

SC Cases **2016**, **2017**, **2018**, **2019**, **2020**, **2021**, **2022** & **2023**

Reviewer on Election Law

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Areas

- [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) 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)

1) Philippine Elections

- General
- Free
- Direct
- Equal
- Secret
- Choices (Person/ Policy/
Plebiscites – LGU
conversion)
- Automated (or Manual)
- All Levels
- Synchronized conduct
- Genuine Periodic Regular
- Plurality Formula (and
proportional representation)
- Regulated by Law
- Supervised by an independent
body
- CHOPFE: Credible, Honest,
Orderly, Peaceful and Free
Elections
- Regulated Contributions and
Expenditures
- Participated in by Political Parties
- Public Disclosures

2) Commission on Elections

- **Independent 7-Person Constitutional** Body (administrative agency, public office, 2 levels in exercise of quasi-judicial functions, fixed term, permanent appointments, Chairperson as Head of Agency)
- **Plenary authority** to decide all questions affecting elections except the question as to the right to vote (qualifications of voters); 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
- Enjoys **Fiscal Autonomy** (automatic and regular release of budget; can augment items in its appropriations from its savings)
- **Schedule elections** (other than 2nd Monday of May) (1) when the law specifically sets date; and (2) when the law delegates the setting of the date of the elections to COMELEC; postponement of Barangay Elections for the purpose of augmenting Executive's funds, election fatigue, resulting divisiveness violates due process and suffrage (postponement must be based on genuine reasons and must safeguard suffrage)

2) Commission on Elections

- **Wide** discretion in adopting means to carry out its mandate of ensuring **CHOPFE**; not straitjacketed by procedural rules but **cannot amend laws; fixing length and start date of election period outside the 120-day default period does not amount to undue delegation; may disregard use of old forms**; can alter date of plebiscites to determine if same will be successful
- **Enforcement Power:** All election laws (persons and policies); exclusion of others; **enforce, not amend laws; power to investigate implied from power to enforce**
- **Quasi-Judicial Power:** Qualifications and Election Contests (excludes Suffrage); **act promptly on cases**; COMELEC's adjudicative function over election contests is quasi-judicial in character since it is a governmental body, other than a court, that is vested with jurisdiction to decide the specific class of controversies it is charged with resolving; the power of the COMELEC to decide questions was explicitly limited to "administrative questions effecting elections"
- **Quasi-Legislative:** **can promulgate rules of procedure; issuance mandatory - RA 7166 uses the word "shall" to impose upon the COMELEC the duty to issue rules and regulations to implement the law (bearing of firearms)**; rules subject to liberal interpretation to achieve CHOPFE; can suspend rules

2) Commission on Elections

- **Control and Supervision:** over BEIs and BOCs, over election officers since its agents
- **Jurisdiction:** Original (Regional, Provincial and City); and Appellate (Municipal, Barangay and Sangguniang Kabataan)
- **Remedies:** En Banc (MR, administrative) and Division (1st instance, judicial); 2 Divisions when quasi-judicial
- **Process:** Division - MR to En Banc then Certiorari to SC
- **Contempt:** Judicial Proceedings (not Administrative); Indirect contempt for non-appearance pursuant to Comelec's Constitutional power to investigate and CHOPFE
- **Prosecutorial:** anchored on the Constitution and Statute; finding of probable cause subject to discretion; right to speedy disposition applies

