

ELECTION LAW 2A Post-Midterm

Political Parties, Registration and the Party-List System

The COMELEC

What is COMELEC?

- It is the Commission on Elections. It has the mandate to conduct free, orderly, honest, peaceful, and credible (FOHPC) elections

What is the jurisdiction of the COMELEC?

- Quasi-legislative powers:
 - Constitutionally granted: COMELEC has the power to promulgate its own rules of procedure, and to enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.
 - Statutorily granted: The power to promulgate rules and regulations implementing the Omnibus Election Act (OEC) or other election laws, require the payment of legal fees and collect it.
- Quasi-judicial powers:
 - Exclusive original jurisdiction** over all contests relating to election, returns, and qualifications (ERQ) of all elective regional, provincial and city officials.
 - Appellate jurisdiction** over all contests involving **municipal officials** decided by trial courts of general jurisdiction (RTC), or involving **barangay officials** decided by trial courts of limited jurisdiction (MTC).

Subject Matter	Types	Venue at 1 st Instance
Electorate/ Suffrage	<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 	Election Registration Board Municipal Trial Court COMELEC En Banc Electoral Boards COMELEC Law Dept. or Prosecutor
Candidate	<ul style="list-style-type: none"> Cancellation of CoC, Nuisance and Disqualification Election Offense 	COMELEC Division COMELEC Law Dept. or Prosecutor
Integrity of Elections	<ul style="list-style-type: none"> Postponement of Elections Failure of Elections 	COMELEC En Banc COMELEC En Banc
Pre-Proclamation	<ul style="list-style-type: none"> Board of Canvassers (BoC)-related 	BoC or COMELEC Division
Election Protests/ Post-Proclamation	<ul style="list-style-type: none"> Annulment of Proclamation Election Protest Quo Warranto 	COMELEC Division Depends on position Depends on position
Election Offenses	<ul style="list-style-type: none"> Against Candidates Against Non-Candidates and Voters 	COMELEC Law Dept. or Prosecutor COMELEC Law Dept. or Prosecutor

(from Agra ELFA, p. 37)

How does the Constitution safeguard the independence of the COMELEC?

- The constitution expressly describes COMELEC as independent.
- The salary of its members is fixed by law and cannot be decreased during their tenure, they appoint their officials and employees in accordance with law, and they enjoy fiscal autonomy.
 - As such, their approved annual appropriations are automatically and regularly released.

- The COMELEC may promulgate its own rules of procedure.
- Its members must not have been candidates for any elective position in the immediately preceding elections.

Composition

- One chairman
- Six members

Is the appointment of a COMELEC commissioner *ad interim* valid?

- Yes. An *ad interim* appointment becomes **complete** and **irrevocable** once the appointee has qualified into office. The withdrawal or revocation of an *ad interim* appointment is possible only if it is communicated to the appointee before the moment he qualifies, and any withdrawal or revocation thereafter is tantamount to removal from office.
 - An *ad interim* appointment can be terminated for two causes specified in the Constitution: (1) the disapproval of his *ad interim* appointment by the Commission on Appointments; and (2) the adjournment of Congress without the Commission on Appointments acting on his appointment. These two causes are **resolutive conditions** expressly imposed by the Constitution on all *ad interim* appointments. (*Matibag v. Benipayo*).

What are the administrative powers of the COMELEC?

- Power to **enforce and administer**:
 - Election laws
 - This includes the power to deny due course to or cancel a certificate of candidacy, *provided it is based on the candidate's disqualification to run based on final conviction* (*Jalosjos v. COMELEC*).
 - Plebiscite, referendum, initiative, recall (see MT notes/reviewers)
- Power to decide all questions affecting elections
 - This covers all questions affecting elections, including the determination of number and location of polling places, appointment of election officials and inspectors, and registration of voters, *except those involving the right to vote*.
 - This is *not* an exclusive jurisdiction, and the courts may review the COMELEC's decision.
- Power to deputize
 - With the concurrence of the president, law enforcement agencies and government instrumentalities, including the Armed Forces of the Philippines, may be deputized to

ensure a free, orderly, honest, peaceful, and credible elections

- Power to recommend
 - COMELEC may recommend to Congress measures (bills/laws) to minimize election spending, including the limitation of places where propaganda materials shall be posted, and the prevent and penalize all forms of election frauds, offenses, malpractices, and nuisance candidates.
- Power to register and accredit
 - Political parties
 - Party-lists
 - Citizen's arm
- Power to supervise and regulate:
 - Election surveys
 - Exit polls
- Power to investigate and prosecute
 - It includes cases of violations of election laws, including acts or omissions constituting election frauds, offenses, and malpractices.
- Duty to report
 - The COMELEC submits to the president and Congress a comprehensive report on the conduct of each election, plebiscite, initiative, referendum, or recall.

What are the incidental powers of the COMELEC?

- Preserve and enforce order in its immediate presence
- Enforce order in proceedings before it or before any of its offices or officials empowered to investigate under its authority,
- Compel obedience to its judgments, orders, and processes
- Control its ministerial officers and all other persons in any manner connected with a case before it, and in every manner appertaining to it
- Compel attendance of persons to testify in a case before it
- Administer or cause to be administered oaths in a case pending before it
- Amend and control its processes and orders to make them conformable to law and justice
- Authorize a copy of lost or destroyed pleading or other paper to be filed and used instead of the original
- Restore and supply deficiencies in its records and proceedings
- It may also cite and hold persons in contempt, and issue interlocutory orders, among others

Can the COMELEC investigate election offenses? Is this exclusive?

- Yes, and this is *not* exclusive. The Commission shall, through its duly authorized legal officers, have the power, concurrent with the other prosecuting arms of the government, to conduct preliminary investigation of all

election offenses punishable under this Code, and prosecute the same (§ 265, OEC).

Election contests

What are election contests?

- Any matter involving or claim of title to an elective office, made before or after proclamation of winner, whether the contestant is claiming the office in dispute.

What is the jurisdiction of the COMELEC over election contests?

- Exclusive original jurisdiction:
 - Regional elective positions
 - Provincial elective positions
 - City elective positions
- Appellate jurisdiction (petition for certiorari to COMELEC):
 - Municipal elective positions (from RTC)
 - Barangay elective positions (from MTC)

What are the various tribunals for election contests?

- House of Representatives Electoral Tribunal
- Senate Electoral Tribunal
- Presidential Electoral Tribunal

What is the composition of an ET?

- HRET and SET:
 - Six members of the House or Senate
 - Three justices of the Supreme Court
- PET:
 - 15 members
 - The Supreme Court, sitting *en banc*

How many divisions does the COMELEC have? What is their composition?

- Two divisions, with three members each.

How does the COMELEC exercise its powers? How does the COMELEC exercise jurisdiction over election cases?

- The COMELEC may sit *en banc* or in two divisions. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission *en banc*.
- It is only in the exercise of its adjudicatory or quasi-judicial powers that the COMELEC hears by decision.
 - But a motion for reconsideration must be decided by the *en banc*. This is jurisdictional (i.e., a decision directly filed to the *en banc* is void)!
- When the COMELEC sits in division, it hears and decides protests or petitions in ordinary actions, special actions, special cases, provisional remedies, contempt, and special proceedings.
 - Ordinary action – Election protests, *quo warranto*, and appeals from RTC (municipal) and MTC (barangay)

- Special action – Petitions to deny due course or to cancel certificates of candidacy, proceedings against nuisance candidates, and disqualification of candidates
- Special cases – Pre-proclamation controversies (e.g., appeals from Board of Canvassers)
- Special proceedings – Annulment of permanent list of voters, registration of political parties or organization.
- Provisional remedy – Preliminary injunctions.

BAYTAN v. COMELEC

G.R. No. 153945, 4 February 2003

FACTS: Baytan registered for the May 1998 elections in Barangay 18. However, they realized that their residence was indeed situated in Barangay 28. Hence, they wrote to COMELEC seeking assistance on how to cancel their previous registration, and expressed their intention to redress the error. However, despite this, the COMELEC en banc resolved to file an information against Baytan, et al. for double registration, contrary to the OEC.

ISSUE: Did the COMELEC en banc commit grave abuse of discretion in recommending petitioners' prosecution for double registration?

HELD: NO. The grant by the Constitution to the COMELEC of the power to investigate and prosecute election offenses is intended to enable the COMELEC to assure the people of "free, orderly, honest, peaceful and credible elections." This grant is an adjunct to the COMELEC's constitutional duty to enforce and administer all election laws. Failure by the COMELEC to exercise this power could result in the frustration of the true will of the people and make an idle ceremony of the sacred right and duty of every qualified citizen to vote. Moreover, the COMELEC resolution was issued in the preliminary investigation stage—merely to determine probable cause. Petitioners' defenses are best ventilated in the trial proper

GARVIDA v. SALES

G.R. No. 124893, 18 April 1997

FACTS: Garvida applied to register as a voter of the Katipunan ng Kabataan in Barangay San Lorenzo, Bangui, Ilocos Norte for the May 6, 1996 SK elections, but her application was denied for allegedly exceeding the age limit of 21. She successfully appealed to the Municipal Circuit Trial Court, and subsequently filed her certificate of candidacy for SK Chairman, which was again disapproved by the Election Officer but later reinstated by the COMELEC Regional Director. Before election day, her rival Florencio Sales filed with the COMELEC en banc a petition to cancel her certificate of candidacy for false age representation, which the COMELEC en banc acted on directly by ordering the suspension of her proclamation.

ISSUE: Did COMELEC commit grave abuse of discretion in suspending her proclamation?

HELD: YES. Petitions to cancel certificates of candidacy must first be heard and decided by a COMELEC division, and the *en banc* may only act on such cases through motions for reconsideration of Division rulings. Since the *en banc* directly assumed jurisdiction and ordered the suspension of Garvida's proclamation, its actions were void for grave abuse of discretion.

Other COMELEC powers (e.g., gun ban)

- COMELEC has the authority to enforce a gun ban during the election period by regulating the bearing of firearms and employment of security personnel. This power is a valid exercise of its mandate to ensure free, orderly, and honest elections and does not encroach on the PNP's regulatory power over private security agencies under RA 5487 (*PADPAO v. COMELEC*).
 - Legal bases: COMELEC's rule-making power to implement election laws extends to all persons. This authority is expressly warranted by the 1987 Constitution, OEC, and RA 7166.

What matters are **excluded** from the powers of the COMELEC?

- Enact and amend laws
- Provide for penalties for violations of its rules, unless empowered by law
- Rule/decide on one's right to suffrage
- Disobey the Procurement Law
- Declare a candidate nuisance for lack of financial resources and lack of awareness
- Require voters to follow campaign regulations (*Agra*, p. 20)

Registration of Political Parties

What is a political party?

- An organized group of citizens advocating an ideology or platform, principles and policies for the general conduct of government and which, as the most immediate means of securing their adoption, regularly nominates and supports certain of its leaders and members as candidates for public office (§ 3 (c), RA 7941)

What parties may not be registered?

1. Religious denominations and sects
2. Those which seek to achieve their goals through violence or unlawful means
3. Those which refuse to uphold and adhere to this Constitution
4. Those which are supported by any foreign government (*Const. art. IX-C, § 2 (5)*)

Why should a political party register with the COMELEC? What are the other benefits of registration of a political party?

- Online real-time electronic transmission of election results
- Immediate access to official election results
- Representation at the printing, storage, and distribution of ballots
- Examine and test equipment or device of the Automated Election System and open the source code for review
- Assign official watchers
- Spend more per voter for election campaign together with the candidate than a candidate without a political party

What is the manner of nomination of candidates?

- It is done through a Certificate of Nomination and Acceptance (CONA).
 - It is a document nominating an aspirant as the official candidate of the party or coalition, duly accepted by the nominee.

What is the proper period for nominating candidates, whether national and local elective?

- Political parties may hold political conventions to nominate their official candidate within thirty (30) days before the start of the period for filing certificate of candidacy (§ 13, RA 9369).

Who fixes the relevant periods in an election? What is the legal basis?

- The COMELEC.
 - Const. art. IX-C, § 9: Unless otherwise fixed by the Commission in special cases, the election period shall commence ninety days before the day of the election and shall end thirty days after.
 - See also art. I, § 3, OEC; and § 5, RA 7166.

Party-List System

What is the governing law?

