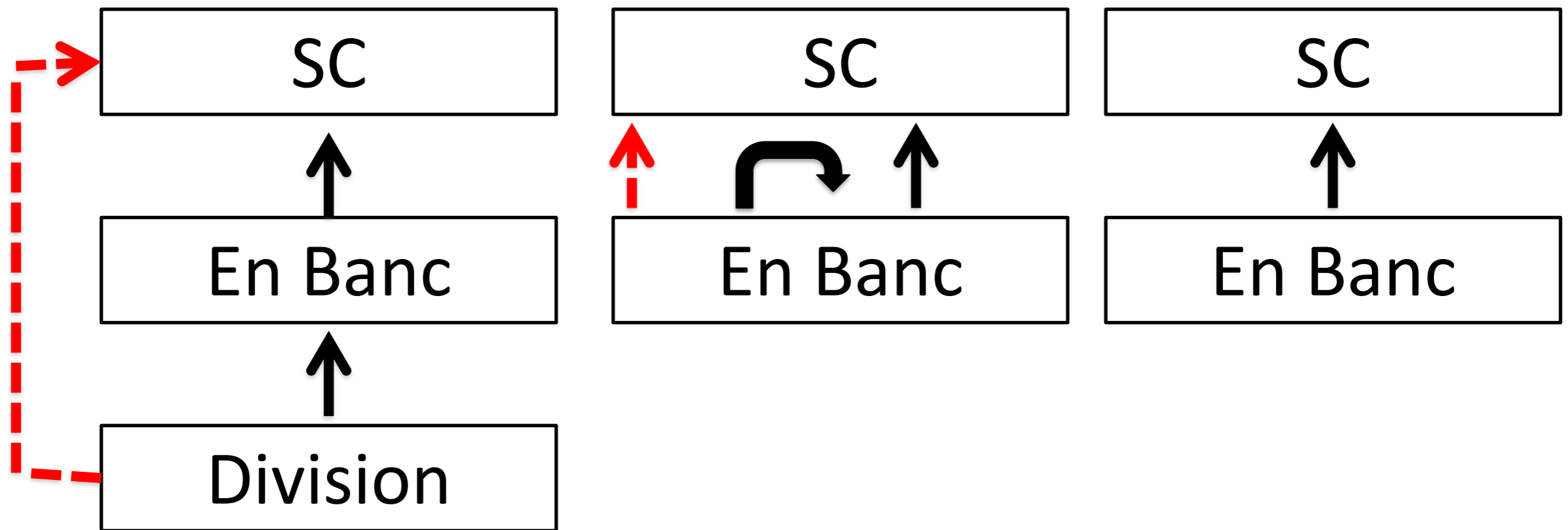
Judicial (Division)

- Disqualification
- Election Protest
- Quo Warranto
- Pre-Proclamation
- Annulment of Proclamation
- Intra- and inter-party
- Cancellation of a certificate of candidacy
- Leadership (not expulsion of member)
- Registration of Political Parties

Administrative (En Banc)

- Failure of Elections
- Postponement of Elections
- Election Offense (filing of information)
- Annulment of Book of Voters
- Cancellation of certificate of candidacy based on final judgment of conviction with ancillary penalty of DQ
- Allocation of party-list seats
- Accreditation of Major Parties

2) Commission on Elections



Judicial

Administrative

Rule-Making

3) Public Offices



Branch	Public Office
Regular Courts	Supreme Court (judicial review over SET and HRET, 2016) Court of Appeals Regional Trial Court Municipal Trial Court
Tribunals	Presidential Electoral Tribunal Senate Electoral Tribunal (exclusive and only task, 2016) House of Representatives Electoral Tribunal (assumes jurisdiction when proclaimed and taken oath, 2016; can annul results in precincts, 2017)
COMELEC	National Board of Canvassers En Banc Division (can become final without en banc confirmation, 2016) Board of Canvassers Board of Election Inspectors Law Department
Executive	Department of Justice

3) Election Tribunals



	<i>Elective Positions</i>							
<i>Cases</i>	<u>Pres/ VP</u>	<i>Senators</i>	<i>District Reps.</i>	<i>Part-List Reps.</i>	<i>Regional Officials</i>	<i>Provincial Officials</i>	<i>City Officials</i>	<i>Municipal Officials</i>
<i>Disqualification</i>	<u>Comelec</u> Division							
<i>Proclamation</i>	Congress	<u>Comelec</u> En Banc	Local/ District Board of Canvassers	<u>Comelec</u> En Banc	<u>Comelec</u> En Banc	Provincial Board of Canvassers	City Board of Canvassers	Municipal Board of Canvassers
<i>Annulment of Proclamation</i>	[Congress]	[<u>Comelec</u> En Banc]	[<u>Comelec</u> Division]	[<u>Comelec</u> En Banc]	<u>Comelec</u> Division			
<i>Election Protests</i>	Presidential Electoral Tribunal	Senate Electoral Tribunal	House of Representatives Electoral Tribunal		<u>Comelec</u> Division			Regional Trial Court
<i>Quo Warranto</i>								
<i>Postponement of Elections</i>	COMELEC En Banc							
<i>Failure of Elections</i>								
<i>Election Offenses</i>	[Immunity after Proc.]	<u>Comelec</u> Law Department or Prosecutors (<u>Comelec</u> En Banc filing of Information; Regional Trial Court for Trial)						