2) Commission on Elections

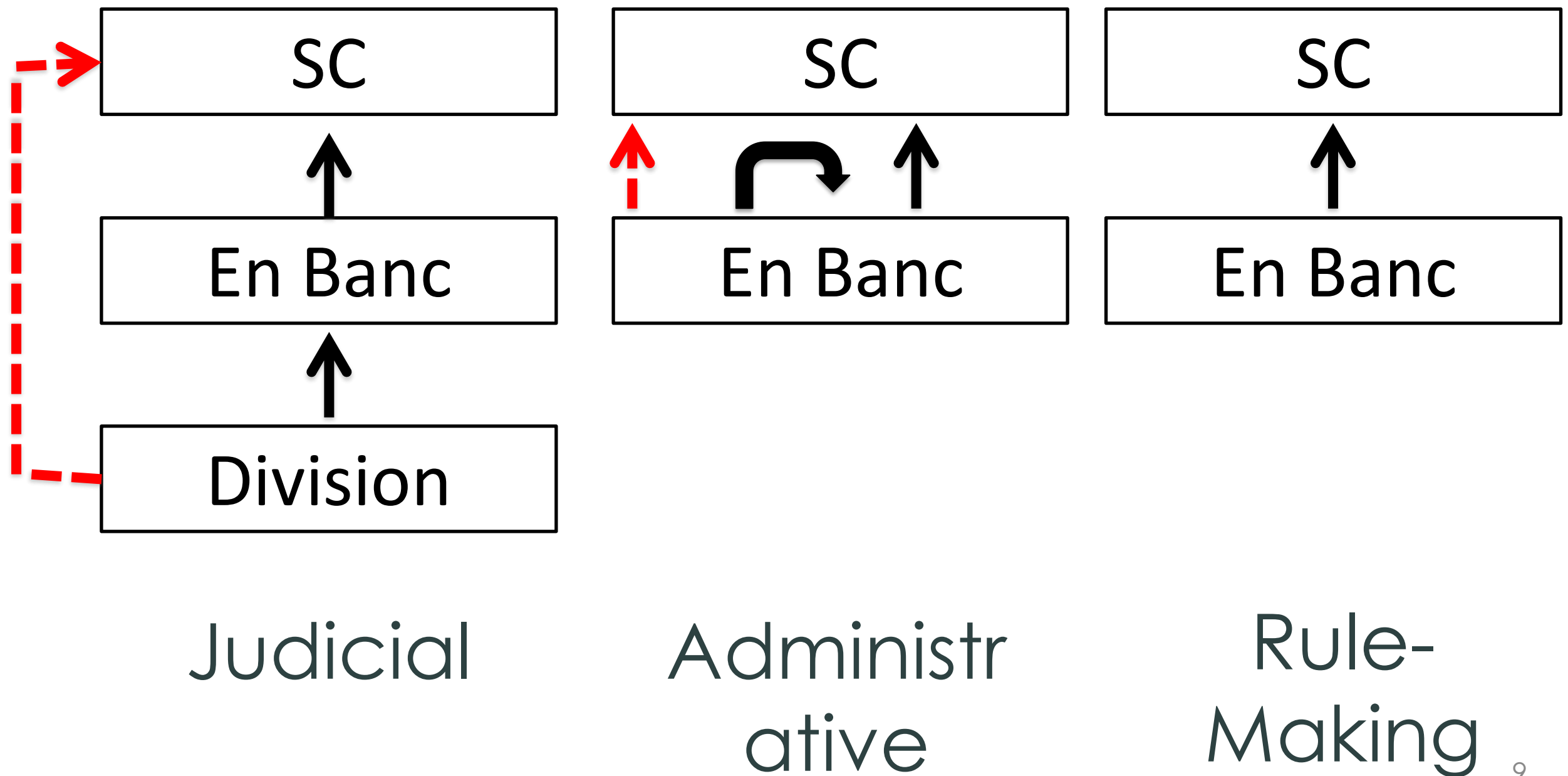
Quasi-Judicial (Division)

- 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
- Deficiencies in CoCs/ CONAs

Administrative (En Banc)

- Canvassing
- 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
- Receives CoCs/ CONAs