- The Party-List System Act (RA 7941).
- To determine the winners in a Philippine-style party-list election, the Constitution and Republic Act (RA) No. 7941 mandate at least four inviolable parameters. These are:
 - **The twenty percent allocation** - the combined number of all party-list congressmen shall not exceed twenty percent of the total membership of the House of Representatives, including those elected under the party list.
 - **The two percent threshold** - only those parties garnering a minimum of two percent of the total valid votes cast for the party-list system are "qualified" to have a seat in the House of Representatives (*unconstitutional*, see *BANAT v. COMELEC*)
 - **Three-seat limit** - each qualified party, regardless of the number of votes it

actually obtained, is entitled to a maximum of three seats; that is, one qualifying and two additional seats.

- **Proportional representation** - the additional seats which a qualified party is entitled to shall be computed in proportion to their total number of votes (*VFP v. COMELEC*).

What is the purpose of the party-list system?

- It is a social justice tool designed not only to give more law to the great masses of people who have less in life, but also to enable them to become veritable lawmakers themselves, empowered to participate directly in enactment of laws designed to benefit them.
- It makes the marginalized and underrepresented not merely passive recipients of state benevolence, but active participants in the mainstream of representative democracy (*Ang Bagong Bayani v. COMELEC*).

Cancellation of party-list registration (grounds)

1. It is a religious sect or denomination, organization or association organized for religious purposes
2. It advocates violence or unlawful means to seek its goal
3. It is a foreign party or organization
4. It is receiving support from any foreign government, foreign political party, foundation, organization, whether directly or through any of its officers or members or indirectly through third parties for partisan election purposes;
5. It violates or fails to comply with laws, rules or regulations relating to elections;
6. It declares untruthful statements in its petition for registration
7. It has ceased to exist for at least one year
8. It fails to participate in the last two preceding elections
9. It fails to obtain at least 2% of the votes cast under the party-list system in the two preceding elections for the constituency in which it has registered (*unconstitutional*; see *BANAT v. COMELEC*. This should be properly interpreted as failure to win in two consecutive elections [*Philippine Guardians v. COMELEC*] (§ 6, RA 7491)

ABANG LINGKOD v. COMELEC

G.R. No. 206952, 22 October 2013

FACTS: In 2012, Abang Lingkod Party-list manifested to join the party-list elections in 2013. COMELEC resolved to cancel Abang Lingkod's certificate of registration/accreditation for the 2013 elections, insisting that it failed to show a track record of representing the marginalized and underrepresented. COMELEC also said the party faked photographs to prove its supposed track record. It said that it canceled the party's registration on the ground of the misrepresentation. The COMELEC opined that Abang

Lingkod failed to show that its nominees are marginalized and underrepresented or that they have been involved in activities aimed at improving the plight of the marginalized and underrepresented.

ISSUE: Did COMELEC gravely abused its discretion in canceling Abang Lingkod's registration under the party-list system?

HELD: YES. Sectoral parties or organizations, such as Abang Lingkod, are no longer required to adduce evidence showing their track record. There exists no reason to further require groups seeking registration under the party-list system to submit evidence showing their track record. Pursuant to *Atong Paglaum*, not all groups are required to represent the marginalized and underrepresented sectors. Evidence showing a track record in representing the marginalized and underrepresented sectors is only required from nominees of sectoral parties or organizations that represent the marginalized and underrepresented who do not factually belong to the sector represented by their party or organization.

May the registration of a party-list organization be denied on grounds of sexual immorality?

ANG LADLAD v. COMELEC
G.R. No. 190582, 8 April 2010

FACTS: Ang Ladlad LGBT Party, an organization composed of persons who identify as LGBT persons, first filed for registration with the COMELEC in 2006. It was denied because of lack of substantial membership. It filed for registration again in 2009, but was again denied on moral grounds, with the COMELEC resolution citing Bible and Koran passages, and adding that the moral precepts by these religions have slipped into society. In this petition, the party wants the Supreme Court to reverse COMELEC's decision.

ISSUE: Did COMELEC err in denying Ang Ladlad's petition for registration?

HELD: YES. Ang Ladlad has sufficiently demonstrated its compliance with the legal requirements for accreditation. So, aside from COMELEC's moral objection, nowhere did the poll body find/rule that Ang Ladlad isn't qualified to register as a party-list under RA 7941 or in the guidelines of *Ang Bagong Bayani* (still in effect in 2010). **Mere moral disapproval is not a sufficient governmental interest to justify the exclusion of homosexual individuals from participation in the party-list system.** Mere allegation of violation of laws is not a proof and invocation of public morals cannot replace the institution of civil or criminal proceedings and a judicial determination of liability.

Is the party-list system for sectoral parties only?

- No. Three groups may participate in the party-list system:
 - National parties or organizations

- Regional parties or organizations
- Sectoral parties or organizations:
 - Marginalized and underrepresented
 - Lacking in well-defined political constituencies (*Atong Paglaum v. COMELEC*).

What is the current method of computing party-list representation?

- The following guidelines shall be observed in allocating the party-list seats:
 1. The party-lists shall be ranked from highest to lowest based on their votes garnered.
 2. The party-lists garnering at least 2% of the votes are entitled to one guaranteed seat each.
 3. Those garnering the sufficient number of votes in (1) shall be entitled to additional seats in proportion to their total number of votes until all the additional seats are allocated.
 4. No party-list shall have more than 3 seats (*BANAT v. COMELEC*).

Substitution of Party-List Nominees

- If before assumption of office, use § 8, RA 7491:
 - **No change of names or alteration of the order of nominees shall be allowed** after the same shall have been submitted to the COMELEC except:
 - The nominee dies
 - withdraws in writing his nomination,
 - Becomes incapacitated
 - In which case the name of the substitute nominee shall be placed last in the list.
- If after assumption of office, use § 16, RA 7491:
 - The vacancy shall be automatically filled by the next representative from the list of nominees in the order submitted to the COMELEC by the same party, organization, or coalition, who shall serve for the unexpired term.
 - If the list is exhausted, the party, organization, or coalition concerned shall submit additional nominees (*Duterte Youth v. COMELEC*).

Candidacy

Qualifications and disqualifications

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

(from Agra EL 2022, p. 33)

Filing of Certificates of Candidacy (COC)

- It is a statement of a person seeking to run for public office certifying that he is eligible for it. It is the document that formally accords upon a person the status of a candidate.
- Without a valid COC, one is not a candidate.

Effect of filing

- If **elective** official files – remains in office regardless of position held and vied for
- If **appointive** official files – *ipso facto* resigned (*Quinto v. COMELEC, resolution on MR*)
- On election offenses:** A candidate is liable for an election offense only for acts done during the campaign period, not before (*Penera v. COMELEC*).

Nuisance candidates

- The COMELEC may, ***motu proprio or upon a verified petition*** of an interested party, refuse to give due course to or cancel a certificate of candidacy if it is shown that said certificate has been **[1] filed to put the election process in mockery or disrepute** or to **[2] cause confusion among the voters by the similarity of the names** of the registered candidates or by other circumstances or **[3] acts** which clearly demonstrate that the **candidate has no bona fide intention to run for the office** for which the certificate of candidacy has been filed and thus **prevent a faithful determination of the true will of the electorate** (§ 69, OEC).
- Effect:** The votes cast for the nuisance candidate must be credited in favor of the legitimate candidate with a similar name to give effect to, rather than frustrate, the will of the voters, even if the declaration of the nuisance candidate became final only after the elections (*Santos v. COMELEC*).
 - Thus, the votes for “Ruel Degamo” and “Roel Degamo” must be credited only to the legitimate candidate, Roel. This is because Ruel is a nuisance candidate (*Teves v. COMELEC*).
- A candidate's financial capacity to sustain the rigors of waging a nationwide campaign does not necessarily equate to a bona fide intention to run for public office. The COMELEC's burden is thus to show a reasonable correlation between proof of a bona fide intention to run,

on the one hand, and proof of financial capacity to wage a nationwide campaign on the other.

- Thus, COMELEC may *not* use lack of proof of financial capacity as a ground to declare a Senate candidate as nuisance. Doing so is tantamount to a property test, which is prohibited by the Constitution (*Marquez v. COMELEC [2019]*; see also *Maquera v. COMELEC [pre-MT case]*).

- Also, the COMELEC's perceived inability of a candidate to mount a national campaign as an indication of lack of bona fide intent to run for office is unconstitutional (*Marquez v. COMELEC [2022]*).

Withdrawal of candidates

- Any candidate may personally file, at any time before election day, a sworn statement of withdrawal, with the office where his COC was filed.

Guest candidates

- Guest candidate – A political party may nominate and/or support candidates not belonging to it (§ 70, OEC).

Substitute candidates

- A candidate who withdrew after the last day to file the COC may be substituted by a candidate belonging to, and nominated by, the same political party or coalition within the period prescribed.
- The substitute candidate nominated by the political party concerned may file his certificate of candidacy for the office affected in accordance with the preceding sections **not later than mid-day of the day of the election** (§ 77, OEC).
- Independents *cannot* be substituted.

Independent Candidates

- Candidates who are not part of any political party, *i.e.*, who has not submitted a Certificate of Nomination and Acceptance (CONA) at the time of the filing of his COC.

Disqualification

- Any candidate who, in an **action or protest** in which he is a party is **declared by final decision of a competent court** guilty of, or **found by the Commission** of having:
 - Given money or other material consideration to influence, induce or corrupt the voters or public officials performing electoral functions
 - Committed acts of terrorism to enhance his candidacy
 - Spent in his election campaign an amount in excess of that allowed by this Code
 - Solicited, received or made any contribution prohibited

- Violated any of Sections 80, 83, 85, 86 and 261, paragraphs d, e, k, v, and cc, sub-paragraph 6 (*these are all election offenses*)
- Effects:
 - Shall be disqualified from continuing as a candidate
 - Disqualified from holding office (if already elected)
 - Thus, if the disqualification case has not been decided yet and the candidate wins, he is still entitled to hold office (§ 72, OEC).
 - But see: Removal, as a consequence of disqualification, cannot extend beyond the term during which the alleged misconduct was committed (*Trinidad v. COMELEC*).
- Any person who is a **permanent resident** of or an **immigrant to a foreign country** shall **not be qualified to run** for any elective office.
 - Exception:** He is allowed to run if he has **waived** his status as permanent resident or immigrant of a foreign country in accordance with the residence requirement provided for in the election laws.
- A prior judgment is not a precondition to filing a Petition for Disqualification. Thus, the disqualification may itself be established in the petition (*Francisco v. COMELEC*).

Material misrepresentation

- A verified petition seeking to **deny due course or to cancel a certificate of candidacy** may be filed by the person exclusively on the ground that **any material representation** contained in the COC is false (§ 78, OEC).
- Cancellation of the COC is also the proper remedy in case the candidate was already convicted by final judgment of a crime involving moral turpitude (*Cayat v. COMELEC*).
- It was also used to remove a punong barangay who suffered a penalty of perpetual disqualification from public office by virtue of a final judgment (*Dimapilis v. COMELEC*).

See table on DQ vs. Cancellation!

Rule on the second-placer

- Abandoned. The succession rules under the Local Government Code apply (*Mangudadatu v. COMELEC*).

Other Disqualification Cases

- The term natural-born citizens is defined to include those who are citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship (*Tecson v. COMELEC*).

- Dual citizens are disqualified from running for any elective local position. They cannot successfully run and assume office because their ineligibility is inherent in them, existing prior to the filing of their certificates of candidacy. Their certificates of candidacy are void ab initio.
 - Thus, a naturalized foreigner must **both** take the Oath of Allegiance **and** execute an Affidavit of Renunciation of Foreign Allegiance to regain natural-born status (*Chua v. COMELEC*).
 - The renunciation must be in an affidavit duly executed before an officer of law authorized to administer an oath, and it must be stated in clear and unequivocal terms by the affiant (*Lopez v. COMELEC*).
- Philippine citizenship is lost in three ways **[NEO]**:
 - Naturalization
 - Express renunciation
 - Oath of allegiance to a foreign country (*Aznar v. COMELEC*)
- Even if the candidate has satisfied the twin requirement of **Oath and Renunciation** under RA 9225, his subsequent, consistent use of a foreign passport effectively *withdraws* such renunciation. This effectively nullifies the renunciation, making him still ineligible to run (*Arnado v. COMELEC*).

Campaigning

Premature campaigning

- Premature campaigning is any act done before the campaign period, which is primarily designed to solicit votes, directly or indirectly (*Pangkat Laguna v. COMELEC*).