3) Voters: Concepts



- **What?** Suffrage is a Right (not an obligation)
- **Who?** Qualifications defined in Constitution; Disqualifications defined in Statute; Allow Absentee Voting, Dual Citizens, Disabled and Illiterates to Vote
- **How?** Procedural Requirements allowed to be imposed, Substantive not allowed
- Distinguished from **Right to Register**

3) Voters: Qualifications



- [Filipino **Citizen**
- [At least 18 years of **age** on election day
- [**Resident in Philippines** for at least 1 year prior to election day (domicile; permanent residency)
- [**Resided in place** wherein propose to vote for at least 6 months prior to election day (permanent or temporary)
- [**Free** from Disqualifications
- [In order to vote, must be a **registered voter**

3) Voters: Disqualifications



- [Sentenced by final judgment – imprisonment of 1 year or more
- [Sentenced to suffer accessory penalty – political rights
- [Adjudged by final judgment – crime involving disloyalty
- [Court-declared insane and incompetent persons

3) Voters: Registration



- [**Nature:** Continuing
- [**Listing:** Computerized List at all Levels
- [**Number:** 200 Voter-Precinct (several precincts can be clustered)
- [**Biometrics:** Mandatory for new; for registered voters, validation
- [**Changes:** Permanent but subject to changes (+ or -)

3) Voters: Registration



Addition (+)

- New Voters
- Transfer of Residence to
- Reactivation
- Inclusion

Deletion (-)

- Cancellation (death)
- Transfer of Residence from
- Deactivation
- Exclusion
- Annulment of Book of Voters

3) Voters: Deactivation



- [Disqualified to Vote
- [Failed to Vote in 2 preceding elections
- [Registration Excluded by the Court
- [Lose Filipino Citizenship
- [Failure to have biometrics taken (validation)

3) Voters: Opposition



- **What?** Applications not yet resolved
- **Where Oppose?** Election Registration Board
- **Who may Oppose?** Voter, Candidate or Political Party
- **When?** Specified Period
- **How Oppose?** File Written Opposition/ Challenge
- **Why Oppose?** Not Qualified, Fictitious
- **Appearance?** Mandatory if application opposed

3) Voters: Inclusion/ Exclusion



- **What?** Applications already acted upon
- **Where File?** MTC (not Comelec), then RTC (not Comelec), then SC (question of law)
- **Grounds?** Inclusion - Disapproval or Name Stricken Out; Exclusion - Not Qualified or Fictitious Voter
- **When?** Specified Period

3) Voters:

Annulment of Book of Voters



- **Annul What?** Book of Voters per precinct
- **Where File?** Comelec
- **When Filed?** Normally, after period to file inclusion/ exclusion lapses
- **Who Files?** Any Voter, EO or Party
- **What Grounds?** (1) Book Prepared Improperly, Preparation Attended with Vice or Fraud, and (2) Book contains Statistically Improbable Data (not on substantive, qualification of voters)

3) Voters: Election Day



Illegal Voter

- [Not registered; Use another name; Disqualified; Multiple Registrant (*allowed to vote if properly identified*)

Illegal Act

- [Vote-Buying; Vote-Selling; Vote-Betting: Promise to induce or withhold vote (*allowed to vote if take oath*)

4) Officials: Elective



National Office

- President; Vice-President; Senators (24; 1/2); Representatives (District and Party-List)

Local Office

- LCE: Regional Governor, Provincial Governor, City or Municipal Mayor and Punong Barangay
- VLCE: Vice-Governor and Vice-Mayor; Sanggunian Members

4) Officials: Elective



Number of Elective Positions to be Voted for National and Local Elections May 13, 2019

	Elective Position	Number
1	Senators	12
2	Party-List Representatives	59
3	Member, House of Representatives	238
4	Governor	81
5	Vice-Governor	81
6	Member, Sangguniang Panlalawigan	776
7	City Mayor	145
8	City Vice-Mayor	145
9	Member, Sangguniang Panlungsod	1,624
10	Municipal Mayor	1,489
11	Municipal Vice-Mayor	1,489
12	Member, Sangguniang Bayan	11,916
13	ARMM Regional Governor	1
14	ARMM Regional Vice-Governor	1
15	ARMM Member of Regional Assembly	24
	TOTAL SEATS	18,081

4.1) Types of Representatives



<i>Features</i>	<i>District Representatives</i>	<i>Party-List Representatives</i>
<i>Candidate</i>	Natural Person	Party or Organization
<i>Personalities</i>	Directly, Personalities	Indirectly, Personalities
<i>Portion of House</i>	80%	20%
<i>Formula</i>	Plurality	Proportional Representation
<i>Nominee Qualifications</i>	Natural-Born; 25 yo; Literate; 1 year residency; Registered in District	Same; except 25-30 if youth; registered anywhere

4.1) Number of PL Seats



- 20% of House of Representatives
- All seats are “reserved” and must be filled up
- Formula: # of DRs/ 0.8 x 0.2
- So in 2019:

$$238 / 0.8 \times 0.2 = 59.5 \text{ (59 or 60 seats)}$$

4.1) Qualified Participants



National Parties/ Organizations	<ul style="list-style-type: none">• need not be sectoral• geographical presence/ track record
Regional Parties/ Organizations	<ul style="list-style-type: none">• need not be sectoral• geographical presence/ track record
Sectoral Parties/ Organizations	<ul style="list-style-type: none">• principal advocacy• no need to show track record• represents 12 marginalized sectors• list of 12 not exclusive
Political Parties	<ul style="list-style-type: none">• Register under system• Not field district representatives• If field district representatives, through sectoral wing