2) Commission on Elections



2.1) Public Offices

Branch	Public Office
Regular Courts	<ul style="list-style-type: none"> ○ Supreme Court (judicial review over SET and HRET; not trier of facts; review decisions of COMELEC that have not attained finality but became executory, i.e. SC not issue restraining order over a COMELEC resolution) ○ Court of Appeals ○ Regional Trial Court ○ Municipal Trial Court
Tribunals	<ul style="list-style-type: none"> ○ Presidential Electoral Tribunal ○ Senate Electoral Tribunal (exclusive and only task; exclusive jurisdiction over irregularities on canvassing and proclamation; cannot declare void or unconstitutional contracts) ○ House of Representatives Electoral Tribunal (assumes jurisdiction when: (1) validly proclaimed, (2) taken proper oath before the Speaker (not just oath authorized public officers) and (3) assume office/ discharge functions; no appellate jurisdiction over Comelec en banc decisions; cannot declare a nuisance candidate and cancel CoC; can annul results in precincts; members from Judicial and Legislative branches indispensable for quorum; factual findings must be respected unless no substantial evidence or manifestly gross errors)
COMELEC	<ul style="list-style-type: none"> ○ National Board of Canvassers ○ En Banc ○ Division (can become final without en banc confirmation) ○ Board of Canvassers ○ Board of Election Inspectors ○ Law Department
Executive	<ul style="list-style-type: none"> ○ Department of Justice

2.1) Electoral Offices

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

3) Voters: Concept

- **What?** Suffrage is a Right (not an obligation), reckoned on election day
- **Who?** Qualifications defined in Constitution; Disqualifications defined in Statute; Allow Absentee Voting, Dual Citizens, Disabled and Illiterates to Vote
- **Regular Elections?** Suffrage requires holding of periodic and regular elections
- **How?** Procedural Requirements allowed to be imposed, Substantive not allowed like property ownership
- **Reckoning Date of Qualifications/ Right of Suffrage?** Election Day (distinguished from Right to Register which is reckoned on date of application)

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 [not lost even if maintain several residences]; permanent residency)
- [**Resided in place** wherein propose to vote for at least 6 months prior to election day (domicile, permanent or temporary residency); multiple residency allowed but only singular registration; a barangay certification is not conclusive proof of evidence; declarations must be accompanied by proof
- [**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
- [*Note: post-registration circumstances*]

3) Voters: Registration

- [**Nature:** Continuing
- [**Listing:** Computerized List at all Levels
- [**Number:** 200 Voter-Precinct (several precincts can be clustered); precinct – voting unit
- [**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)
- [*Note: not permanent disenfranchisement; can apply for reactivation*]

3) Voters: Opposition

- [**What?** Applications pending/ 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 resolved/ already acted upon
- **Where File?** MTC (not Comelec), then RTC (not Comelec), then SC (question of law)
- **Grounds?** Inclusion - Disapproval or Name Stricken Out (not failure to apply); 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 (*procedural, not substantive, not qualification of voters*)

3) Voters: Election Day

Illegal Voter

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

Illegal Act

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

3) Voters - Summary

What Cases	When Raised	What Grounds	Where File	Effect if Granted	Effect if Denied
<i>Opposition</i>	Application pending	Not qualified Fictitious	ERB	Application rejected – excluded	Application accepted – included
<i>Inclusion</i>	Application acted upon - Rejected	Disapproved Name stricken out	MTC to RTC to SC/ CA	Voter included in list – can vote	Voter remains not listed – cannot vote
<i>Exclusion</i>	Application acted upon – Accepted	Not qualified Fictitious	MTC to RTC to SC/ CA	Voter removed from list – cannot vote	Voter will remain in list – can vote
<i>Annulment</i>	Pre-election day	Flaw or vice in BoV preparation	Comelec En Banc	BoV annulled, voters cannot vote	BoV confirmed valid, voters can vote
<i>Challenges</i>	Upon casting	Illegal Voter Illegal Act	BEI	Not allowed to vote	Voter can vote

4) Officials: Elective

National Office (Constitutional)

—President; Vice-President; Senators (24; ½ every election); Representatives (District and Party-List)

Local Office (Statutory)

—LCE: Regional Governor, Provincial Governor, City or Municipal Mayor, Punong Barangay, SK Chairperson

—VLCE: Vice-Governor and Vice-Mayor; Sanggunian Members

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>Persons</i>	Directly, Natural Persons	Indirectly
<i>Portion of House</i>	80%	20%
<i>Formula</i>	Plurality	Proportional Representation
<i>Electorate</i>	District/ Local	National
<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”
- All seats must be filled up
- Formula: $(\# \text{ of DRs} / 0.8) \times 0.2$
- In 2022: 297 (238 + 59)

$$238 / 0.8 \times 0.2 = 59.5$$

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

Not SEC, “transferred” to Comelec (2019 Revised Corporation Code)