Prohibited contributions; entities prohibited from contributing to elections

- From public or private financial institutions (except loans to politicians, done in the ordinary course of business)
- Natural/juridical persons operating a public utility or in possession of or exploiting any natural resources of the nation
- Contractors
- Natural/juridical persons who have been granted franchises, incentives, exemptions, allocations or similar privileges by the government (e.g., operator of NLEX/SLEX)
- Natural and juridical persons who, 1 year before the election, have been granted a loan or other accommodations over P100,000 by the government
- Educational institutions which have received grants of public funds over P100,000
- Officials or employees of the Civil Service and members of the Armed Forces of the Philippines

8. Foreigners and foreign contributions (§ 95, OEC)
 - a. Under the Rev. Corp. Code, domestic corporations may donate to political campaigns, so long as they are not any of those enumerated (see 1-6).

2. Observance of truth in advertising
3. Supervision and regulation by COMELEC

Unlawful solicitation for elections

- Soliciting from any foreign national, government or entity (§ 96, OEC).

Spending limits (§ 13, RA 7166)

Category	Spending limit (per voter)
President and vice-presidential candidates	P10
Other candidates	P3
Independent candidates	P5
Registered political parties	P5

Statement of Contributions and Expenses (SOCE)

- Every candidate and treasurer of the political party shall, within 30 days after the day of the election, file in duplicate with the offices of the Commission the full, true and itemized statement of all contributions and expenditures in connection with the election.
- *Effect of non-filing:* Winning candidates cannot assume office and be fined P1,000 to P30,000 (§ 14, RA 7166).
 - The penalty of perpetual disqualification to hold public office may be properly imposed on a candidate for public office who repeatedly fails to submit his SOCE (Maturan v. COMELEC).
- All candidates who filed certificates of candidacy are required to file a SOCE regardless of whether they pursued or withdrew their candidacy (*Pilar v. COMELEC*).

Lawful and prohibited election propaganda

What is valid electoral propaganda?

- These are pamphlets, leaflets, cards, decals, stickers or other **written or printed materials**, handwritten or printed letters urging voters to vote for or against any particular political party or candidate, cloth, paper or cardboard posters, whether framed or posted, streamers, and **paid advertisements in print or broadcast media** (§ 3, Fair Elections Act [FEA]).
 - Basically, everything not otherwise prohibited by OEC or FEA.

What are the three general limitations on electoral propaganda?

1. Authorized expenses of candidates and political parties

Equal access to media time and space (§ 6)

Medium	Space/time
Print	¼ page for broadsheet ½ page for tabloid
Radio	180 mins. – national candidates 90 mins. – local candidates
Television	120 mins. – national candidates 60 mins. – local candidates

- Print, broadcast or outdoor advertisements donated to the candidate or political party shall not be printed, published, broadcast or exhibited without the written acceptance by the said candidate or political party. Such written acceptance shall be attached to the advertising contract and shall be submitted to the COMELEC. Hence, a candidate cannot feign ignorance of an advertisement depicting him or campaigning for him (*Estrada v. COMELEC*; § 4.3, FEA).

Common poster areas

- Political parties – 12 x 16 feet
- Independents – 4 x 6 feet
- *Note:* The regulation on sizes of campaign materials under § 9, FEA only applies to candidates and political parties (*Diocese of Bacolod v. COMELEC*).

Films and biopics

- No movie, cinematograph or documentary portraying the life or biography of a candidate shall be publicly exhibited in a theater, television station or any public forum during the campaign period (§ 6.7, FEA).
- No movie, cinematograph or documentary portrayed by an actor or media personality who is himself a candidate shall likewise be publicly exhibited in a theater or any public forum during the campaign period (§ 6.8, FEA)

Can the publication of election surveys be regulated?

- Yes.
- Election surveys – Measurement of opinions and perceptions of the voters regarding a candidate's popularity, qualifications, platforms or a matter of public discussion in relation to election, including voters' preference for candidates or publicly discussed issues during the campaign period (§ 5.1, FEA).

SWS v. COMELEC

G.R. No. 147571, 5 May 2001

FACTS: SWS filed a petition for prohibition to enjoin COMELEC from implementing § 5.4 of the Fair

Elections Act, which provides, "Surveys affecting national candidates shall not be published fifteen (15) days before an election and surveys affecting local candidates shall not be published seven (7) days before an election."

ISSUE: Is § 5.4 unconstitutional?

HELD: YES. § 5.4 is invalid because (1) it imposes a prior restraint on the freedom of expression, (2) it is a direct and total suppression of a category of expression even though such suppression is only for a limited period, and (3) the governmental interest sought to be promoted can be achieved by means other than the suppression of freedom of expression.

Rules on exit polls (§ 5.5, FEA)

- Pollsters shall not conduct their surveys within 50 meters from the polling place
- Pollsters shall wear distinctive clothing
- Pollsters shall inform the voters that they may refuse to answer
- The result of the exit polls may only be announced after the closing of polls on election day

Voting RA 8436

- It is the policy of the State to ensure free, orderly, honest, peaceful and credible elections, and assure the secrecy and sanctity of the ballot in order that the results of elections, plebiscites, referenda, and other electoral exercises shall be fast, accurate and reflective of the genuine will of the people.

Automated Election System

- a system using appropriate technology for voting and electronic devices to count votes and canvass/consolidate results

Counting Machine

- a machine that uses an optical scanning or mark-sense reading device or any similar advanced technology to count ballots

National Ballot

- Shall contain the names of the candidates for:
 1. President
 2. Vice president
 3. Senators
 4. Parties, organizations or coalitions participating under the party-list system
- Shall be counted by the counting machine.

Local Ballot

- This refers to the ballot on which the voter will *manually* write the names of the candidates of his/her choice for:
 1. Member of the HoR
 2. Governor
 3. Vice governor

4. Members of the provincial board
5. Mayor
6. Vice mayor
7. Members of the city/municipal council

Board of Election Inspectors (BEI)

- There shall be a BEI in every precinct composed of 3 regular members who shall conduct the voting, counting and recording of votes in the polling place.

Election Returns

- A machine-generated document showing:
 1. the date of the election
 2. the province, municipality and the precinct in which it is held, and
 3. the votes in figures for each candidate in a precinct directly produced by the counting machine.

Statement of Votes

- A machine-generated document containing the votes obtained by candidates in each precinct in a city or municipality.

City/Municipal/District/Provincial Certificate of Canvass of Votes

- A machine-generated document containing the total votes in figures obtained by each candidate in a city/municipality/district/province as the case may be.

Counting Center

- A public place designated by the Commission where counting of votes and canvassing or consolidation of results shall be conducted.

Special Members of the Board of Election Inspectors *Qualifications*

1. Good moral character and irreproachable reputation
 2. A registered voter
 3. Has never been convicted of any election offense or of any crime punishable by more than 6 months imprisonment
 4. Has no pending against him/her an information for any election offense
 5. He/she is not related within the fourth civil degree of consanguinity or affinity to any member of the board of election inspectors or any special member of the same board of Election Inspector or to any candidate for a national position or to a nominee as a party list representative or his/her spouse
- The special members of the board shall enjoy the same rights and be bound by the same limitations and liabilities of a regular member of the board of election inspectors.
 - They shall not vote during the proceedings of the board of election inspectors *except* on matters pertaining to the national ballot.

Duties and Functions

During the conduct of the voting in the polling place	<ol style="list-style-type: none"> 1. Accomplish the minutes of voting for the automated election system in the precinct; and 2. Ensure that the national ballots are placed inside the appropriate ballot box
On the close of the polls	Bring the ballot box containing the national ballots to the designated counting center
Before the counting of votes	Verify if the number of national ballots tallies with the data in the minutes of the voting
During the counting of votes	The fourth member and the COMELEC authorized representative shall jointly accomplish the minutes of counting for the automated election system in the precinct
After the counting of votes, the fourth member and the COMELEC authorized representative shall jointly	<ol style="list-style-type: none"> 1. Certify the results of the counting of national ballots from the precinct; and 2. Bring the ballot box containing the counted national ballots together with the minutes of voting and counting, and other election documents and paraphernalia to the city or municipal treasurer for safekeeping.

Board of Canvassers

Composition

- Each province, city or municipality shall have 2 board of canvassers:
 1. one for the manual election system
 2. one for the automated system
- For the AES, the chairman of the board shall be appointed by the Commission from among its personnel/deputies and the members from the officials enumerated in *Section 21 of RA 6646*
 - Chairman: ranking lawyer
 - Members of the board (in order):
 - A. Provincial/city board of canvassers
 1. the Provincial/City Auditor
 2. the Registrar of Deeds
 3. the Clerk of Court nominated by the Executive Judge of the RTC
 4. any other available appointive provincial/city official
 - B. Municipal board of canvassers
 1. Municipal Administrator
 2. Municipal Assessor
 3. Clerk of Court nominated by the Executive Judge of the MTC
 4. any other available appointive municipal officials

Features of the System

Mandatory

1. Use of appropriate ballots
2. Stand-alone machine which can count votes and an automated system which can consolidate the results immediately
3. With provisions for audit trails
4. Minimum human intervention
5. Adequate safeguard/security measures

As far as practicable

- Machines must be simple, user-friendly, and operate with built-in, multi-layer security that minimizes human intervention (sealed security keys, encrypted tech).
- The OMR must print precinct and ballot information, use international-standard ballot paper, automatically feed ballots, and process roughly 100–150 ballots per minute.
- It must detect fake or duplicate ballots, recognize the correct precinct before counting, and prevent any external device connection during consolidation.
- The system should produce multiple copies of reports at once, store data using internal drives, and include enough memory for fast printing.
- Machines must be durable (temperature-resistant, rust-proof) with self-cleaning lenses, UPS support, and clear operating manuals.
- It must allow easy upgrades, ensure fast counting and canvassing, generate all required election reports, and guarantee accuracy with a disclosed margin of error backed by warranty.

Advisory Council

- Composed of technical experts from:
 1. DOST
 2. Information Technology Foundation of the Philippines (ITFP)
 3. UP
 4. 2 representatives from the private sector recommended by the Philippine Computer Society (PCS)

Technical Ad Hoc Evaluation Committee

- COMELEC in collaboration with the DOST
- Composed of a representative each from:
 1. Senate
 2. HoR
 3. DOST
 4. COMELEC
- Purpose:
 1. To certify that the system is operating properly and accurately and that the machines have a demonstrable capacity to distinguish between genuine and spurious ballots.
 2. To ensure that the testing procedure shall be unbiased and effective in checking the worthiness of the system.

3. To design and implement a reliability test or a system stress test.

Procurement of Equipment and Materials

- From local or foreign sources free from taxes and import duties, subject to accounting and auditing rules and regulations.

Systems Breakdown in the Counting Center

When

1. The machine fails to read the ballots or fails to store/save results or fails to print the results after it has read the ballots.
2. The computer fails to consolidate election results/reports or fails to print election results/reports after consolidation.

What to do

- COMELEC may reuse or transfer any available machine or component from another city or municipality, but only with approval of the Commission en banc or a division.
- Any transfer must be done in the presence of political party representatives and accredited citizens' arms, who must be notified beforehand by the election officer.

Examination and Testing of Counting Machines

- COMELEC must allow political parties, candidates, and accredited citizens' arms to inspect and test the machines to ensure they work accurately.
- After testing, the machines must be locked and sealed by the election officer (or authorized COMELEC representative) in the presence of all parties/candidates and citizens' arms.
- Once sealed, the machines must remain locked and will only be opened again on Election Day right before counting begins.
- After testing, parties, candidates, or citizens' arms may submit written reports on any observations or issues, and the election officer must transmit these to COMELEC immediately for action.

Official Ballot

Content

1. Titles of the positions to be filled and/or the propositions to be voted upon in an initiative, referendum or plebiscite.
2. Names shall be arranged alphabetically by surname and uniformly printed using the same type size.
3. A fixed space where the chairman of the Board of Election inspectors shall affix his/her signature to authenticate the official ballot.
4. COMELEC shall prescribe the size and form.
5. Both sides of the ballot may be used if necessary.

Deadline for Filing of CoC

- Not later than 120 days before the elections

Deemed Resigned Rule

- Elective officials running for another office (except President/VP) are deemed resigned only at the start of the campaign period for the new position.

Start of Candidate Offenses

- Candidate-related unlawful acts apply only upon start of the campaign period

Printing of Official Ballots

- Printed by the National Printing Office (NPO) and/or Bangko Sentral ng Pilipinas (BSP).
- COMELEC may hire private printers if NPO/BSP cannot meet the requirement.

Watchers

- Accredited political parties and deputized citizens' arms may assign watchers during printing, storage, and distribution.

Security Features

- Ballots must have security features: magnetic-ink serial numbers (detectable, not photocopyable), barcodes, magnetic strips, and other anti-counterfeit markings.

Distribution of Ballots

- 1 ballot per registered voter + 4 extra ballots per precinct.