4.1) Disqualified Parties



Religious Sect

Advocates
Violence

Adjunct of,
Funded by
Government

Foreign or
Foreign-
Assisted Party

4.1) Statutory Thresholds



2% of 2nd
votes per seat

Maximum
3 seats (only 1
party)

Real Threshold: <2%

4) Officials: Qualifications



Enumeration: Set by the Constitution (national) and statutes (local)

- [Citizenship (naturalized elsewhere: oath and renounce, 2016; foundling presumed natural-born unless proven otherwise, 2016; clerical error in date of notarization of Affidavit of Renunciation [dual citizenship] not fatal, 2017)
- [Age
- [Residency (physical presence may be broken; not require 24/7, 2016)
- [Registered Voter
- [Literacy
- [Free from Disqualifications
- [Not perpetually disqualified (grave misconduct; repeated failure to file SOCE, 2017)
- [Undertake Drug Test under CDDA OF 2002, unconstitutional]

Procedure: Electoral aspect of DQ (administrative proceeding): summary

4) Specific Qualifications



<i>Elective Position</i>	<i>Qualifications</i>					<i>Term (Years)</i>	<i>Term Limit</i>
	<i>Citizenship</i>	<i>Age</i>	<i>Literacy</i>	<i>Voter</i>	<i>Residency</i>		
<i>President and Vice President</i>	Natural-Born	40	Read and Write	Registered	10 years in <u>Phl</u>	6	P-1 VP-2
<i>Senator</i>	Natural-Born	35	Read and Write	Registered	2 years in <u>Phl</u>	6	2
<i>District Representatives</i>	Natural-Born	25	Read and Write	Registered in District	1 year in District	3	3
<i>Party-List Representatives</i>	Natural-Born	25 (if youth: 25-30)	Read and Write	Registered	1 year in <u>Phl</u>	3	3
<i>ARMM Governor</i>	Natural-Born	35	Read and Write	Registered in ARMM	5 years in ARMM	3	3
<i>ARMM Legislators</i>	Natural-Born	21	Read and Write	Registered in District	5 years in District	3	3
<i>Local Officials</i>	Citizen	<u>Prov/HUC</u> : 23 Other Mayor/ VM: 21 Others: 18	Read and Write Filipino or Local dialect	Registered in Locality	1 year in Locality	3	3

4) Candidate: Evolution of Definition (under AES)



<i>Automated Election Law</i> <i>RA No. 9369</i> <i>(January 23, 2007)</i>	<i>Omnibus Election Code</i> <i>B.P. Bldg. 881</i> <i>(December 3, 1985)</i>	<i><u>Comelec</u> Resolution</i> <i>No. 9991</i> <i>(October 2, 2015)</i>	<i><u>Comelec</u> Resolution</i> <i>No. 10049</i> <i>(February 1, 2016)</i>
<ol style="list-style-type: none"> 1. Filed Certificate of Candidacy (<u>CoC</u>) 2. Start of campaign period 	<ol style="list-style-type: none"> 1. Aspiring for elective office 2. Filed <u>CoC</u> 	<ol style="list-style-type: none"> 1. Aspiring for elective office 2. Filed <u>CoC</u> 3. Not withdrawn <u>CoC</u> before start of campaign period 	<ol style="list-style-type: none"> 1. Seeking elective office 2. Filed <u>CoC</u> 3. Not died, withdrawn <u>CoC</u> 4. Not disqualified or <u>CoC</u> cancelled or denied due course before start of campaign period

4) Officials: Candidate



- **Definition:** Seeks public office *and* files certificate of candidacy *and* campaign period has started (under automated system); **October 11 to 17, 2018 for May 13, 2019 elections (2019)**
- **Nature of CoC:** **only 1 CoC; announce and declare eligible (2016); if CoC void, candidate not considered a candidate even if cancelled after elections (2016); perpetual disqualification [guilty of grave misconduct] renders CoC void, cannot be re-elected (2017)**
- **Ministerial Duty:** If filed in due form, ministerial duty to receive COC; Comelec may look into patent defects (appearing on the face) of CoCs
- **Effect of Non-Filing:** Not a candidate (*not liable for unlawful acts and omissions before becoming a candidate; before start of campaign period*)
- **Effect of Filing:** On Tenure of Incumbents (elective – remain in office; appointive – *ipso facto* resigned)

4) Officials: Substitution



- **Grounds:** (1) Death, (2) Withdrawal, and (3) Disqualification (*not allowed if:* (a) violate term limit; (b) not meet residency requirement; (c) CoC denied due course or cancelled – (c.1) nuisance and (c.2) material misrepresentation); if invalid substitution – not considered a candidate
- **Who?** Substitute must be Qualified; **not allowed for independent candidate (PP/ Coalition can only nominate 1)**
- **When?** Up to mid-day of election day (**if withdrawal, not after November 29, 2018; death or final DQ decision, mid-day of May 13 provided same surname**)
- **Substitute?** Qualified (not disqualified) and Same Party
- **Limitations:** Substituted candidate can still run for other elective positions; Withdrawal not affect liabilities