4.1) Statutory Thresholds

2% of 2nd
votes per seat

Maximum
3 seats (only 2
parties)

Real Threshold: <2%, fill up 20%

4) Officials: Qualifications

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

- [Citizenship (naturalized: oath and renounce; foundling presumed natural-born unless proven otherwise; clerical error in date of notarization of Affidavit of Renunciation [dual citizenship] not fatal; a dual citizen by birth need not renounce as this requirement only applies to dual citizen by naturalization; dual citizenship remains if naturalized person fails to renounce; renunciation is a pre-condition to seek public office; failure to renounce not an eligibility but a DQ under 1991 LGC)
- [Age
- [Residency (physical presence may be broken; not require 24/7)
- [Registered Voter
- [Literacy
- [Free from Disqualifications
- [Not perpetually disqualified (grave misconduct; repeated failure to file SOCE)
- [Undertake Drug Test under CDDA OF 2002, unconstitutional]
- [National Office: Finite/ exclusive list (local office: inclusive list)

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

4) Officials: Qualifications

Position	Citizen	Age	Literacy	Voter	Resident	Term
President/ Vice-President	Natural-Born	40	R and W	Registered	10 years Phl	P: 6 yr x 1 VP: 6 yr x 2
Senator	Natural-Born	35	R and W	Registered	2 years Phl	6 x 2
District Representative	Natural-Born	25	R and W	Registered in District	1 year in District	3 x 3
Party-List Representative	Natural-Born	25 (if youth: 25-30)	R and W	Registered	1 year Phl	3 x 3
BARMM Parliament	Citizen	25	R and W	Registered in BARMM	---	3 x 3
LGU Officials	Citizen	P/ HUC: 23 Other M/ VM: 21 Others: 18	R and W Filipino or Local Dialect	Registered in LGU	1 year LGU	3 x 3

Term is not analogous to assumption of office = discharge of duties

4) Officials: Candidate

- **Definition:** (1) Seeks public office, (2) files certificate of candidacy *and* (3) campaign period has started (under automated system) – operative fact
- **Nature of CoC:** only 1 CoC; filing during usual government office hours; announce and declare eligible; if CoC void, candidate not considered a candidate from the beginning even if cancelled after elections; perpetual disqualification [guilty of grave misconduct] renders CoC void, cannot be re-elected; law does not demand from candidates perfect accuracy and absolute certainty in the information that they supply in a CoC, but only such facts which they believe to be true to the best of their knowledge
- **Ministerial Duty:** If filed in due form, ministerial duty to receive COC; Comelec may look into patent defects (appearing on the face) of CoCs

4) Officials: Candidate

- **Effect Prior to Campaign Period:** Not a candidate (*not liable for unlawful acts and omissions before becoming a candidate, i.e. before start of campaign period*)
- **Effect of Filing:** On Tenure of Incumbents (elective – remain in office regardless of position held and vied for; appointive – *ipso facto* resigned)

4) Officials: Certificate of Candidacy



Republic of the Philippines
COMMISSION ON ELECTIONS
Manila

CERTIFICATE OF CANDIDACY FOR PRESIDENT

Annex "H"

Affix Latest
Photo Here

Passport Size

INSTRUCTIONS: (Read well before filling up this form.)

1. File this in **FIVE (5) LEGIBLE** copies with the COMELEC Office concerned, **from 8:00 AM to 5:00 PM ONLY**, on any day from **OCTOBER 1-8, 2021 (including Saturday and Sunday)**.
2. Attach to this certificate, the Certificate of Nomination and Acceptance (CONA), if applicable.
3. This certificate shall be **sworn before a notary public or any official authorized to administer oath. COMELEC officials are not authorized to administer oath, even in their capacities as Notary Public.**
4. **No filing fee shall be imposed.**

I hereby announce my candidacy for the position of PRESIDENT, Republic of the Philippines, in the May 9, 2022 National and Local Elections; and after having been sworn to in accordance with law, I hereby state the following:

1. NAME: 1.1 Last Name <input type="text"/> 1.2 First Name <input type="text"/> 1.3 Middle Name <input type="text"/>		15. SEX: <input type="checkbox"/> Male <input type="checkbox"/> Female	16. AGE: <input type="text"/>
2. NICKNAME OR STAGENAME: (Indicate only one nickname or stage name) <input type="text"/>		17. DATE OF BIRTH: <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> Month Day Year	
3. OFFICIALLY NOMINATED BY: (Attach CONA) <input type="text"/> (Political Party/Coalition of Political Parties)		18. PLACE OF BIRTH: City/Mun <input type="text"/> Province <input type="text"/>	
4. Name to appear on the Official Ballot not to exceed thirty (30) characters: (including space, letter, number, symbol and punctuation) <input type="text"/> (Last Name, First Name OR Nickname, and Acronym of Political Party Affiliation as stated in Items 1 to 3) (In case of a legally married female candidate, she has the option to choose either her maiden name, married name or both)		19. CIVIL STATUS: <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Widow/er Full Name of Spouse, if married <input type="text"/>	
5. RESIDENCE/ADDRESS: 5.1 Province <input type="text"/> 5.2 City/Municipality <input type="text"/> 5.3 Barangay <input type="text"/> 5.4 House No./ Street / Subdivision <input type="text"/>		20. PROFESSION OR OCCUPATION: <input type="text"/>	
6. ADDRESS FOR ELECTION PURPOSES: (Could be the same as No.5) (Note: In case of change of address, please notify immediately the COMELEC Office where the COC was filed. Otherwise, notices sent to the herein indicated address shall be deemed served.) <input type="text"/>		21. <input type="checkbox"/> I AM A REGISTERED VOTER OF <input type="checkbox"/> I WILL BE A REGISTERED VOTER OF: Barangay <input type="text"/> City/Mun <input type="text"/> Province <input type="text"/>	
7. PERIOD OF RESIDENCE IN THE PHILIPPINES UP TO THE DAY BEFORE MAY 9, 2022: <input type="text"/> No. of Years <input type="text"/> No. of Months		22. Have you ever been found liable for an offense which carries with it the accessory penalty of perpetual disqualification to hold public office, which has become final and executory? <input type="checkbox"/> Yes (Please provide details at the back) <input type="checkbox"/> No	
8. I AM A NATURAL BORN FILIPINO CITIZEN. 9. I AM NOT A PERMANENT RESIDENT OF, OR AN IMMIGRANT TO, A FOREIGN COUNTRY. 10. I EXECUTED A SWORN RENUNCIATION OF FOREIGN CITIZENSHIP. (IF APPLICABLE, ATTACH A COPY) 11. I AM ELIGIBLE FOR THE OFFICE I SEEK TO BE ELECTED TO. 12. I WILL FILE, WITH THE OFFICE OF THE COMMISSION, WITHIN THIRTY (30) DAYS AFTER ELECTION DAY, MY FULL, TRUE AND ITEMIZED STATEMENT OF CONTRIBUTIONS AND EXPENDITURES (SOCE) IN CONNECTION WITH THE ELECTIONS. 13. I WILL SUPPORT AND DEFEND THE CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES AND WILL MAINTAIN TRUE FAITH AND ALLEGIANCE THERETO. I WILL OBEY THE LAWS, LEGAL ORDERS AND DECREES PROMULGATED BY THE DULY CONSTITUTED AUTHORITIES. I IMPOSE THIS OBLIGATION UPON MYSELF VOLUNTARILY, WITHOUT MENTAL RESERVATION OR PURPOSE OF EVASION. 14. I GIVE MY CONSENT TO THE COMMISSION ON ELECTIONS TO COLLECT, DISCLOSE OR SHARE, AND PROCESS THE PERSONAL DATA I PROVIDED HEREIN FOR ELECTION AND OTHER LAWFUL PURPOSES IN ACCORDANCE WITH THE PRIVACY NOTICE AT THE BACK OF THIS FORM, AND AS MAY BE AUTHORIZED BY EXISTING LAWS.			
I hereby certify that the facts stated herein are true and correct to the best of my knowledge.			
Signature of Candidate Over Printed Name <input type="text"/>			

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2021, at _____, affiant exhibiting to me an Identification document/card which contains a photograph and signature bearing No. _____ issued by _____ on _____.