Substitution of Candidates

- In case of valid substitutions after the official ballots have been printed, the votes cast for the substituted candidates shall be considered votes for the substitutes.

Ballot Box

- Each precinct must have a ballot box on election day, designed with COMELEC prescribed safety features and sized so that official ballots can be placed **without** folding.

Procedure in Voting

- The BEI Chairperson gives the voter an official ballot, and the voter fills it out inside the voting booth.
- A spoiled ballot may be replaced only once.
- After voting:
 1. The voter affixes his/her thumbmarks to the voting record.
 2. The Chair applies indelible ink on the voter's right forefinger and affixes his/her signature in the ballot.
 3. The voter personally drops the ballot into the ballot box.

Closing of Polls

- After voting ends, the BEI must record in the minutes:
 1. The number of voters who actually voted
 2. The number and serial numbers of unused and spoiled ballots

3. The serial number of the self-locking metal seal for the ballot box
- The minutes are placed inside the ballot box, which is then closed, locked, and sealed using padlocks or COMELEC-approved safety devices.
- The BEI Chair must publicly announce that counting will occur at a designated counting center, and the board must transport the sealed ballot box (with ballots and election documents) to that counting center.

Designation of Counting Centers

- COMELEC must designate public counting centers within the city/municipality (or elsewhere if required for peace and order) where ballots from different precincts will be counted.
- The election officer must post notice of the designated counting centers for at least 15 days before election day in the election office, the city/municipal hall bulletin boards, and three other conspicuous places.

Counting Procedure

- Counting of votes must be public and conducted only in the designated counting centers.
- Ballots are counted by precinct, in the order the ballot boxes arrive. The election officer logs their arrival and notes their condition.
- In the presence of watchers, the board opens the box, retrieves ballots and minutes, and verifies if the number of ballots matches the minutes.
 - If there are excess ballots, the poll clerk randomly draws out the excess without looking, seals them in an envelope marked "excess ballots", signs it, and places it in the compartment for spoiled ballots.
- The election officer or authorized official must feed all valid ballots into the machine continuously until counting is complete.
- The board must stay in the counting center until all ballots are counted and all required reports are completed.

Election Returns

- After all precinct ballots are counted, the election officer (or COMELEC-authorized official) must store the results in a data storage device and print the election returns in the presence of watchers and accredited citizens' arm.
- Each printed election return must be signed and thumbmarked by the fourth member and the COMELEC representative, and attested by the election officer.
- The BEI Chair must publicly read the total votes obtained by each candidate based on the election returns.

- Copies of the election returns are then sealed, placed in proper envelopes, and distributed as required by law.

Distribution

	<i>National Positions</i> (President, VP, Senators, Party-List)	<i>Local Officials and</i> <i>Members of the</i> <i>House of</i> <i>Representatives</i>
1st copy	City/Municipal Board of Canvassers	City/Municipal Board of Canvassers
2nd copy	Congress, through the Senate President	COMELEC
3rd copy	COMELEC	Provincial Board of Canvassers
4th copy	Accredited citizens' arm (for unofficial quick count; must release precinct results in order of arrival until 100% precincts are reported)	Accredited citizens' arm (same rules on unofficial quick count)
5th copy	Dominant Majority Party	Dominant Majority Party
6th copy	Dominant Majority Party	Dominant Majority Party
7th copy	Deposited inside the ballot box (compartment for valid ballots)	Deposited inside the ballot box
Addtl copies	Citizens' arms must provide addtl copies at the expense of the requesting party	

Post-Counting Requirements

- After all precincts are counted, COMELEC prints a consolidated report of votes for each candidate.
- Ballots are returned to the ballot box, which is then locked, sealed, and delivered to the city/municipal treasurer for safekeeping.
- The treasurer must immediately give COMELEC and the election officer a record of the serial numbers of the ballot boxes and the metal seals.

Custody and Accountability of Ballots

- The election officer and the city/municipal treasurer (as COMELEC deputies) have joint custody and accountability over all official ballots, accountable forms, election documents, and the ballot boxes containing cast ballots.

- Ballot boxes cannot be opened for three (3) months after the election unless COMELEC orders otherwise

Substitution of Chairman and Members of the Board of Canvassers

- If the chairman of the Board of Canvassers is unavailable, absent, related to a candidate, or otherwise incapacitated, COMELEC must appoint a ranking COMELEC lawyer as substitute.
- For the other members of the Board of Canvassers, COMELEC appoints substitutes in this order:
 - A. Provincial/City Board:
 1. Provincial/City Auditor
 2. Register of Deeds
 3. Clerk of Court (nominated by the RTC Executive Judge)
 4. Any other available appointive provincial/city official
 - B. Municipal Board:
 1. Municipal Administrator
 2. Municipal Assessor
 3. Clerk of Court (nominated by the MTC Judge)

Canvassing by Provincial, City, District and Municipal Boards of Canvassers

City/Municipal Boards of Canvassers	Canvass votes for President, VP, Senators, Party-List by consolidating the results in the data storage devices used to print election returns. After canvassing, they <i>print</i> the Certificate of Canvass for national positions, HoR, and provincial officials; then <i>proclaim</i> the elected city/municipal officials.
City Boards in cities with multiple legislative districts	Canvass votes for President, VP, Senators, House Reps, and city officials . After canvassing, they <i>print</i> the COC for national positions and then <i>proclaim</i> House Reps and city officials.
District/Provincial Board of Canvassers	Canvass votes for national positions, House Reps, and provincial officials using data submitted by municipal/city boards. <i>Print</i> the COC for national positions, then <i>proclaim</i> House Reps and provincial officials.
Metro Manila (Special Rules)	

Municipalities that are legislative districts → District Board of Canvassers	Canvass votes for national positions, House Reps, and municipal officials. <i>Print</i> the COC for national positions and then <i>proclaim</i> House Reps and municipal officials.
Component municipalities within a legislative district → Municipal Board of Canvassers	Canvass votes for national positions, House Reps, and municipal officials. Prepare the COC for all positions, then <i>proclaim</i> municipal officials.
District boards covering two municipalities	Canvass votes for national positions and House Reps using data from the municipal boards. <i>Print</i> the COC for national positions, then <i>proclaim</i> the elected House Representative

- All COCs (municipal, city, district, provincial) must be accompanied by a Statement of Votes.
- COMELEC must ensure adequate safeguards to preserve the integrity of data storage devices at all levels of canvassing.

Distribution of Certificate of Canvass of Votes

COCs Printed by City/Municipal Boards

- President, VP, Senators, House Reps, Party-List, Provincial Officials
- Distributed as follows
 1. 1st copy – Provincial Board of Canvassers (for their canvass)
 2. 2nd copy – COMELEC
 3. 3rd copy – Chairman of the Board (for custody)
 4. 4th copy – Accredited citizens' arm (for unofficial count; must provide copies to independent candidates at requester's expense).

COCs Printed by City Boards of Multi-District Cities, Provincial BOCs, District BOCs in NCR

- President, VP, and Party-List
- Distributed as follows:
 1. 1st copy – Congress (Senate President), for the national canvass of President & VP
 2. 2nd copy – COMELEC, for canvass of Senators
 3. 3rd copy – Chairman of the Board
 4. 4th copy – Citizens' arm (for unofficial count; must supply independent candidates at requester's expense).

Authentication and Packaging

- All COCs must be signed and thumbmarked by the Chairman, Board Members, and principal watchers (if present).
- Each COC must be sealed in a properly sealed envelope.
- Whenever political parties must be furnished copies, the relevant election returns must be attached.

National Board of Canvassers for Senators

- The COMELEC en banc acts as the National Board of Canvassers for Senators.
- It canvasses senatorial votes by consolidating data storage devices submitted by district, provincial, and certain city boards of canvassers (cities with one or more legislative districts).
- After completing the canvass, the national board proclaims the winning senators

Congress as the National Board of Canvassers

- Congress in joint public session serves as the National Board of Canvassers for President and Vice-President.
- Provincial and city boards must transmit their duly certified certificates of canvass to Congress, addressed to the Senate President.
- The Senate President must, within 30 days after election day, open all certificates in a joint public session of both Houses.
- Congress must determine the authenticity and due execution of the certificates, consolidate results from the data storage devices submitted by district, provincial, and city boards, and then proclaim the winning President and Vice-President.

Supervision and Control

- The AES is under the exclusive supervision and control of COMELEC.
- To administer it, the law creates a COMELEC Information Technology Department responsible for managing and implementing the system.
- COMELEC must immediately take all necessary steps for the acquisition, installation, administration, storage, and maintenance of all equipment and devices, and must issue rules and regulations for effective implementation of the Act.

Oversight Committee

- An Oversight Committee is created, composed of 3 members each from:
 1. the Senate
 2. the House of Representatives
 3. COMELEC
- Its role is to monitor and evaluate the implementation of the automated election law.
- The committee must submit a report to Congress within 90 days after the election.

Election Offenses

- In addition to existing offenses under BP 881, the following are specifically punished under the automated system:
 1. Unauthorized use, tampering, destruction, or theft of:
 - a. Official ballots, election returns, and certificates of canvass
 - b. Electronic devices, components, peripherals, or supplies used in the system (e.g., counting machines, memory packs/disks, receivers, computers).
 2. Interfering with or preventing the installation, use, or operation of computer counting devices, or obstructing the processing, storage, generation, or transmission of election results or data.
 3. Gaining access to, using, altering, destroying, or disclosing any computer data, program, software, network, device, or equipment, whether classified or not.

CAPALLA v. COMELEC

G.R. No. 201112, 4 February 2003

FACTS: COMELEC held a public bidding for the 2010 AES under RA 8436 (as amended by RA 9369), awarding the project to Smartmatic-TIM. The AES contract was principally a lease of PCOS machines with an Option to Purchase (OTP). COMELEC did not exercise the OTP by the original deadline. Smartmatic later extended the OTP period, and COMELEC accepted.

In 2012, COMELEC exercised the OTP and purchased the remaining 81,280 PCOS machines for use in the 2013 elections. Petitioners challenged COMELEC's actions, alleging:

1. the OTP had expired and could not be revived;
2. the purchase violated RA 9184 (public bidding requirement);
3. the PCOS machines were defective and failed to meet AES minimum functional capabilities under RA 9369 (e.g., digital signatures, security features, auditability);
4. COMELEC abdicated control over the election process by relying on Smartmatic technology.

They sought to invalidate COMELEC Resolutions approving the purchase and the Deed of Sale.

ISSUE: Did COMELEC validly exercise the OTP the PCOS machines which were originally part of the 2010 AES contract, without violating procurement laws or the AES requirements?

HELD: YES. COMELEC validly exercised the Option to Purchase, and the purchase did not violate procurement law or AES standards. The extension of the OTP was valid because the underlying AES

contract was still in effect. The performance security had not been returned and the contract itself expressly allowed amendments by written agreement of the parties. Extending the period for exercising the OTP did not alter the essential terms of the contract, especially since the price and quantity of the PCOS machines had been fixed and made public during the original bidding.

The Court found no convincing proof that the PCOS machines failed to meet the minimum functional capabilities required by RA 9369. Alleged defects were either speculative, correctable through system updates, or unsupported by the technical record. The Court further affirmed that PCOS machines implemented digital signatures through the BEI's iButtons and that COMELEC retained full control and supervision over election operations. Accordingly, COMELEC's decision to purchase the PCOS machines was legal, reasonable, and compliant with the AES Act

DOCTRINE: The exercise of an OTP under a publicly bid AES contract does not require a new public bidding so long as the OTP and its financial terms were part of the original contract. Amendments that merely extend the period for exercising the OTP are valid and do not violate RA 9184 and PCOS machines used under such arrangement are presumed compliant with the AES minimum functional capabilities under RA 9369 unless clearly shown otherwise.

PABILLO v. COMELEC
G.R. No. 216098, 21 April 2015

FACTS: COMELEC issued Resolution No. 9922 approving direct contracting with Smartmatic-TIM for the ₱240M Extended Warranty Program involving the diagnostics, repair, and refurbishment of the 81,896 PCOS machines to be reused for the 2016 elections. The earlier 2012 Deed of Sale had transferred ownership of the machines to COMELEC, and all warranties for manufacturing defects had already expired. Despite warnings from its own Law Department that repairs were premature and that no study had been conducted to determine which machines were defective, COMELEC still negotiated solely with Smartmatic and did not conduct public bidding.

ISSUE: Did COMELEC gravely abuse its discretion by resorting to direct contracting with Smartmatic-TIM for PCOS repair and refurbishment without public bidding?