4) Officials: Disqualifications



- Purpose of DQ: prevent candidate from running, or if elected, from serving; **DQ distinct from administrative case (2016)**
- Lack qualifications/ possess some disqualifications
- Violate Term Rule (1-2-3 terms)
- Commission of an election offense
- Nuisance Candidate
- Sentenced by Final Judgment (accessory penalty)
- Willfully Commits Material Misrepresentation
- No valid, timely and properly filed certificate of candidacy
- Grounds under the 1991 LGC, for local elective officials

4) Officials: Disqualifications



Lack of Qualifications (fact prevails over statements in CoC, 2016)

- **Pleading?** Petition to Disqualify a Candidate
- **Grounds?** Constitution or Statutes; for local officials under OEC and LGC (e.g. fugitives) (2016); suspension not a ground since law provides for removal (2017)
- **Where File?** Comelec Division
- **When File?** Before Proclamation
- **Process?** Summary, Due Process, requires a complaint/ petition; not motu proprio unless there is final judgment
- **If Not File?** Quo Warranto

4) Officials: Disqualifications



Commission of Election Offenses

- **Pleading?** Petition to Disqualify a Candidate
- **What Offenses?** Enumerated in Section 68 OEC (2 options – DQ case or Election Offense criminal case): Vote-Buying, Terrorism, Unlawful Expenditures, Unlawful Campaign, Coercion of Subordinates, Threats, Prohibition against Release of Public Funds (other election offenses – file EO case – RTC hears)
- **Where File?** Comelec Division
- **When File?** Before Proclamation
- **If Not File?** Election Protest; Election Offense

4) Officials: Disqualifications



Nuisance Candidate

- **Petition?** Petition to Declare a Candidate a Nuisance Candidate
- **Who Is?** Campaign Capability, Intention, Performance, Exposure, Platform, Party Affiliation, Organization, Profession, Income, Health, Education, Name
- **Where File?** Comelec Division (not HRET, 2016)
- **When File?** Within 5 days from Last Day Filing of Certificate of Candidacy
- **If Not File?** No remedy

4) Officials: Disqualifications



Misrepresentation

- **Pleading?** Petition to Deny Due Course to or Cancel a Certificate of Candidacy
- **What?** Misrepresentation must be Material (pertains to Qualifications and Disqualifications, **also as to permanent residency (2016); knowing conviction of libel/ crime involving moral turpitude (2016); violation of 3-term rule [not petition to disqualify] (2017);** not surname, profession, political party) and Willful/ Deliberate; Even if there is ‘misrepresentation,’ if actually qualified, should not be disqualified
- **Where File?** Comelec Division (**summary nature, rule on patent misrepresentations, not make conclusions of law contrary to jurisprudence, 2016)**
- **When File?** **25 days from Filing of CoC (2017)**
- **If Not File?** Quo Warranto

4) Officials: Disqualifications



Misrepresentation

<i>Material Entries</i>	<i>Formal Entries</i>
<p>Qualification-related:</p> <ol style="list-style-type: none">1. Citizenship2. Residency3. Registered Voter4. Age5. Literacy <p>To be disqualified under Misrepresentation:</p> <ol style="list-style-type: none">1. The misrepresentation must be material, i.e., qualification-related2. The candidate had the intent to defraud the voters (deliberate)3. The candidate is not actually qualified	<p>Non-Qualification-related:</p> <ol style="list-style-type: none">1. Political Party2. Profession3. Legitimacy or Illegitimacy4. Use of another surname5. Civil Status

4) Compare and Contrast



<i>Aspects</i>	<i>Grounds</i>			
	<i>Lack of Qualifications, etc.</i>	<i>Commission of an Election Offense</i>	<i>Material Misrepresentation</i>	<i>Nuisance Candidate</i>
<i>Pleading</i>	Petition to Disqualify a Candidate	Petition to Disqualify a Candidate	Petition to Deny Due Course to or Cancel a Certificate of Candidacy (CoC)	Petition to Declare a Candidate as a Nuisance Candidate (or <u>Comelec</u> initiates)
<i>Allegations</i>	<ol style="list-style-type: none"> 1. Candidate does not possess all qualifications 2. Candidate possesses some or all of disqualifications 3. Candidate violated rule on term limits 	<p>Candidate committed any of enumerated election offenses:</p> <ol style="list-style-type: none"> 1. Vote-Buying 2. Terrorism 3. Unlawful Expenditures 4. Unlawful Campaign 5. Coercion of Subordinates 6. Threats 7. Prohibition against Release of Public Funds 8. Failure to submit Statement of Contributions and Expenditures in at least 2 elections 	<ol style="list-style-type: none"> 1. Misrepresentation is material, i.e., qualification-related 2. Candidate intended to defraud the voters (deliberate) 3. Candidate is not actually qualified 	<p><u>CoC</u> has been filed to:</p> <ol style="list-style-type: none"> 1. <u>put</u> the election process in mockery or disrepute 2. <u>cause</u> confusion among the voters by the similarity of the names of the registered candidates <p>Candidate no bona fide intention since no/ not:</p> <ol style="list-style-type: none"> 1. Campaign Capability 2. Bona fide intention to run for office 3. Track Record 4. Exposure 5. Platform 6. Party Affiliation 7. Funds 8. Good Health 9. Appropriate education