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 2021.

(Affix P30.00 documentary stamp)

(Officer Authorized to Administer Oath)

THIS FORM CAN BE PHOTOCOPIED OR REPRODUCED AND IS AVAILABLE AT THE COMELEC OFFICES FREE OF CHARGE
OR MAY BE DOWNLOADED FROM THE COMELEC OFFICIAL WEBSITE (www.comelec.gov.ph)

4) Officials: Substitution

- **Grounds:** (1) Death, (2) Withdrawal, and (3) Disqualification (*not allowed if:* (a) violate term limit; (b) lack of residency; (c) CoC denied due course or cancelled – (c.1) nuisance and (c.2) material misrepresentation); if invalid substitution – not considered a candidate [*Note: substitution only allowed if ground to disqualify existed after filing of CoC*]
- **Who?** Substitute must be Qualified; **not allowed for independent candidate (PP/ Coalition can only nominate 1)**
- **When?** Up to mid-day of election day
- **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**
- [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)

- **Pleading?** Petition to Disqualify a Candidate
- **Grounds?** Constitution or Statutes; for local officials under OEC and LGC (e.g. fugitives); suspension not a ground since law provides for removal by final judgment; eligibility covers citizenship, a justiciable controversy, and lack thereof will cause removal from office
- **Where File?** Comelec Division
- **When File?** Before Proclamation (reglementary period must be applied strictly)
- **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 (based on direct, strong, convincing and indubitable evidence, and with testimonies of vote-sellers to prove intent of vote-buyers); Terrorism, Unlawful Expenditures, Unlawful Campaign, Coercion of Subordinates, Threats, Prohibition against Release of Public Funds (other election offenses not listed in Section 68 – 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/ Considerations?** Campaign Capability, Intention, Performance, Exposure, Platform, Party Affiliation, Organization, Profession, Income, Health, Education, Name; **unpopularity and being an independent candidate not sufficient grounds; disqualifying a candidate on the ground of lack of financial resources to wage a campaign amounts to a property requirement and cannot be done;** erroneous use of nickname in CoC is not enough to declare a candidate a nuisance
- **Who Files?** Real Parties-in-Interest, i.e., those with similar names with nuisance candidates, others are silent observers; vote for nuisance will be credited to legitimate candidate since nuisance was never a candidate (no crediting in a multi-slot office like a Sanggunian); **ballots must be examined then added to legitimate candidate;** a winning candidate is not a real party-in-interest/ only an observer
- **Where File?** Comelec Division (**has burden to prove by substantial evidence**), **not Electoral Tribunals;** power to suspend proclamation not available for this case
- **When File?** Within 5 days from Last Day Filing of Certificate of Candidacy
- **If Not File?** No remedy

4) Officials: Disqualifications

Willful Material Misrepresentation

- **Pleading?** Petition to Deny Due Course to or Cancel a Certificate of Candidacy (cancellation not based on lack of qualifications)
- **What?** Misrepresentation must be (1) Material (pertains to Qualifications and Disqualifications, **residency; knew conviction of crime involving moral turpitude (libel); violation of 3-term rule [not petition to disqualify]**; not material if pertaining to surname, profession, political party affiliation, civil status, legitimacy; (2) facts which are true to the best knowledge of candidate; (3) Malicious/ Willful/ Deliberate/ Intent to defraud voters (lack of intent presumes good faith); (4) not actually qualified
- **Where File?** Comelec Division (**summary nature, rule on patent misrepresentations, not make conclusions of law contrary to jurisprudence**)
- **When File?** **25 days from Filing of CoC** (reglementary period must be applied strictly)
- **If Not File?** Quo Warranto

4) Effect of DQ

Succession or Special Elections

- Commission of an election offense

Note:

- Succession: P/ VP and local officials
- Special elections: Congress

“2nd Placer” is 1st 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**
- Final decision on DQ before elections

[Note: Votes of 1st placer = stray

Votes of nuisance = added to legitimate]