HELD: YES, none of the legal grounds for direct contracting under RA 9184 (Sec. 50) existed. The repair/refurbishment services were not proprietary, Smartmatic was not proven to be the sole capable provider, and COMELEC failed to conduct the required industry survey and market study. The expired warranties did not justify exclusive contracting. Section 52(h) of the Omnibus Election Code must be harmonized with RA 9184 and cannot override procurement rules. Therefore, both Resolution No.

9922 and the Extended Warranty Contract were declared void.

DOCTRINE: Direct contracting may be used only upon strict compliance with RA 9184's conditions. COMELEC cannot bypass public bidding for AES-related services unless it proves true exclusivity through an industry survey and market validation.

Board of Election Inspectors
RA 8436 and OEC

Composition
Sec. 2(7), RA 8436

- The BEI in every precinct is normally composed of three regular members, who conduct the voting, counting, and recording of votes in the polling place.
- XPN: (May 11, 1998 elections)
 - A fourth member and a COMELEC representative were added as special members.
 - Their role was to operate the counting machine and handle the counting and recording of national ballots in designated counting centers.

Sec. 164, BP 881

- COMELEC must constitute a BEI for each precinct 30 days before a regular election or 15 days before a special election.
- The BEI is composed of four members:
 1. Chairman – public school teacher
 2. Poll Clerk – public school teacher (priority to civil service eligibles)
 3. Two members representing the two accredited political parties
- The appointment must indicate which precinct they are assigned to and the date of appointment.

SALIC v. COMELEC
G.R. No. 157007, 17 March 2004

FACTS: In the 2001 local elections in Butig, Lanao del Sur, two different Municipal Boards of Canvassers (MBCs) proclaimed two different sets of winners. One board (Macabayo-Mimbantas) proclaimed Salic (mayor) and Dital (vice mayor), but Mimbantas was later shown to be not legally qualified to sit as Third Member (she was only a Teacher I, not a principal as required by RA 6646). Another board (Palawan-Magarang) proclaimed Pansar as mayor, but this canvass included returns from three clustered precincts whose election returns contained varying serial numbers, directly violating Section 212 of the Omnibus Election Code, which requires automatic exclusion of such returns. COMELEC annulled both proclamations, excluded the irregular returns, and ordered a new MBC to canvass using ballot-box copies or recount if necessary.

ISSUE: Did COMELEC gravely abuse its discretion in declaring (1) that the lawful composition of the MBC excluded Mimbantas and included Magarang, (2) that irregular election returns must be excluded by the MBC, and (3) that a new MBC and a recount procedure were proper?

HELD: NO. The Court held that the MBC with Mimbantas was illegally constituted because she lacked the statutory qualifications. Therefore, all its actions, including the proclamations, were void. Conversely, the Palawan–Magarang board was the only validly constituted MBC, since Magarang was a legally appointed school principal, meeting RA 6646's requirements. However, even a validly constituted MBC must follow canvassing rules, and it committed error by canvassing returns with non-matching serial numbers, which Section 212 mandates to be automatically excluded. COMELEC's remedy (constituting a new MBC, using ballot-box copies, and ordering a recount if needed) was fully consistent with Section 235.

DOCTRINE: The acts and proclamations of a Board of Canvassers that is not validly constituted, because a member lacks the statutory qualifications, are void, and the COMELEC may annul such proclamations and convene a new BOC to correctly canvass the votes.

ONG v. COMELEC

G.R. No. 105717, 21April 2015

FACTS: In the 1992 elections for the congressional seat of Northern Samar's 2nd district, Ong led by 204 votes. Before proclamation, Lucero filed a case in the COMELEC asking for (1) suspension of proclamation, (2) special elections in one precinct, and (3) recount of precincts 7 and 16, claiming missing or illegible returns. The COMELEC en banc, stopped the provincial BOC from reconvening and later issued a resolution ordering a recount by a Special Board of Election Inspectors (BEI) and the creation of a Special Municipal BOC and Special Provincial BOC. The recount for both precincts was completed, but Ong challenged the orders before the Supreme Court, arguing that the COMELEC en banc had no jurisdiction to hear pre-proc controversies in the first instance, and that the law did not authorize recounts in the circumstances alleged.

ISSUE: Did the COMELEC en banc gravely abuse its discretion by stopping the regular BOC from canvassing and ordering recounts through a Special BEI and Special BOCs for precincts 7 and 16?

HELD: YES. The Court held that pre-proclamation controversies must first be heard by a COMELEC Division, not the en banc. Since Lucero's allegations involved missing returns (Sec. 233) and material defects in returns (Sec. 234), these were pre-proclamation matters, and the en banc had no authority to act on them initially. Further, Sections 233

and 234 OEC do not authorize an immediate recount. The proper remedy is to retrieve other authentic copies of returns, and recounts under Sec. 235–236 may occur only as a last resort after strict verification of ballot integrity. COMELEC bypassed all these procedures when it prematurely ordered the Special BEI and BOC to recount the ballots.

The SC annulled the COMELEC's orders, discarded the recount results, and directed the regular BOC to resume canvassing using authentic returns only.

DOCTRINE: The COMELEC en banc cannot directly order recounts or intervene in pre-proclamation controversies; recounts may be ordered only as a last resort under Sections 235–236 OEC, and only a COMELEC Division may initially hear issues involving missing, ambiguous, or defective returns.

Powers

QA vs QJ

Quasi-judicial powers of the BEI

The BEI exercises quasi-judicial powers when it resolves disputes on election day. These include:

1. Determining a voter's eligibility when challenged (Secs. 199 & 200, OEC)
 - The BEI hears and resolves challenges against a voter for:
 - not being registered,
 - using another's name,
 - being disqualified, or
 - committing illegal acts such as vote-buying or betting.
 - The BEI receives evidence, evaluates identity, administers oaths, and decides whether the voter may vote.
2. Deciding whether to allow a challenged voter to vote (Sec. 199(b) & Sec. 200, OEC)
 - After evaluating the evidence and administering the required oath, the BEI admits or rejects the vote.
 - This is a binding determination that affects a person's right to vote.
3. Determining the need to request police assistance (Sec. 192, OEC)
 - The BEI votes (majority) whether circumstances justify calling a peace officer for protection.
 - This requires fact-finding and discretion, making it quasi-judicial in character.
4. Ruling on spoiled ballots and replacement ballots (Sec. 12, RA 8436; Sec. 201, OEC)
 - The BEI decides whether a ballot is spoiled and whether a voter may be issued another ballot.

Quasi-legislative powers of the BEI

While the BEI does not create rules at the level of COMELEC, it exercises quasi-legislative (rule-applying or rule-implementing) authority through:

1. Implementing COMELEC rules regulating voting and counting (Secs. 163–201, OEC; RA 8436)
 - The BEI ensures compliance with all COMELEC resolutions on:
 - procedures for voting,
 - issuance of ballots,
 - use of vote-counting machines (VCMs/OMRs),
 - closing of polls,
 - counting protocol,
 - filling out of minutes and election returns.
2. Supervising and managing the voting procedures in their precinct (Sec. 173, OEC) (BEI must remain neutral)
 - The BEI issues operational directions to ensure orderly voting, determining:
 - flow of voters,
 - timing and process inside the precinct,
 - enforcement of COMELEC rules.
 - These involve administrative rule-application, a quasi-legislative function.
3. Conducting the counting and preparing election returns (Secs. 206–210, OEC; Sec. 17–19, RA 8436)
 - The BEI applies detailed COMELEC rules for counting votes, preparing ERs, and sealing election documents.
 - This is rule-making in implementation, not adjudication.

Qualifications of election watchers

1. Qualified voter of the city or municipality.
2. Of good reputation and shall not have been convicted by final judgment of any election offense or of any other crime.
3. Must know how to read and write Pilipino, English, Spanish or any of the prevailing local dialects.
4. Not related within the fourth civil degree of consanguinity or affinity to the chairman or any member of the BEI in the polling place where he seeks appointment as a watcher. (Sec. 178, OEC)

Who are entitled to watchers?

1. Registered political parties
2. coalition of political parties,
3. Every candidate

Provided that candidates for members of the Sangguniang Panlalawigan, Sangguniang Panlungsod or Sangguniang Bayan or for city or municipal councilors belonging to the same slate or ticket shall collectively be entitled only to one watcher. (Sec. 12, RA 6646)

Who are not allowed inside the polling place?

GR: Within a radius of 50 meters from such polling place, the following shall not be allowed to enter or stay inside the polling place:

1. Officer or member of the Armed Forces of the Philippines (AFP)
2. Members of the Philippine National Police (PNP)
3. Peace officer or any armed person belonging to any extra-legal police agency, special forces, reaction forces, strike forces, home defense units, barangay tanod, or other similar forces or para-military forces, including special forces, security guards, special policemen, and all other kinds of armed or unarmed extra-legal police officers.

XPN:

- It is his polling place where he will vote. He shall immediately leave after voting.
- When there is an actual disturbance of the peace and order.
- The BEI, by majority vote, may request a policeman/peace officer in writing (entered in the minutes) for protection of the BEI, voters, or election documents.
 - The requested officer must stay outside the polling place, within 30 meters and never at the door.
 - The officer may not talk to voters or in any way obstruct voter access.
- 4. Barangay officials are not allowed inside the polling place
 - **XPN**
 - To vote, or
 - If serving as a watcher or BEI member
 - They must leave immediately after voting. (Sec. 192, OEC)

How may a voter be challenged?

- Challenges to Illegal Voters (Sec. 199)
 - Any voter or watcher may challenge someone offering to vote on the grounds of:
 - not being registered
 - using another person's name
 - having a disqualification
 - The BEI must require proof of registration or identity to determine if the challenge is valid.
 - A voter does not have to present a voter's affidavit unless challenged.
 - If the voter cannot produce the affidavit, he may still vote if:
 - his identity matches the photo, fingerprints, or signature in the Book of Voters
 - he is identified under oath by a BEI member (must be recorded in the minutes)
- Challenges based on Illegal Acts (Sec. 200)
 - Any voter or watcher may challenge someone on grounds of:

- vote-buying or accepting payment for a vote
- promising or receiving promises to influence votes
- betting on the election results
- The challenged voter must take an oath denying the allegations.
 - If he takes the oath → challenge DISMISSED, he may vote
 - If he refuses → challenge SUSTAINED, he cannot vote (Sec. 199 & 200, OEC)

Who is an illegal voter?

An illegal voter is a person who:

1. offers to vote but is not registered,
2. uses the name of another, or
3. suffers existing disqualification.

What is the current shading threshold for voting machines?

- 15 % of the oval. [See here.](#)

What is the evidentiary value of e-ballot images?

- E-ballot images are original documents and have the same evidentiary value as physical ballots.
- They are valid bases for recount because they faithfully capture the voter's marks, are encrypted, and may even be more reliable than physical ballots if the latter are tampered. (*Maliksi v. COMELEC*)

MALIKSI v. COMELEC

G.R. No. 203302, 12 March 2013

FACTS: In the 2010 automated mayoral elections in Imus, Cavite, Saquilayan was proclaimed winner. Maliksi filed an election protest and the RTC conducted a physical ballot recount, eventually declaring Maliksi the winner. On appeal, the COMELEC First Division found indications that ballot boxes and physical ballots had been tampered with—notably, 8,387 ballots showing double-shading in the mayoral position only. Since the physical ballots were unreliable, COMELEC ordered the decryption, printing, and examination of the digital ballot images stored in the PCOS machines' CF cards. Using these electronic images, COMELEC reversed the RTC and declared Saquilayan the true winner. Maliksi claimed (1) due process violation and (2) that digital images are only secondary evidence which cannot substitute for physical ballots.

ISSUE: Did COMELEC gravely abuse its discretion in using the digitally scanned ballot images (e-ballot images), instead of the physical ballots, as the basis for determining the true results of the election?

HELD: NO, COMELEC properly used e-ballot images. The Supreme Court upheld COMELEC's reliance on the digital ballot images because:

1. Digital ballot images are legally considered "original ballots" under R.A. 9369 and A.M. No. 01-7-01-SC (Rules on Electronic Evidence).
2. They are the functional equivalent of the physical ballots, since the PCOS machine automatically scans and encrypts the ballot images at the moment the voter feeds the ballot.
3. The digital images have higher integrity. They are encrypted, cannot be accessed without COMELEC keys, and are stored in secured CF cards, making them more trustworthy when physical ballots are tampered.
4. Under *Vinzons-Chato v. HRET (2013)*, these electronic images are official ballots that faithfully capture the votes in electronic form, and the printouts of such images carry full evidentiary weight, equal to the paper ballots.

Thus, COMELEC's use of e-ballot images was valid, especially given strong evidence of ballot box tampering.

