

Election Offenses

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Presentation Flow

Who is a
Candidate?

5 Classification
of Election
Offenses

10 Possible
Defenses

Who is a Candidate?

<p><i>Automated Election Law</i> RA No. 9369 (January 23, 2007)</p>	<p><i>Omnibus Election Code</i> B.P. Bldg. 881 (December 3, 1985)</p>	<p><u><i>Comelec Resolution</i></u> No. 9991 (October 2, 2015)</p>	<p><u><i>Comelec Resolution</i></u> No. 10049 (February 1, 2016)</p>
<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 Not withdrawn 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 Not died, withdrawn 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

Timeline

Before filing of
CoC

- Not a candidate
- No unlawful acts and omissions

After filing of CoC
but before
Campaign Period

- Not a candidate (“quasi-candidate” per Comelec)
- No unlawful acts and omissions

During Campaign
Period

- Candidate
- Unlawful acts and omissions become operative

ELECTION OFFENSES (EO)

Classification of Election Offenses

Applicable
Statutes

Procedure

Persons
Liable

Election
Episodes

(1) Applicable Statutes



Omnibus Election Code

Automated Election Law

Synchronized Elections Law

Fair Election Act

(1) Applicable Statutes

OEC	AEL	SEL	FEA
<ul style="list-style-type: none">• Enumerates Election Offenses and Persons Liable• Sets forth the jurisdiction and procedures	<ul style="list-style-type: none">• Prescribes Election Offenses incidental to AES• Defines Electoral Sabotage (Special EO)	<ul style="list-style-type: none">• Sets Election and Campaign Periods• Imposes requirement for filing of SOCE	<ul style="list-style-type: none">• Provides for violation of FEA and Rules• Lists down Allowable and Prohibited Campaign

(1) AES-Related Election Offenses

1. Tampering or destroying Ballots, VCM and CCS
2. Interfering with VCM, transmission and CCS
3. Altering EMS and AES
4. Citizens Arm refusing to present ER to BoC
5. Presenting tampered ER by Citizens Arm
6. Failing to give ERs/ CoCs to Dominant Parties
7. Failing to post CVL
8. Electoral Sabotage
 - a) Any person/ BEI/ BoC
 - b) Tampering/ increasing/ decreasing votes
 - c) Nationally elective office voted nationwide - materially affects election results
 - d) Any elective office – single election document – 5,000 votes and affect results
 - e) Any tampering – exceed 10,000 votes

(2) Procedures

<i>Areas</i>	<i>Judicial</i>	<i>Penal</i>
<i>Aspect</i>	Electoral	Penal/ Criminal
<i>Grounds</i>	Section 68 of OEC (exclusive)	Any election offense
<i>Effect</i>	Disqualification of Candidate	Conviction, Imprisonment and Deprivation of Political Rights
<i>Where File</i>	Comelec Division (then Comelec en banc)	Comelec Law Department or Office of Prosecutor for probable cause determination Regional Trial Court for Trial
<i>When File</i>	Before Proclamation	Within 5 years from commission
<i>Procedure</i>	Summary (Trial in certain cases)	Preliminary Investigation then Full-blown Trial

(3) Disqualification of Candidates

1. Vote-buying
2. Engaging in Terrorism
3. Spending beyond Limits
4. Unlawful giving of Free Transportation, Food and Drinks during Rallies
5. Receiving Unlawful Contributions
6. Receiving from Foreign Sources
7. Raising Funds through Special Events
8. Making Prohibited Donations
9. Premature Campaigning
10. Removing Lawful Election Propaganda
11. Using Prohibited Forms of Election Propaganda
12. Using Mass Media unlawfully
13. Coercing Subordinates
14. Using Threats, Intimidation or Fraud
15. Unlawful Electioneering on Election Day
16. Releasing Public Funds
17. Failing to file SOCE in 2 elections