4) Compare and Contrast



	<i>Grounds</i>			
<i>Aspects</i>	<i>Lack of Qualifications, etc.</i>	<i>Commission of an Election Offense</i>	<i>Material Misrepresentation</i>	<i>Nuisance Candidate</i>
<i>Where File</i>	<u>Comelec</u> Division			
<i>When File</i>	Any time before proclamation	Any time before proclamation	Within 25 days from Filing of <u>CoC</u>	Within 5 days from Last Day Filing of Certificate of Candidacy
<i>Who Files</i>	Registered voter or registered political party	[Registered voter or registered political party] <u>Comelec</u> Campaign Finance Office, SEC-registered NGOs and CSOs	Registered voter or registered political party	Registered candidate for the same position
<i>Remedy After Period</i>	Quo <u>Warranto</u> case	Election Offense	Quo <u>Warranto</u>	No remedy
<i>Substitution after Resolution</i>	Not allowed	Allowed	Not allowed	Not allowed

4) Effect of DQ

Succession or Special Elections

- Commission of an election offense



“2nd Placer”

- Violation of 3-term limit
- Not a voter (inclusion denied with finality)
- Conviction of criminal offense involving moral turpitude
- Not a Filipino citizen
- Dual Citizen (2016)
- Final decision on DQ before elections

5) Campaign: Concept



- **Definition:** Act designed to *promote* the election or *defeat* of a candidate; satire of political parties on social issues not election propaganda (2016)
- **Operative Act:** *Intent/ Design* material (not all acts of beneficence are considered campaigning) and Period (start of campaign)
- **Application:** All Candidates for All Elective Offices
- **Framework:** Regulated but Liberalized
- **Period:** 90 days for nationally-elected and 45 days for locally-elected (February 12 and March 29 for May 13, 2019 elections)

5) Campaign: Allowable Forms



- [Forming Organizations
- [Holding Rallies
- [Making Speeches
- [Distributing Campaign Materials
- [Soliciting Votes
- [Publishing Advertisements

5) Campaign: Propaganda



- [Paid Political Advertisements (Comelec debates could be live-streamed, 2016)
- [Free Space and Airtime
- [Use of Gadgets and Billboards
- [Private Poster Areas
- [Posting in Private Places, PUVs and terminals

5) Campaign: Forms



- [Printed Materials (8.5" W x 14" L)
- [Letters
- [Posters (2' x 3') in Poster Areas (12' x 16')
- [Rally Streamers (3' x 8')

5) Campaign: Paid Ads



- **Print:** 1/4th page in broadsheet; ½ in tabloid 3x a week
- **Television:** 120 minutes (for national); 60 minutes (for local) per station **(not overall, 2016)**
- **Radio:** 180 minutes (for national); 90 minutes (for local)
- *(being in news not counted)*

5) Campaign: Unlawful Acts



- [Foreign Intervention
- [Removal or Destruction of Lawful Propaganda
- [Materials not Disclose Payor
- [Exceed Limits (Time and Space)
- [Transportation, Foods and Drinks During Rallies
- [Movie or Video of or by Candidate

6) Prohibited Contributions



- [All SEC-registered corporations
- [Financing Institutions
- [Public Utility Operator
- [Natural Resources Explorer
- [Government Contractors
- [Franchise Holders
- [Donee Institution from Government (P100,000)
- [Donee Educational Institutions (P100,000)
- [Foreigners/ Foreign Corporations
- [Civil Servants and AFP

6) Other Prohibited Acts



- [Not reveal true name of contributor
- [Not report all contributions
- [Exceed Limits (P10, P5, P3)
- [Not file Statement of Contributions and Expenditures (perpetual DQ for repeated failure, 2016)
- [Expenditures made by non-authorized persons

6) Lawful Expenditures



- [Use of Facilities
- [Travel
- [Compensation
- [Communications
- [Written Materials
- [Pollwatchers
- [Office/ HQ
- [Advertisements
- [Meetings/ Rallies
- [Counsel*
- [Copying of List of Voters*
- [Sample Ballots*
- [Volunteers

(- not included in cap)*



7) Postponement of Elections

- **Grounds:** (1) Force majeure, (2) Violence, (3) Terrorism, (4) Loss or Destruction of Election Paraphernalia, and (5) Analogous Causes
- **Extent:** Serious *and* Impossible to have free and orderly elections
- **Conditions:** Grounds must exist before end of voting/transmission
- **Authority:** Comelec en banc (petition or motu proprio); not BEI or election officers
- **Result:** Special Elections within 30 days from cessation



7) Failure of Elections

- **Grounds:** (1) Force majeure, (2) Violence, (3) Terrorism, (4) Fraud, and (5) Analogous Causes
- **Extent:** Failure to elect *and* affect results of elections; **relates to entire elections (2016)**
- **Examples:** *Failure* - transfer of venue of counting without notice, ballots replaced/ burned; *No Failure* – voting resumes after sporadic violence/ gun fire, fake ballots, landslide results, vote-buying, destruction of copies of ERs; **convincing evidence showing will of people muted by causes (2016)**
- **Conditions:** Election not held or suspended, After voting, During preparations or transmission of election returns, Canvassing
- **Authority:** Comelec en banc (petition)
- **Result:** Special Elections within 30 days from **cessation (objective of declaration, 2016)**