DOCTRINE: Digital ballot images stored in PCOS CF cards are "official ballots" and are considered original documents under R.A. 9369 and the Rules on Electronic Evidence. Their printouts carry the same evidentiary weight as the physical ballots and may be used for revision when ballot integrity is in question.

What is the proper ground to transfer the counting of votes?

- Transfer of counting to another place is allowed only when there is imminent danger of widespread violence or another cause of comparable seriousness.
- The transfer must be recommended in writing by the BEI unanimously and endorsed in writing by the majority of watchers present. The COMELEC then authorizes the transfer
- The new location must be a public building in the same city/municipality and must not be inside or within the perimeter of:
 - military/police camps
 - prisons/detention centers
 - law enforcement or investigation agency buildings (Sec. 206, OEC)

When are election returns (ERs) transmitted?

- Election Returns (ERs) are transmitted at the moment the Certificates of Canvass (COCs) are distributed by the Board of Canvassers because the pertinent ERs must be attached to the COCs at the time they are released. (Sec. 22, RA 9436)

Who are the different BOCs?

1. Municipal Board of Canvassers (MBOC)
 - Canvasses municipal-level positions (mayor, vice-mayor, councilors).
 - In Metro Manila: component municipalities also have an MBOC.

- Prepares COC and proclaims municipal officials.

2. City Board of Canvassers (CBOC)

- Canvasses city-level positions.
- In cities with one or more legislative districts, the CBOC also canvasses for House Representatives.
- Prepares COC and proclaims city officials.

3. District Board of Canvassers (DBOC)

- District BOC (Legislative District Level)
 - Used in places where a legislative district is composed of multiple municipalities (e.g., NCR).
 - Canvasses votes for:
 - President
 - Vice-President
 - Senators
 - HoR (district seat)
 - Proclaims the winning Congressman (House District Representative).
- District BOC for Metro Manila Special Rule
 - Where a municipality itself is a legislative district (e.g., Pasig, Marikina).
 - Performs canvass for both national and municipal positions.

4. Provincial Board of Canvassers (PBOC)

- Canvasses results from all cities and municipalities of the province.
- Consolidates votes for:
 - President
 - Vice-President
 - Senators
 - House of Representatives (province-wide districts)
 - Provincial officials (governor, vice-governor, board members)
- Proclaims provincial officials and sometimes House members (if province-wide district).

5. National Board of Canvassers for Senators

- COMELEC en banc.
- Consolidates senatorial results from district, provincial, and city BOCs.
- Proclaims winning Senators.

6. National Board of Canvassers for President and Vice-President

- Congress in joint session (Senate + House of Representatives).
- Senate President opens COCs.
- Congress canvasses votes for President and VP.

- Proclaims the winner for both positions.

When are COCs (certificates of canvass) transmitted?

- COCs are transmitted after the board of canvassers completes the canvass and immediately upon their printing and signing. (Sec. 22, RA 8436)

How do HUCs canvass votes for national positions?

- HUCs canvass national positions through their City Board of Canvassers, which consolidates results from data storage devices, prints the Certificates of Canvass for President, VP, and Senators, and transmits them to Congress (for P/VP) and COMELEC (for Senators). (Sec. 21, RA 8436)

Who comprises the NBOCs?

- See enumeration above.

What are some election offenses in connection with the AES?

- In addition to those enumerated in Secs. 261 & 262 of BP Blg. 881, as amended, the following acts shall be penalized as election offenses, whether or not said acts affect the electoral process or results:
 - Utilizing without authorization, tampering with, destroying or stealing:
 - Official ballots, election returns, and certificates of canvass of votes used in the System; and
 - Electronic devices or their components, peripherals or supplies used in the System such as counting machine, memory pack/diskette, memory pack receiver and computer set;
 - Interfering with, impeding, absconding for purpose of gain, preventing the installation or use of computer counting devices and the processing, storage, generation and transmission of election results, data or information; and
 - Gaining or causing access to using, altering, destroying or disclosing any computer data, program, system software, network, or any computer-related devices, facilities, hardware or equipment, whether classified or declassified. (Sec. 29, RA 8436)

Can you proclaim based on an incomplete canvass?

- No. An incomplete canvass is illegal and cannot support a valid proclamation. All election returns must be included. Omitting returns, especially when the number of voters could affect results, makes the proclamation void. See *COMELEC v. Mamalinta*.

FACTS: During the 2004 elections in South Upi, Maguindanao, the Municipal Board of Canvassers (MBOC) chaired by Mamalinta first proclaimed Sinsuat as mayor based on only 19 out of 35 election returns—an incomplete canvass. Days later, amid violence from supporters of another candidate (Gunsi), the board issued a second proclamation, this time proclaiming Gunsi as mayor. COMELEC charged the MBOC members with grave misconduct, gross neglect, and conduct prejudicial to the service. Although Mamalinta proved duress for the double proclamation and the forced transfer of the canvassing site, she argued that even the first proclamation (the incomplete canvass) was also done under intimidation.

ISSUE: Can the MBOC Chair (Mamalinta) escape liability from proclaiming a winner based on an incomplete canvass by invoking duress?

HELD: NO. A proclamation based on an incomplete canvass is illegal and void, and the MBOC Chair is liable.

A canvass is valid only if all election returns are included and none is omitted when the missing returns could affect the results. At the time Sinsuat was proclaimed, 12 election returns had not been canvassed, with 4 precincts alone representing 3,049 voters—enough to change the outcome. Thus, the proclamation was premature, illegal, and void.

The Court rejected Mamalinta's claim of duress for this act because she presented no evidence that threats or coercion forced her to proclaim Sinsuat based on incomplete returns. Unlike the second proclamation (under hostage-like pressure), the first proclamation had no proof of intimidation. She was therefore administratively liable for grave misconduct, gross neglect, and conduct prejudicial to the service.

DOCTRINE: A proclamation based on an incomplete canvass is illegal, void, and cannot stand. All election returns must be considered when the missing returns could affect the result, and a Board of Canvassers commits grave error by proclaiming prematurely.

Remedies

Petition to deny due course to or cancel COC

- A verified petition seeking to deny due course to or cancel a certificate of candidacy may be filed by the person exclusively on the ground that any material representation contained therein as required under Section 74 is false. The petition may be filed at any time not later than 25 days from the time of the filing of the certificate of candidacy and shall be decided,

after due notice and hearing, not later than 15 days before the election (Sec. 78, OEC)

Petition for disqualification

- Filed when the candidate has committed election offenses or is disqualified by law.
- May be filed against any candidate who has
 1. Given money or other material consideration to influence, induce or corrupt the voters or public officials performing electoral functions;
 2. Committed acts of terrorism to enhance his candidacy;
 3. Spent in his election campaign an amount in excess of that allowed by this Code;
 4. Solicited, received or made any contribution prohibited under Sections 89, 95, 96, 97 and 104; or
 5. Violated any of Sections 80, 83, 85, 86 and 261, paragraphs d, e, k, v, and cc, sub-paragraph 6;
 6. Any person who is a permanent resident of or an immigrant to a foreign country
 - **XPN:** he has waived his status as permanent resident or immigrant of a foreign country in accordance with the residence requirement provided for in the election laws. (Sec. 68, OEC)

N.B. Petition to deny due course to or cancel COC looks at the falsities in the COC while Petition for disqualification looks at the acts of the candidate.

Failure of election; call for special election

Instances when a failure of election can be declared

1. The election in any polling place was not held on the fixed date on account of force majeure, terrorism, fraud, violence, and other analogous causes.
2. The election in any polling place had been suspended before the close of voting on account of force majeure, terrorism, fraud, violence, and other analogous causes.
3. After voting and during preparation and transmission of election returns or in their custody or canvass, such election results in failure to elect on account of force majeure, terrorism, fraud, violence, and other analogous causes.

Requisites to declare a failure of election

1. No voting took place in the polling places on the date fixed by law, or even if there was voting, the election nevertheless resulted in failure to elect.
2. The votes that were not cast affect the election result.

Petition to declare failure of election

1. Should not be selective as to polling places

2. Should extend to all proclaimed candidates
 - To hold otherwise is discriminatory and violates the equal protection of the laws.

Remedies

- When election fails, the Commission *en banc*, on the basis of a verified petition by any interested party and after due notice and hearing, calls for the holding or continuation of the election not held, suspended, or which resulted in a failure to elect.

Special election after a failure of election

- The special election must be on a date reasonably close to date of the election not held, suspended, or which resulted in failure to elect but not later than 30 days after cessation of the cause of such postponement or suspension of election or failure to elect.
- The special election should not be unreasonably too close for all voters to be notified of the changes as to date and designated polling place. In the absence of proof that actual notice of special elections reached a great number of voters, the special election is invalid. A one-day notice is insufficient.

Pre-proclamation Controversy (PPC)

- A pre-proclamation controversy is any question that pertains or affects canvassing proceedings which may be raised by any candidate or registered political party or coalition of political parties before the BOC or directly with the Commission, or any matter raised under certain sections in the OEC relative to the preparation, transmission, receipt, custody, and appreciation of election returns as when they are either delayed, lost or destroyed, suffer material defects or discrepancies or appear to be tampered with or falsified.
- Examples of PPCS:
 - Petition to suspend proclamation based on irregularities in the preparation of election returns (i.e., missing or ambiguous).
 - Petition to annul a proclamation based on illegal composition and proceedings of the BOC.
 - BOC composition is illegal when any of the members do not possess the legal qualifications & appointments. But even if the substitute BOC Chair may be qualified, it is still illegally composed in the absence of a valid designation other than a mere letter requesting substitution without approval by the Provincial Election Supervisor.
 - The election returns are manufactured or falsified and not authentic.

How raised

- It may be initiated by filing a verified petition before the BOC or directly with the Commission.
 - If filed directly with the BOC, its decision may be appealed to the Commission within 3 days from issuance of the decision.
 - If commenced directly with the Commission, it is immediately filed when the Board begins to act illegally, or when the appointment of a canvasser whose capacity to sit as such is objected to.
- If it is not raised at proper time, it is deemed waived.

Missing, Delayed, Lost, or Destroyed Election Returns

- BOC must obtain the missing ER from the BEI.
- If lost/destroyed, BOC may use any authentic copy or a COMELEC-certified copy.
- BOC must investigate and report the incident to COMELEC.
- BOC may proclaim based on available ERs only if the missing ERs will not affect the result. (Sec. 233)

Material Defects in Election Returns

- If ERs have omissions or incomplete data, BOC must summon the BEI to correct the ER.
- If a candidate's name or votes are missing, BEI must fill in the missing data and initial it.
- If the missing votes cannot be determined without opening the ballot box, COMELEC may allow recount by BEI after verifying box integrity.
- Filing an election protest does not bar correction under this section. (Sec. 234)

Tampered, Altered, Falsified, or Non-Authentic ERs

- If ERs appear tampered or falsified after leaving BEI custody, BOC must use other copies (including the copy inside the ballot box, with COMELEC approval).
- If all copies are also tampered/not authentic or prepared under duress, the matter must be elevated to COMELEC.
- COMELEC may order opening of the ballot box (after verifying integrity) and direct BEI to recount votes and prepare a new ER to be used in the canvass. (Sec. 235)

Discrepancies in ERs (Sec. 236)

- Discrepancies that trigger PPC:
 - Discrepancies between authentic copies of ERs from the same polling place; OR
 - Discrepancies between words and figures within the same ER; AND the discrepancy affects the result of the election.
- If these discrepancies exist:

- COMELEC (upon BOC motion or any affected candidate)
 - Notifies all candidates;
 - Summarily determines if ballot box integrity is intact;
 - If intact, the orders opening of the ballot box and a recount, solely to determine the true result for the affected candidates.