5) Campaign: Concept

- **Definition:** Act *designed* to *promote* the election or *defeat* of a candidate (candidate-specific); **satire of political parties on social issues not election propaganda/ freedom of speech (not follow campaign rules)**
- **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:** (period when those who filed CoCs become candidates) 90 days for nationally-elected and 45 days for locally-elected

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)
- [Free Space and Airtime
- [Use of Gadgets and Billboards (prohibition repealed by Fair Election Act)
- [Private Poster Areas
- [Posting in Private Places, PUVs and terminals (requires consent)

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')
- [*Note: Regulation only applies to candidates and political parties, not extend to private persons on private property*

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)**
- **Radio:** 180 minutes (for national); 90 minutes (for local)
- *(Note: 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 (reiterated under RA 11232)
- [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)
- [Expenditures made by unauthorized 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
- **Area:** Political subdivision (not nationwide)
- **Conditions:** Grounds must exist before end of voting/ transmission
- **Authority:** Comelec en banc (petition or motu proprio); not BEI or election officers; the power to postpone elections must be deemed to be delegated and subordinate in character (limited in terms of geographical scope and gravity and unforeseeable nature of causes)
- **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 (materiality); **relates to entire elections**
- **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**
- **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)**

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	1. Force Majeure 2. Violence 3. Terrorism 4. Loss or Destruction of Election Paraphernalia 5. Analogous causes	1. Force Majeure 2. Violence 3. Terrorism 4. Fraud 5. Analogous causes
Extent of Cause	Serious and Impossibility to have free and orderly elections	Failure to elect and affect results of elections (illegality must affect 50% of the votes)
Basis	Expectancy/ potential Effect	Actual outcome/results
Conditions	Grounds must exist before voting	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	1. <u>Motion</u> or by Verified Petition 2. Notice and Due Process	1. Verified Petition 2. Notice and Due Process
Authority	Comelec En Banc	
Effect if Petition Granted	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	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
- **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 (*Idem sonans* not applicable since voters only shade ovals)

— **Processes:**

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

8) Vote-Counting Machines



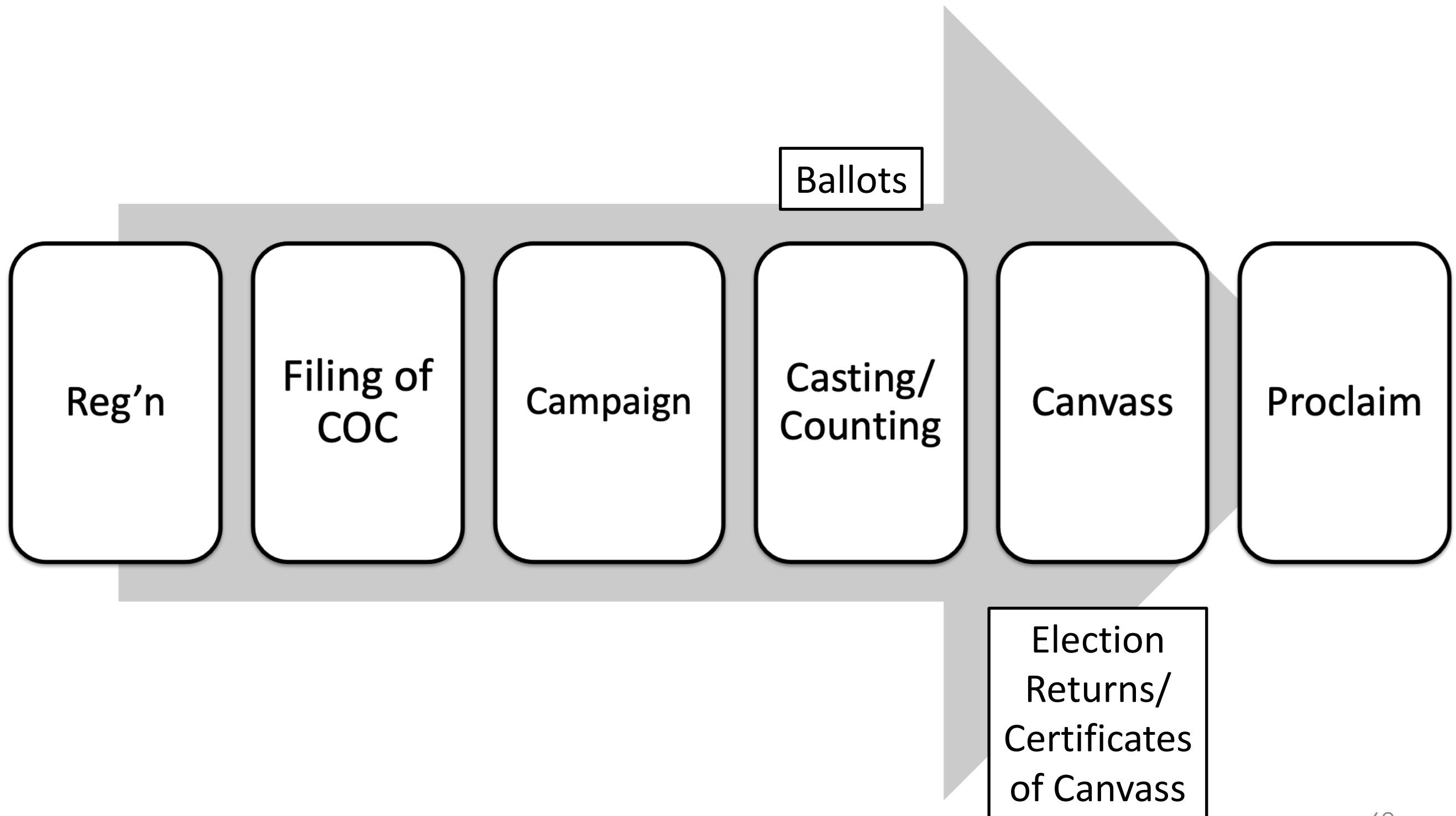
- USES PASSWORDS & PERSONAL IDENTIFICATION NUMBERS (PIN)
- USES 3 DIGITAL SIGNATURES