7) Compare and Contrast

	<i>Postponement of Elections</i>	<i>Failure of Elections</i>
Legal Bases	Section 5, Omnibus Election Code Section 4, RA No. 7166	Section 6, Omnibus Election Code Section 4, RA No. 7166
Grounds	<ol style="list-style-type: none"> 1. Force Majeure 2. Violence 3. Terrorism 4. Loss or Destruction of Election Paraphernalia 5. Analogous causes 	<ol style="list-style-type: none"> 1. Force Majeure 2. Violence 3. Terrorism 4. Fraud 5. Analogous causes
Extent of Cause	Serious <i>and</i> Impossibility to have free and orderly elections	Failure to elect <i>and</i> affect results of elections (illegality must affect 50% of the votes)
Basis	Expectancy/ potential Effect	Actual outcome/results
Conditions	Grounds must exist before voting	<ol style="list-style-type: none"> 1. Election not held or suspended 2. After voting or during preparation 3. Transmission 4. Canvassing
Area	Any political subdivision	Any polling place
Procedural Requirements	<ol style="list-style-type: none"> 1. <u>Motu Propio</u> or by Verified Petition 2. Notice and Due Process 	<ol style="list-style-type: none"> 1. Verified Petition 2. Notice and Due Process
Authority	<u>Comelec</u> En Banc	
Effect if Petition Granted	<ol style="list-style-type: none"> 1. Postpone elections 2. Conduct elections reasonable close to elections which was not held; but not later than 30 days from cessation of the cause 	<ol style="list-style-type: none"> 1. Declaration of failure of elections 2. Holding or continuation of elections reasonably close to elections which was not held; but not later than 30 days from cessation of cause

8) Automated Elections



- **When:** 2nd Monday of election year (May 13, 2019)
- **Statutory Bases:** RA 9369 amending RA 8436
- **Automated Election System:** voting, counting, consolidating, canvassing, and transmission (not proclamation)
- **Paper-Based or Direct Recording Election System:** Ballots, Election Returns, Certificate of Canvass, Statement of Votes (25% shading threshold)
- **Comelec Discretion:** AES or AESs, Paper-Based or Direct Recording

8) Automated Elections



— **Features:** Use of Ballots, Stand-alone machine, with Audit Trails, Minimum Human Intervention and Security Measures

— **Processes:**

1. Casting, Counting and Transmission at Precinct Level
2. Consolidation and Proclamation at Canvassing Levels

8) Vote-Counting Machines



- USES PASSWORDS & PERSONAL IDENTIFICATION NUMBERS (PIN)
- USES 3 DIGITAL SIGNATURES



8) Automated Elections



- **Precinct-Level Result:** Printing of Elections Returns (30 copies) then Electronic Transmission to Board of Canvassers; Results loaded in Data Storage Devices
- **Canvassing at BoC:** Consolidation of Results in Data Storage Devices then Electronic Transmission to Comelec (Senate and Party-List) and Congress (President and Vice-President) and Proclamation
- **Canvassing Periods:** May 13 to 16, 2019 (city/municipal); May 17 to 19, 2019 (others)

9) Pre-Proclamation Cases



- **Aspects:** BoC-related (BoC or Comelec division, concurrent) and Results-related (BoC)
- **Allowed:** Objections pertaining to Proceedings and Composition of BoC; Pollwatchers-related; Data-Storage Delayed, Destroyed, Falsified (*before canvass*)
- **Not Expressly Allowed:**
 1. Material Defects, Manifest Errors, Omission, Discrepancy (not allowed under Comelec Resolution for AES, allowed for manual)
 2. Rules of Appreciation; Violence; Voting Procedure; Eligibility of Voters (whether manual or AES)

10) Post-Proclamation: Election Protests



- **Grounds:** Fraud and Irregularities in Casting, Counting and Canvassing
- **Documents in Question/ Evidence:** Ballots, ERs, CoCs and Data-Storage Devices
- **Venue:** P/VP (PET); Senators (SET); Representatives (HRET); Regional; Province; City (Comelec Division); Municipality (RTC); Barangay (MTC)
- **Requirements:** Filed by candidate; Within period; Protestee proclaimed; Payment of filing fee; Allegations of fraud; Identify precincts; Verified; Certificate of non-forum shopping
- **Procedure:** Revision; Trial; range of shading thresholds; objective of the revision process of mimicking or verifying/confirming how the VCMs read or counted the votes can be achieved by referring to the ERs generated by the VCMs; decrypted ballot images where the integrity of the ballots and the ballot box was not preserved (2018)
- **If prosper:** protestee removed, true winner proclaimed; rendered moot upon the occurrence of a subsequent election since it is impossible to assume office for the previous term (2018)

10) Post-Proclamation: Quo Warranto



- **Grounds:** Disloyalty to Republic; Ineligibility
- **Venue:** Same as Election Protest
- **If prosper:** Respondent ousted; special elections or succession
- **Covers Impeachable Officers:** quo warranto and impeachment can proceed independently and simultaneously; Constitution does not foreclose a quo warranto action against impeachable officers; To subscribe to the view that election of impeachable officers are outside judicial review is to cleanse their election of any possible defect pertaining to the Constitutionally-prescribed qualifications (2018)

10) Post-Proclamation: Annulment of Proclamation



- **Grounds:** Proclamation based on irregular and illegal canvass
- **Period to File:** 10 days from proclamation
- **Venue:** Comelec Division
- **Effect:** Proclamation annulled; re-canvass