Distinguish PPCs from a failure of elections or from an election protest

PPC vs Failure of Elections

Aspect	PPC	Annulment of Elections / Failure of Elections
Nature of Action	Summary proceeding reviewing canvassing issues only	Full inquiry into whether the election was free, honest, orderly, and credible
Scope of Review	COMELEC is limited to the face of the election returns (ERs); cannot go behind ERs	COMELEC may go behind ERs, investigate irregularities, and examine election documents
Jurisdiction over Evidence	No authority to examine ballots, signatures, fingerprints, or conduct technical examinations	COMELEC may conduct random technical examinations, compare signatures/thumbprints, investigate fraud/terrorism
Grounds	Issues involving ER defects, missing/tampered ERs, discrepancies, or illegal BOC proceedings	Fraud, terrorism, violence, force majeure, widespread irregularities making elections sham or farcical
Examples of Grounds	Missing ERs, defective ERs, tampered ERs, discrepancies affecting results	Ballots filled up en masse the night before; ballot boxes/ballots never delivered; massive fraud
Goal	To correct canvass and ensure accurate counting	To determine whether no genuine election occurred, requiring annulment or special election
Effect on Canvass or Proclamation	PPC does <i>not</i> suspend proclamation except when issues materially affect the result	Proclamation does not bar a petition for failure/annulment of elections

Proclamation Argument	Candidate may argue proclamation renders PPC moot	Proclamation is irrelevant; even after proclamation, failure/annulment may still be declared
Why PPC Cannot Use Technical Exams	Technical exams defeat the summary nature of PPC proceedings	Technical exams are allowed and necessary to determine truthfulness of ballots and voter identity

PPC vs Protest

Aspect	PPC	Election Protest
Nature of Issues	Focuses on the ERs – whether they are manufactured, altered, falsified, or not authentic	Focuses on massive irregularities during voting, such as fraud, terrorism, vote-buying, intimidation, or illegal voting
Scope of Review	Limited to the face of ERs; COMELEC cannot go beyond them	Tribunal may go behind ERs, examine ballots, voter records, and other evidence
Evidence Allowed	No evidence aliunde (no outside evidence like voter lists or voting records)	Full reception of evidence: voter lists, thumbprints, ballots, testimonies, etc.
Examples of Valid Grounds	ERs obviously manufactured, tampered, falsified, or irregular on their face	Massive substitution of voters, flying voters, double registrants, ballot snatching, coercion, intimidation, terrorism
Questions Involved	The administrative canvassing process and the authenticity of the ERs	The conduct of the voting itself and whether the true winner can be determined
Permitted Remedies	Correction of canvass, exclusion or inclusion of ERs	Recount, revision, technical examination, annulment of votes in specific precincts
Not Proper in PPC	Issues requiring COMELEC to pierce the veil of ERs or investigate how voting was conducted	N/A – Election protests are the proper venue for these issues
Why Not Raised in PPC	PPC must remain summary, so it cannot handle allegations needing in-depth evidence	Election protest allows full trial-type proceedings

Relations hip to Failure of Elections	Fraud, vote-buying, and terrorism (while grounds for protest) are not grounds for failure of elections	N/A – Because failure of elections is separate and requires special statutory grounds
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When are PPCs not allowed

- PPCs are not allowed in elections for:
 1. President
 2. Vice-President
 3. Senator
 4. Member of the House of Representatives
 - PPCs are not allowed when they involve issues related to:
 1. Preparation of election returns (ERs) or certificates of canvass (COCs)
 2. Transmission of ERs or COCs
 3. Receipt of ERs or COCs
 4. Custody of ERs or COCs
 5. Appreciation (reading, tallying, evaluating) of ERs or COCs
 - PPCs are still allowed on two narrow matters:
 1. Correction of manifest errors
 - Canvassing bodies may, motu proprio or upon written complaint, correct manifest errors appearing on the face of ERs or COCs.
 2. Questions on composition or proceedings of the BOC
 - Issues affecting
 - the composition of the BOC, or
 - the regularity of its proceedings,
- may still be raised before the BOC or directly with COMELEC (per Sec. 19, same law). (Sec. 15, RA 7166)

What is the doctrine of statistical improbability?

- The doctrine of statistical improbability refers to the principle that election returns may be rejected when the voting results reflected in them are so mathematically impossible, highly improbable, or unbelievable that they could not have occurred in a free and honest election.
- The doctrine applies when the results show patterns that defy common experience and statistical probability, such as:
 - All candidates of one party receiving all the votes in every precinct, while all candidates of the other party receive zero, even though the opposing party has a nationwide organization and should have at least some supporters in every precinct.
 - All voters in multiple polling places casting exactly identical votes, giving uniform straight votes to one party,

with no variation at all in voter preference.

- Each candidate of one party receiving exactly the same number of votes across precincts (e.g., 240–650 each), while the opponents receive none.
- The number of registered voters being exactly equal to the number of ballots and the number of votes tallied, which statistically almost never happens across several precincts.
- Situations where even the opposing party's own inspector would not have voted for his party—an outcome that is impossible in normal circumstances.
- Returns showing excess votes beyond the number of registered voters, indicating fabrication or manipulation.

SUHURI v. COMELEC

G.R. No. 181869, 2 October 2009

FACTS: In the 2007 mayoral elections in Patikul, Sulu, Suhuri lost to Hayudini by 775 votes. During canvassing, Suhuri objected to the inclusion of 25 election returns, claiming they were manufactured, tampered/falsified, prepared under duress, and statistically improbable because he allegedly received zero votes in several precincts while his opponent obtained almost all votes. The Municipal Board of Canvassers (MBC) rejected his objections and immediately proclaimed Hayudini.

Suhuri appealed to the COMELEC Second Division, which excluded the 25 returns and voided the proclamation. On reconsideration, the COMELEC en banc reversed, holding that the alleged defects, including the asserted "statistical improbability", were not proper grounds for exclusion in a pre-proclamation controversy.

ISSUE: Did the COMELEC en banc gravely abuse its discretion in ruling that the 25 election returns were not excludable on the ground of "statistical improbability" and other alleged irregularities?

HELD: NO, the 25 election returns were properly included in the canvass. The statistical improbability, as a ground to exclude election returns, applies only in the narrow and exceptional situations defined in *Lagumbay v. COMELEC* where the returns show a unique pattern of voting that is mathematically impossible, such as:

1. all candidates of one party receiving exactly identical votes
2. all candidates of the opposing party receiving exactly zero votes, in every contested precinct.

This uniform pattern reflects prima facie fabrication.

In Suhuri, however:

- Zero votes in some precincts alone are not statistically improbable.
- There was no uniformity across precincts.

- There was no systematic blanking of Suhuri's party or a repetitive pattern like that in Lagumbay.
- The alleged defects (missing signatures, watcher issues, intimidation, hearsay affidavits) were formal lapses, not proof of tampering.
- The MBC even corrected the missing signatures after BEI members explained the omissions due to fatigue, darkness, and chaotic conditions.

Since the returns were facially regular, COMELEC was not allowed, under pre-proclamation rules, to "go behind" the returns and investigate voting irregularities. These issues belong to an election protest, not a pre-proclamation case. Thus, the proclamation of Hayudini remained valid.

DOCTRINE: The Doctrine of Statistical Improbability applies only when election returns show an extraordinary and uniform voting pattern (such as identical tallies for all candidates of one party and zero votes for all candidates of the opposing party) making the returns prima facie manufactured. Isolated zero-vote results or irregularities do not suffice.

SALUDAGA v. COMELEC

G.R. Nos. 189431 & 191120, 7 April 2010

FACTS: In the 2007 mayoral elections in Lavezares, Northern Samar, Saludaga was proclaimed the winner by 635 votes. His opponent, Balag, filed an election protest alleging widespread terrorism, misappreciation of ballots, and ballot-writing by a few persons—arguing that hundreds of Saludaga's ballots were written by the same hand, making the results "statistically improbable." The RTC agreed, rejecting 723 of Saludaga's ballots as written by only one or two persons. COMELEC's Second Division affirmed (with modifications), still concluding that the ballots indicated implausible and uniform handwriting patterns inconsistent with normal voting behavior.

ISSUE: Did the alleged ballot-writing patterns (hundreds of ballots written by only one or two persons) constitute "statistical improbability" which is sufficient to justify the exclusion of ballots and reversal of the election result?

HELD: YES, the Court held that the ballot-writing patterns noted by the RTC (specifically the finding that 698 ballots were written by one person and 25 more by only two persons) were unnatural, uniform, and pervasive that they clearly indicated ballot manufacturing, not genuine voter participation. Because normal elections necessarily involve ballots written by many different voters, the presence of hundreds of ballots bearing the handwriting of only one or two individuals is statistically implausible and strongly indicative of fraud. Thus, the exclusion of these ballots, as well as the reversal of the initial election result in favor of the true winner, was justified.

DOCTRINE: The doctrine of statistical improbability allows the rejection of ballots or returns when numerical or handwriting patterns exhibit such unnatural, extreme uniformity that they defy normal voting behavior, revealing ballot manufacturing or fraud.

On PPCs:

ONG v. COMELEC

G.R. No. 163295, 23 January 2006

FACTS: Francis Ong (incumbent mayor) and Joseph Stanley Alegre both ran for mayor of San Vicente, Camarines Norte in the 2004 elections. Alegre filed a petition to disqualify and cancel Ong's COC, arguing Ong had already served three consecutive terms. The COMELEC First Division dismissed the case, but on MR, the COMELEC en banc reversed and disqualified Ong, ordering (1) the deletion of Ong's name from the official list of candidates and (2) that any votes cast in his favor be treated as stray.

Upon receiving notice on May 8 (two days before the elections), Ong's party tried to substitute him with his brother Rommel Ong, who filed his COC on the same day after the deadline for substitution. COMELEC later declared that substitution was invalid because Ong's COC had been cancelled, not merely disqualified. The elections proceeded, and Alegre was proclaimed winner.

ISSUE: Did COMELEC gravely abuse its discretion in disqualifying Francis Ong and ordering that votes for him not be counted?

HELD: NO, the Supreme Court upheld the COMELEC's power to rule on disqualification even before elections, which is a proper pre-proclamation controversy, and affirmed that once Ong's COC was denied due course and cancelled, his name had to be removed from the list of candidates, and any votes cast for him were correctly considered stray. A candidate whose COC is cancelled cannot be voted for, and votes cast for such a person cannot be counted in the canvass. This falls under PPC rules: boards of canvassers must exclude votes for ineligible candidates because a PPC cannot go behind the returns, but it can apply the COMELEC's disqualification rulings during canvassing.

As for substitution, the Court ruled that there can be no valid substitution when the original candidate's COC is cancelled, citing *Miranda v. Abaya*: substitution is allowed only when the earlier candidate was validly nominated and had a valid COC. Here, Ong's COC was cancelled, so he was never a valid candidate; hence Rommel could not legally take his place.

DOCTRINE: In a pre-proclamation controversy, COMELEC may enforce a final disqualification ruling by ordering the exclusion of votes for the disqualified candidate. Votes cast for a person whose COC has been cancelled are considered stray, and no valid

substitution may occur because a cancelled certificate of candidacy confers no candidacy to substitute.

ABAYON v. COMELEC
G.R. No. 222236, 3 May 2016

FACTS: Harlin Abayon was proclaimed winner of the 2013 congressional race in Northern Samar's First District by a 52-vote margin. His opponent, Raul Daza, filed an election protest before the HRET questioning 25 clustered precincts for fraud, vote-buying, and terrorism. Abayon filed a counter-protest covering all 332 precincts. After partial revision, Daza withdrew his recount causes of action in several towns but maintained his claim of terrorism in specific clustered precincts.

The HRET dismissed Abayon's counter-protest, continued hearing only Daza's terrorism claim, and ultimately annulled the results in five clustered precincts. Deducting these precincts' votes changed the result: Daza (72,436) overtook Abayon (72,002).

ISSUE: Does the HRET have jurisdiction to annul election results based on terrorism?

HELD: YES, the HRET has jurisdiction to annul election results in the exercise of its constitutional mandate to judge election contests, which includes all issues relating to the election, returns, and qualifications of House members. Annulment of precinct results due to fraud or terrorism is judicial in nature and part of the HRET's quasi-judicial power which is distinct from COMELEC's administrative power to declare failure of elections and order special elections.

However, the Court ruled that the HRET gravely abused its discretion in annulling the votes in the five clustered precincts because terrorism was not proven by clear and convincing evidence. Without proof that terrorism affected at least 50% of votes or made it impossible to distinguish good from bad votes, the drastic remedy of annulment could not stand. The Supreme Court reinstated Abayon as the lawfully elected Representative.

DOCTRINE: Allegations of terrorism and similar irregularities cannot justify the annulment of precinct results unless proven by clear and convincing evidence showing that more than 50% of votes were affected and that it is impossible to distinguish lawful from unlawful votes; otherwise, such issues exceed the permissible scope of review and constitute grave abuse of discretion

PIMENTEL III v. COMELEC
G.R. No. 178413, 13 March 2008

FACTS: In the 2004 senatorial elections, candidate Koko Pimentel questioned the canvassing and proclamation of candidate Migz Zubiri, alleging massive irregularities in 32 precincts in Maguindanao

and North Cotabato. Pimentel filed with the COMELEC a Petition to Declare a Failure of Elections or to Exclude from Canvass 267 precinct results, claiming they were statistically improbable, coerced, or fraudulently produced.