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:** BoCs convene on election day

8) Automated Elections



9) Pre-Proclamation Cases

- **Aspects:** (1) BoC-related (BoC or Comelec division, concurrent) and (2) 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 since evidence aliunde)

10) Post-Proclamation: Requirements for Election Protests

1. Filed by candidate
2. Within period
3. Protestee proclaimed
4. Protestant admits legality of proclamation
5. Payment of filing fee
6. Allegations of fraud
7. Identify precincts/ areas
8. Verified
9. Certificate of non-forum shopping (liberally construed)
10. Proper venue

10) Post-Proclamation: Election Protests

- **Scope of Election Contests:** contentions involving a claim or title to the office without due regard to the contestant's claim to such office
- **Nature:** not an ordinary petition, protestant must meet the strict requirement of specificity of the grounds and established rules on evidence
- **Grounds:** Fraud and Irregularities in Casting, Counting and Canvassing; cannot raise lack of signature in CoC and lack of required data
- **Procedural Rules:** Non-compliance with procedural rules cannot be justified by mere invocation of the determination of the true will of the electorate; liberal interpretation of rules not automatically granted by invocation of such will
- **Documents in Question/ Evidence:** Depends on grounds - Ballots (or decrypted ballot images), ERs, CoCs and Data-Storage Devices
- **Venue:** P/VP (PET); Senators (SET); Representatives (HRET); Regional; Province; City (Comelec Division); Municipality (RTC); Barangay (MTC)

10) Post-Proclamation: Election Protests

- [**Material Qualifications vs. Will of Electorate:** former
- [**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; extreme caution in invalidating ballots; use all means to ascertain true winner
- [**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

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

10) Post-Proclamation: Quo Warranto

- **Grounds:** Disloyalty to Republic; Ineligibility
- **Venue:** Same as Election Protest
- **If prosper:** Respondent ousted; special elections or succession
- **Proof:** Burden on petitioner to prove DQ by substantial evidence then burdens shifts to candidate to disprove
- **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

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 EMPLOYMENT 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							
	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							
						WITHIN 30 DAYS AFTER ELECTION DAY		

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>Integrity of Electoral Procedures</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



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Thank you.