11) Election Offenses



PHASE	ELECTION PERIOD							
	PRE-ELECTION DAY		ELECTION DAY			ELECTION DAY +1		POST-PROCLAMATION
	CAMPAIGN PERIOD	EVE	VOTING	CASTING	TRANSMISSION	CANVASSING	PROCLAMATION	
ELECTION OFFENSES	VOTE BUYING / SELLING OR CONSPIRACY TO COMMIT ACT							
	WAGERING UPON RESULTS OF ELECTION							
	COERCION OF SUBORDINATES TO INFLUENCE VOTE							
	THREATS, FRAUD, OR TERRORISM TO INFLUENCE VOTE							
	COERCION OF ELECTION OFFICIALS							
	CREATION OF NEW POSITION, APPOINTMENT OF EMPLOYEES, PROMOTION, GIVING SALARY INCREASE							
	WITHIN 45 DAYS BEFORE ELECTION DAY							
	TRANSFER OF EMPLOYEES OR OFFICERS IN CIVIL SERVICE							
	CIVIL SERVICE OFFICERS OR EMPLOYEES ENGAGING IN PARTISAN POLITICAL ACTIVITIES							
	PROMISE/ SOLICIT EMPLOYEMENT TO INFLUENCE VOTING							
	UNLAWFUL ELECTIONEERING							
	PROHIBITION AGAINST DISMISSAL OF EMPLOYEES, LABORERS, OR TENANTS FOR REFUSING OR FAILING TO VOTE FOR A CANDIDATE							
	APPOINTMENT OR USE OF SPECIAL POLICEMEN, AGENTS, COFIDENTIAL AGENTS							
	ILLEGAL RELEASE OF DETENTION PRISONERS							
	WITHIN 60 DAYS BEFORE ELECTION DAY				WITHIN 30 DAYS AFTER ELECTION DAY			
	USE OF PUBLIC FUNDS FOR CAMPAIGN							
	BEARING, CARRYING, OR TRANSPORTING FIREARMS OUTSIDE RESIDENCE OR BUSINESSES EVEN WITH PERMIT TO CARRY							
				CARRYING DEADLY WEAPONS WITHIN RADIUS OF 100 METERS				
				USE OF ARMORED LAND, WATER, OR AIR CRAFT				
	WEARING UNIFORMS AND BEARING ARMS OURSIDE VICINITY OF WORK PLACE							
	USE OF SECURITY PERSONNELS OR BODYGUARDS BY CANDIDATES, UNLESS AUTHORIZED							

11) Election Offenses



PHA	PRE-ELECTION DAY		ELECTION DAY			ELECTION DAY +1		POST-PROCLAMATION
	CAMPAIGN PERIOD	EVE	VOTING	CASTING	TRANSMISSION	CANVASSING	PROCLAMATION	
ELECTION OFFENSES	ORGANIZATION OR MAINTENANCE OF REACTION FORCES, STRIKE FORCES, OR OTHER SIMILAR FORCES							
	RELEASE OF PUBLIC FUNDS FOR PUBLIC WORKS, SOCIAL WELFARE, COMMISSION ON HUMAN SETTLEMENTS		VOTING MORE THAN ONCE OR IN SUBSTITUTION					
	WITHIN 45 DAYS BEFORE ELECTION DAY							
	CONSTRUCTION AND DELIVERY OF MATERIALS FOR PUBLIC WORKS, ISSUANCE OF TREASURY WARRAANTS		OPENING OF BOOTHS OR STALLS FOR SALE OF MERCHANDISE OR REFRESHMENT WITHIN 30 METERS RADIUS					
	WITHIN 45 DAYS BEFORE ELECTION DAY		HOLDING OF FAIRS, COCKFIGHTS, BOXING, HORSE RACES, OR ANY OTHER SIMILAR SPORTS					
	SUSPENSION OF ELECTIVE PUBLIC OFFICIAL WITHOUT APPROVAL OF COMELEC							
	ALTERATION OF TERRITORY OF A PRECINCT OR ESTABLISHMENT OF A NEW PRECINCT							
	GIVING DONATIONS OR GIFTS IN CASH OR IN KIND							
	CAMPAIGNING ON HOLY WEEK		SELLING, FURNISHING, OFFERING, BUYING, SERVING, OR TAKING INTOXICATING LIQUOR					
			GIVING, ACCEPTING, FREE TRANSPORTATION, FOOD, OR DRINKS OR THINGS OF VALUE					
			CAMPAIGNING					
			SOLICITING VOTES OR BLACK PROPAGANDA WITHIN					

12) Cases per Category



Categories	Specific Cases
<i>Electorate</i>	<ul style="list-style-type: none">○ Opposition to Application for Registration○ Inclusion and Exclusion○ Annulment of Book of Voters○ Challenge on Election Day○ Election Offense
<i>Candidate</i>	<ul style="list-style-type: none">○ Disqualification○ Quo Warranto○ Election Offense
<i>Election Integrity</i>	<ul style="list-style-type: none">○ Postponement of Elections○ Failure of Elections
<i>Pre-Proclamation</i>	<ul style="list-style-type: none">○ BoC-related○ Consolidated Results-related
<i>Election Protests/ Post-Proclamation</i>	<ul style="list-style-type: none">○ Annulment of Proclamation○ Election Protest○ Quo Warranto
<i>Election Offenses</i>	<ul style="list-style-type: none">○ Against Candidates○ Against Non-Candidates and Voters