The COMELEC Second Division dismissed the petition, ruling that the grounds raised were beyond the scope of pre-proclamation controversies, because Pimentel was asking the COMELEC to look behind the election returns, inquire into cheating, terrorism, ballot-box stuffing, and the conduct of voting which are matters that are proper only in an election protest.

ISSUE: Can the COMELEC, in a pre-proclamation controversy, examine allegations of fraud, terrorism, statistical improbability, or irregularities in the conduct of voting and canvassing, and on that basis exclude election returns or annul a proclamation?

HELD: NO, COMELEC correctly dismissed Pimentel's petition because the issues he raised (i.e., statistical anomalies, fraud, terrorism, vote-buying, and manipulated precinct results) are not valid issues in a pre-proclamation controversy. Under the OEC and jurisprudence, PPCs are strictly limited to determining the facial validity of election returns and resolving mathematical or mechanical errors in canvassing, not the truth or falsity of the votes themselves. Once a party asks the COMELEC to investigate how votes were cast, how ballots were filled up, who intimidated whom, or whether returns reflect the actual will of the people, the controversy becomes an election protest, not a PPC.

Allowing COMELEC to "go behind the returns" in a PPC would delay the proclamation process, violate the summary nature of canvassing, and intrude upon the exclusive jurisdiction of the SET once a candidate is proclaimed, takes oath, and assumes office. Since Zubiri had already been proclaimed and had assumed office as Senator, the COMELEC had lost jurisdiction, and any challenge to his election must be filed with the SET, not with the COMELEC or the Supreme Court.

DOCTRINE: A pre-proclamation controversy cannot be used to investigate fraud, terrorism, statistical improbability, or irregularities in the conduct of voting, because COMELEC may not go behind facially valid election returns; such issues must be raised through an election protest before the proper electoral tribunal.

MARCOS v. ROBREDO
PET Case No. 005, 16 February 2021

FACTS: Bongbong Marcos filed an election protest against VP Leni Robredo after the 2016 VP race, alleging massive cheating through VCM errors, shading manipulation, pre-shaded ballots, substitution of voters, terrorism, and other irregularities. BBM identified three causes of action:

1. annulment of Robredo's proclamation based on allegedly "unauthentic" COCs;

2. revision of ballots in his chosen pilot provinces: Camarines Sur, Iloilo, and Negros Oriental;
3. annulment of elections in Lanao del Sur, Maguindanao, and Basilan due to alleged terrorism and widespread fraud.

After a full revision and appreciation of ballots in the pilot provinces, the PET found that Robredo increased her lead from 263,473 to 278,566 votes. Marcos then insisted on proceeding with his third cause of action and attempted to rely on alleged patterns of fraud, including supposed statistical improbabilities and similarities in writing styles.

ISSUE: Did Marcos prove sufficient recovery or credible evidence of “statistical improbability” and related irregularities to justify continuing his protest beyond the pilot provinces and to proceed to annulment of election results in ARMM provinces?

HELD: NO, the PET held that Marcos failed to show any substantial recovery in the pilot provinces. Instead of recovering votes, Robredo’s lead even grew by over 15,000 votes, conclusively demonstrating that Marcos’ allegations of systematic fraud were unfounded.

On the claim of statistical improbability, the PET ruled that these were bare allegations without expert proof, and that ballot patterns alone cannot overturn machine-read results absent specific, precinct-level evidence of fraud. Marcos failed to show the time, place, manner, or mechanism of the alleged irregularities.

The third cause of action (annulment of elections in Lanao del Sur, Maguindanao, and Basilan) also could not proceed, because (1) annulment is an extraordinary remedy requiring extremely specific, proven allegations, (2) protestant must show that over 50% of ballots were tainted and cannot be segregated, and (3) Marcos did not allege that Robredo or her camp caused the alleged fraud. Therefore, the PET dismissed the entire protest.

DOCTRINE: In AES election protests, “statistical improbability” or alleged ballot-writing patterns do not constitute proof of fraud unless supported by specific, precinct-level evidence showing how, where, and by whom the alleged manipulation was committed.

Election protest

- Election protest refers to an election contest relating to the election and returns of elective officials. It proposes to oust the winning candidate from office. It is strictly a contest between the defeated and winning candidates, based on grounds of electoral fraud and irregularities, to determine who between them obtained a majority of the legal votes cast and is entitled to hold the office. It can only be filed by a candidate who filed a certificate of

candidacy and was voted for in the preceding elections.

Jurisdiction

- The COMELEC shall be the sole judge of all contests relating to the elections, returns, and qualifications of all Members of the Batasang Pambansa, elective regional, provincial and city officials. (Sec. 249, OEC)

Elections Contests	Requirements
Batasang Pambansa, regional, provincial and city offices	<ol style="list-style-type: none"> 1. There must be a sworn petition (verified). 2. The petition must contest the election of a Member of the Batasang Pambansa or a regional, provincial, or city official. 3. The petitioner must be a candidate who: <ol style="list-style-type: none"> a. filed a valid certificate of candidacy, and b. was voted for the same office. 4. The petition must be filed with the COMELEC. 5. It must be filed within 10 days from the proclamation of the election results. (Sec. 250, OEC)
Municipal offices	<ol style="list-style-type: none"> 1. There must be a sworn (verified) petition. 2. The petition must contest the election of a municipal officer. 3. The petitioner must be a candidate who <ol style="list-style-type: none"> a. filed a valid certificate of candidacy, and b. was voted for the same office. 4. The petition must be filed with the proper RTC. 5. It must be filed within 10 days after the proclamation of the election results. (Sec. 251, OEC)
Barangay offices	<p>Requisites for Filing an Election Contest</p> <ol style="list-style-type: none"> 1. There must be a sworn (verified) petition. 2. The petition must contest the election of a barangay officer. 3. The petitioner must be a candidate who: <ol style="list-style-type: none"> a. duly filed a certificate of candidacy, and b. was voted for the same office. 4. The petition must be filed with the proper MTC or MeTC. 5. It must be filed within 10 days after the proclamation of election results. <p>Requisites for Appeal</p>

	<ol style="list-style-type: none"> 1. The MTC/MeTC must decide within 15 days from filing. 2. An aggrieved party may appeal to the Regional Trial Court within 10 days from receipt of the MTC/MeTC decision. 3. The RTC must decide the appeal within 30 days from submission. 4. The RTC decision becomes final. (Sec. 252, OEC)
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Issue and grounds to be resolved

- Issue is who obtained the plurality of valid votes cast.
 - For elective officials, it is based on electoral fraud, anomalies, or irregularities in protested precincts.
 - For Senators, it includes manifest error in tabulation or tallying of results during canvassing.

May other parties intervene?

- **YES.** The one who succeeds vacancy created by death may intervene.
- The vice mayor has the status of a real party in interest in the continuation of proceedings and is entitled to intervene. For if the protest succeeds and the protestee is unseated, the vice mayor succeeds to the office of the mayor that is vacated if the one duly elected cannot assume the post.

N.B. The death of the protestant neither constitutes a ground to dismiss the contest nor ousts the trial court of its jurisdiction to decide the election contest.

Procedure in election contests

- A. For National, Regional, Provincial, and City Offices (General Rule)
 1. COMELEC must issue procedural rules at least 30 days before elections.
 2. Rules must be simple, inexpensive, expeditious, and published in two newspapers of general circulation.
- B. For Municipal and Barangay Election Contests (Special Rules)
 1. Service of Protest
 - Protest is served by summons to the protestee at the postal address in the COC.
 - Summons unnecessary if protestee already appears or files an answer.
 2. Answer to Protest
 - 5 days to answer from receipt of summons (or from appearance).
 - Answer must address only the polling places alleged in the protest.
 3. Counter-Protest
 - If protestee wishes to question protestant's votes in

other precincts, he must file a counter-protest within the same 5-day period, serving a copy on the protestant.

4. Answer to Counter-Protest
 - Protestant has 5 days to answer after notice.
5. Intervention
 - Any other candidate for the same office may intervene within 5 days from the filing of the original protest.
 - Petition in intervention is treated as a separate contest, but heard in the same proceedings.
 - Protestant or protestee must answer the intervention within 5 days after notice.
6. Failure to Answer
 - If no answer is filed to the protest, counter-protest, or intervention within the periods allowed, a general denial is deemed entered.
7. Registry List as Conclusive Proof
 - The permanent registry list of voters is conclusive on who had the right to vote. (Sec. 254, OEC)

Judicial counting of votes

- The court may order the ballot boxes, ballots, keys, book of voters, and all election documents brought before it and conduct a judicial recount whenever the allegations in a protest/counter-protest warrant it or whenever the interest of justice requires. (Sec. 255, OEC)

Appeals

- Decisions of the RTC in:
 - municipal election contests and
 - quo warranto cases involving municipal officers
 may be appealed to the IAC (now Court of Appeals) within 5 days from receipt.
- No MR allowed.
- The CA must decide the appeal within 60 days from submission (Sec. 256, OEC)

Decision in the COMELEC

- COMELEC must decide all election cases brought before it within 90 days from submission.
- Its decision becomes final after 30 days from receipt of judgment. (Sec. 257, OEC)

Preferential disposition of election contests

- Courts must give priority to election contests over all cases except habeas corpus.
- They must decide the case:
 - within 30 days from submission, and
 - in all cases, within 6 months from filing (Sec. 258, OEC)

Actual and compensatory damages

- May be awarded in election contests and quo warranto cases, consistent with law. (Sec. 259, OEC)

Notice of decisions

- The clerk of court or the COMELEC officer handling the case must immediately notify the President of the final disposition of every election contest or quo warranto case.
- For cases involving provincial, city, municipal, or barangay offices, notice must also be sent to the local sanggunian secretary.
- If the decision declares that no party was legally elected, the official must certify this to the President and, when appropriate, to COMELEC. (Sec. 260, OEC)

Quo warranto

- A quo warranto refers to an election contest relating to the qualifications of an elective official on the ground of ineligibility or disloyalty to the Republic, to unseat an ineligible person from office, but not to install the petitioner in his place. It is an action against a person who usurps, intrudes into, or unlawfully holds or exercises a public office. It is appropriate only to question the election of a candidate on the ground of disloyalty or ineligibility.

Ineligibility

- Ineligibility refers to the lack of constitutional or statutory qualifications to hold public office and the purpose of proceedings to declare ineligibility is to remove the incumbent from office.

Disloyalty

- Disloyalty is committed by public officers or employees who fail to resist rebellion by all the means in their power, or by continuing to discharge the duties of their offices under the control of the rebels or by accepting appointment to an office under them. Disloyalty to duly constituted government includes rebellion, sedition, violation of firearms laws, or any crime against national security.

Any voter contesting the election of any:

Officials	Requirements
Regional, Provincial, City, and Batasang Pambansa	<ol style="list-style-type: none">1. A sworn (verified) petition must be filed.2. The petitioner may be any voter.3. The petition must contest the election of:<ol style="list-style-type: none">a. a Member of the Batasang Pambansa,b. regional officials,c. provincial officials,

	<ol style="list-style-type: none">d. city officials. <ol style="list-style-type: none">4. The ground must be ineligibility or disloyalty to the Republic.5. The petition must be filed with the COMELEC.6. It must be filed within 10 days after proclamation of election results.
Municipal and Barangay	<ol style="list-style-type: none">1. A sworn (verified) petition must be filed.2. The petitioner may be any voter.3. The petition must contest the election of a:<ol style="list-style-type: none">a. municipal officer, orb. barangay officer.4. The ground must be ineligibility or disloyalty to the Republic.5. Filing must be with the proper RTC (for municipal officers) or the proper MTC/MeTC (for barangay officers).6. It must be filed within 10 days after proclamation. (Sec. 253, OEC)

Grounds for summary dismissal of an election protest

1. The court has no jurisdiction over the subject matter
2. The petition is insufficient in form and content
3. Filed beyond the prescribed period
4. The filing fee is not paid within period to file election protest, and
5. In case of protest where a cash deposit is required, it is not paid within 5 days from the filing of the protest.

President's pardoning power

- Except in cases of impeachment, or as otherwise provided in this Constitution, the President may grant reprieves, commutations and pardons, and remit fines and forfeitures, after conviction by final judgment. (Sec. 19, Art. VII, 1987 Constitution)
- In accordance with the above-cited constitutional provision, the President has the plenary power to grant executive clemency, except on the following 3 constitutional limitations,;
 1. In cases of impeachment;
 2. In cases involving violation of election laws, rules and regulations as provided for in Sec. 5, Paragraph C, Article IX of the 1987 Philippine Constitution without the favorable recommendation of the COMELEC;
 3. In cases where the conviction is on appeal or has not become final and executory. ([See here.](#))