(3) EOs of Non-Candidates & Voters

1. Selling one's vote
2. Waging upon election outcome
3. Coercing subordinates
4. Threatening or terrorizing
5. Coercing election officials
6. Appointing new government employees
7. Transferring Civil Service Employees
8. Non-Political Public Officers intervening
9. Undue influencing
10. Unlawful electioneering on Election Day
11. Dismissing Employees
12. Appointing Special Agents
13. Releasing Prisoners
14. Constructing Public Works
15. Disbursing Public Funds
16. Bearing Deadly Weapons
17. Voting more than once
18. Voting in substitution of others
19. Using armored vehicles
20. Wearing of uniforms
21. Using police officers as bodyguards
22. Maintaining Strike Forces
23. Suspending local elective officials

(4) Materiality of Intent

Intent Material

- Vote-buying
- Spending beyond Limits
- Making unlawful contributions
- Coercing subordinates
- Receiving from Foreign Sources
- Using Threats, Intimidation or Fraud
- Unlawful Electioneering on Election Day

Intent Not Material

- Appointing new government employees
- Transferring Civil Service Employees
- Releasing Public Funds
- Selling Liquor
- Bearing Deadly Weapons
- Suspending local elective officials

(5) Election Episodes

Election Period 01.10 to 06.08	Campaign Period 02.09 to 05.09	Eve of and Election Day 05.08 and 05.09
<ul style="list-style-type: none"> • Altering Precincts • Transferring Civil Service Employees • Bearing Deadly Weapons • Using Security Personnel • Maintaining Strike Forces • Suspending local elective officials • Releasing Prisoners (03.10) 	<ul style="list-style-type: none"> • Giving Prohibited Donations • Appointing Special Agents • Campaigning (03.24 and 25) <p><i>03.25 to 05.08</i></p> <ul style="list-style-type: none"> • Hiring new employees • Constructing Public Works • Using Public Funds for Public Works 	<p><i>05.08 and 09</i></p> <ul style="list-style-type: none"> • Campaigning • Selling Liquor • Giving Anything of Value <p><i>05.09</i></p> <ul style="list-style-type: none"> • Voting more than 1x • Voting in substitution for others • Opening of Retail Stalls within 30 meters of polls • Holding of Fairs, Cockfights, etc.

(5) Election Episodes

<i>Candidacy-Campaign</i>	<i>Voting</i>	<i>Voting (BEI)</i>	<i>Canvassing (BoC)</i>
<ol style="list-style-type: none"> 1. Canceling or destroying CoC 2. Submitting spurious CoC 3. Accepting CoC beyond the deadline 4. Interfering in media campaign 5. Campaigning on election day within polling place 6. Discriminating in air time 	<ol style="list-style-type: none"> 1. Voting more than 1x 2. Substituting for voter 3. Unlawfully using assistants 4. Using schemes to know vote of others 5. Using another ballot 6. Obstructing voter 7. Obstructing process 8. Destroying election paraphernalia 9. Violating integrity of ballots 10. Using unofficial ballots 11. Defacing CVL 12. Selling Liquor 	<ol style="list-style-type: none"> 1. BEI making possible casting of more votes than registered voters 2. BEI opening ballot box without Comelec authority 3. BEI unlawfully transferring polling place 4. Absenting him/herself 5. Refusing to sign ER 6. Disrupting proceedings (any person) 	<ol style="list-style-type: none"> 1. Failing to give notice of canvassing 2. Proceeding with canvass when suspended by Comelec 3. Continuing with canvassing in absence of quorum 4. Not using electronic transmission/ SD card for canvassing 5. Absenting him/herself 6. Refusing to sign CoC 7. Disrupting proceedings (any person)

10 Possible Defenses

1. Candidate not aware
2. Candidate did not authorize act
3. Candidate made clear instructions to all to follow law and Comelec Resolutions
4. If intent material, not campaign-related
5. Complex or unsettled legal issue
6. Comelec Resolution is unconstitutional/ illegal
7. Hierarchy of Rights (freedom of expression/ assembly etc.)
8. Good faith
9. Supported by legal opinion
10. "Unclean hands" of Complainant

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THANK YOU. GOOD LUCK.