12) Dispute Resolution



	<i>Cases/ Disputes</i>									
<i>Aspects</i>	<i>Annul Book of Voters</i>	<i>DQ of Candidates</i>	<i>Postpone Elections</i>	<i>Failure of Elections</i>	<i>Voter Challenges</i>	<i>Pre-Proc.</i>	<i>Annul Proclamation</i>	<i>Election Protest</i>	<i>Quo Warranto</i>	<i>Election Offenses</i>
<i>Grounds</i>	Book Prepared Improperly, Preparation Attended with Vice or Fraud; Book contains Statistically Improbable Data	Lack of Qualifications; Material Misrep. in CoC; Nuisance; Commission of Election Offense	Impossible to have free elections due to: Force Majeure Violence Terrorism Loss or Destruction of Election Paraphernalia Analogous causes	Failure to elect and affect outcome of elections due to: Force Majeure Violence Terrorism Fraud Analogous causes	Illegal Voter Illegal Acts	Illegal Composition and Proceedings of Board of Canvassers Irregularities affecting authenticity of Election Returns/ Certificates of Canvass (Data-Storage Delayed, Destroyed, Falsified)	Anomalies in the Proclamation	Fraud or irregularities in election (whole process)	Disloyalty to the Republic; Ineligibility	Offenses enumerated in Election Laws

12) Dispute Resolution



	<i>Cases/ Disputes</i>									
<i>Aspects</i>	<i>Annul Book of Voters</i>	<i>DQ of Candidates</i>	<i>Postpone Elections</i>	<i>Failure of Elections</i>	<i>Voter Challenges</i>	<i>Pre-Proc.</i>	<i>Annul Proclamation</i>	<i>Election Protest</i>	<i>Quo Warranto</i>	<i>Election Offenses</i>
<i>Period</i>	Pre-election	Filing of CoC to Pre-Proc.	Pre-election	Election Day to Pre-Proc.	Election Day	During Canvassing	After Proclamation	After Proclamation	After Proclamation	Pre-and Post-Election
<i>Jurisdiction (1st Instance)</i>	Comelec En Banc	Comelec Division	Comelec En Banc	Comelec En Banc	Board of Election Inspectors	1 st : Board of Canvassers or Comelec Division 2 nd : Board of Canvassers	Comelec Division	P/ VP: SET Senate: SET Reps: HRET Reg'l, Prov'l and City: Comelec Division Municipal: RTC	P/ VP: SET Senate: SET Reps: HRET Reg'l, Prov'l and City: Comelec Division Municipal: RTC	Comelec Law Dept. or Prosecutors Comelec En Banc (for filing of information)
<i>Period to File</i>	[no order to execute within 90 days before election]	Lack of Q and Election Offense: Before Proc. Material Misrep: Within 25 from CoC filing Nuisance: Within 5 days from CoC deadline	Before or on Election Day	Before Proclamation	Before Voter casts ballot	1 st : When ground apparent 2 nd : Before canvass of ER/ CoC	10 days from proclamation/ within period to file Election Protest	P/ VP: 30 days from proclamation Senate: 15 days from proclamation Others: 10 days from proclamation	10 days from proclamation	5 years from commission

12) Dispute Resolution



<i>Aspects</i>	<i>Annul Book of Voters</i>	<i>DQ of Candidates</i>	<i>Postpone Elections</i>	<i>Failure of Elections</i>	<i>Voter Challenges</i>	<i>Pre-Proc.</i>	<i>Annul Proclamation</i>	<i>Election Protest</i>	<i>Quo Warranto</i>	<i>Election Offenses</i>
Procedure	Petition and hearing	Petition and hearing	<u>Motu propio</u> or Petition and hearing	Petition and hearing	Challenge recorded	1 st : Petition and hearing; canvassing suspended during pendency 2 nd : verbal and written objections at the same time, then evidence within 24 hours	Petition and hearing	Petition, hearing and revision	Petition and hearing	Complaint, Finding of Probable Cause, Filing of Information and Trial before RTC
Petitioner	Voter, election officer or political party	Lack of Q, Election Offense and Material Misrep: Registered voter or registered political party Nuisance: Registered candidate Election Offense: <u>Comelec</u> Campaign Finance Office, NGOs	Any interested party	<u>Comelec</u> <u>motu propio</u> or any interested party	Voter or watcher	Any candidate or political party	Any candidate or political party	P/ VP/ Municipal: 2 nd or 3 rd placer Others: Any candidate	Any voter	Any interested party/ Any voter

12) Dispute Resolution



	<i>Cases/ Disputes</i>									
<i>Aspects</i>	<i>Annul Book of Voters</i>	<i>DQ of Candidates</i>	<i>Postpone Elections</i>	<i>Failure of Elections</i>	<i>Voter Challenges</i>	<i>Pre-Proc.</i>	<i>Annul Proclamation</i>	<i>Election Protest</i>	<i>Quo <u>Warranto</u></i>	<i>Election Offenses</i>
<i>Effect if Granted</i>	Book of Voters annulled	Prevent candidate from running, or if elected, from serving; Can be substituted if DQ based on commission of election offense	Elections will be postponed in political subdivision; Special elections will be held not later than 30 days from cessation of cause	Declaration of failure (no winner can be determined) in affected polling place; <u>elections will</u> be held not later than 30 days from cessation of cause	Not allowed to vote	1 st : <u>BoC</u> reconstituted or rectifies proceedings 2 nd : <u>ER/ CoC</u> set aside and corrected	Proclamation annulled and canvassing anew	True winner proclaimed	Incumbent ousted	Conviction Imprisonment <u>DiO</u> to hold public office Deprivation of right of suffrage

THANK YOU. GOOD LUCK.