

COMELEC RULES OF PROCEDURE
February 15, 1993

Pursuant to Section 6 of Article IX-A and Section 3 of Article IX-C of the Constitution of the Republic of the Philippines and the powers vested in it by existing laws, the Commission on Elections hereby promulgates the following rules governing pleadings, practice and procedure before it or any of its offices:

PART I

INTRODUCTORY PROVISIONS

Rule 1 - Title and Construction

Section 1. *Title of the Rules.* - These rules shall be known and cited as the Comelec Rules of Procedure.

Sec. 2. *Applicability.* - These rules, except Part VI, shall apply to all actions and proceedings brought before the Commission. Part VI shall apply to election contests and quo warranto cases cognizable by courts of general jurisdiction.

Sec. 3. *Construction.* - These rules shall be liberally construed in order to promote the effective and efficient implementation of the objectives of ensuring the holding of free, orderly, honest, peaceful and credible elections and to achieve just, expeditious and inexpensive determination and disposition of every action and proceeding brought before the Commission.

Sec. 4. *Suspension of the Rules.* - In the interest of justice and in order to obtain speedy disposition of all matters pending before the Commission, these rules or any portion thereof may be suspended by the Commission.

Sec. 5. *Meaning of Words.* - Whenever used in these Rules, the following words or terms shall mean:

- (a) Commission - the Commission on Elections
- (b) Division - a Division of the Commission on Elections
- (c) Chairman - the Chairman of the Commission on Elections
- (d) Commissioner - a Commissioner of the Commission on Elections
- (e) Member - the Chairman or a Commissioner
- (f) Ordinary Actions - shall refer to Election Protests, Quo warranto, and Appeals from decisions of courts in election protest cases

(g) Special Actions - shall refer to Petitions to deny course to certificate of candidacy, to declare a candidate as a nuisance candidate, to disqualify a candidate or to postpone or suspend an election

(h) Special Cases - shall refer to Pre-proclamation cases

(i) Special Reliefs - shall refer to Certiorari, Prohibition, Mandamus and Contempt

(j) Provisional Remedies - shall refer to injunction and/or restraining order

(k) Special Proceedings - shall refer to annulment of permanent list of voters, registration of political parties and accreditation of citizens' arms of the Commission.

PART II

POWERS OF THE COMMISSION AND TRANSACTION OF BUSINESS

Rule 2 - Powers of the Commission

Section 1. *Express Powers.* - In the performance of its administrative, quasi-judicial and judicial functions, the Commission shall exercise all such powers and functions as are expressly vested upon it by the Constitution and by law.

Sec. 2. *Implied Powers.* - The Commission shall likewise exercise such powers as are implied in or are necessary to the effective exercise of its express powers.

Sec. 3. *Inherent Powers.* - When performing its constitutional or statutory functions, the Commission shall have inherent power to:

(a) Preserve and enforce order in its immediate presence;

(b) Enforce order in proceedings before it or before any of its offices or officials empowered to conduct investigation under its authority.

(c) Compel obedience to its judgments, orders and processes;

(d) Control its ministerial officers and all other persons in any manner connected with a case before it, and in every manner appertaining thereto;

(e) Compel the attendance of persons to testify in a case pending before it;

(f) Administer or cause to be administered oaths in a case pending before it, and in all other cases where it may be necessary in the exercise of its powers;

(g) Amend and control its processes and orders so as to make them conformable to law and justice;

(h) Authorize a copy of a lost or destroyed pleading or other paper to be filed and used instead of the original, and to restore, and supply deficiencies in its records and proceedings.

Sec. 4. Means to Effect Jurisdiction. - All auxiliary writs, processes and other means necessary to carry into effect its powers or jurisdiction may be employed by the Commission; and if the procedure to be followed in the exercise of such power or jurisdiction is not specifically provided for by law or these rules, any suitable process or proceeding may be adopted.

Sec. 5. Powers and Duties of the Chairman. - The powers and duties of the Chairman of the Commission when discharging his functions in actions or proceedings before the Commission are as follows:

(a) To issue calls for the sessions of the Commission;

(b) To preside over the sessions of the Commission; and to act as Presiding Commissioner of a Division when expressly authorized in these Rules;

(c) To designate any of the Commissioners to preside over sessions of the Commissions en banc in the event of his absence, disqualification or inhibition;

(d) To preserve order and decorum during the session;

(e) To decide all questions of order, subject to appeal to the Commission en banc;

(f) To enforce orders, resolutions, and decisions of the Commission and the Divisions;

(g) To sign interlocutory resolution, orders or rulings and temporary restraining orders of the Commission in cases not yet assigned to the Divisions;

(h) To take such other measures as he may deem proper upon consultation with the other members of the Commission; and

(i) To exercise such other powers as are vested upon him by law or by specific provisions of these Rules.

Sec. 6. Powers and Duties of the Presiding Commissioner. - The powers and duties of the Presiding Commissioner of a Division when discharging its functions in cases pending before the Division shall be as follows:

(a) To issue calls for the sessions of the Division;

(b) To preside over the sessions of the Division;

(c) To preserve order and decorum during the sessions of the Division;

(d) To sign interlocutory resolutions, orders or rulings and temporary restraining orders in cases already assigned to the Division;

(e) To decide all questions of order, subject to appeal to the full Division;
and

(d) To take such other measures as he may deem proper upon consultation with the other members of the Division.

Rule 3 - How the Commission Transacts Business

Section 1. How Business is Transacted. - In the exercise of its Constitutional or statutory powers, functions, and duties, the Commission may sit en banc or in to Divisions.

Sec. 2. The Commission En Banc. - The Commission shall sit en banc in cases hereinafter specifically provided, or in pre-proclamation cases upon a vote of a majority of the members of the Commission, or in all other cases where a division is not authorized to act, or where, upon a unanimous vote of all the Members of a Division, an interlocutory matter or issue relative to an action or proceeding before it is decided to be referred to the Commission en banc.

Sec. 3. The Commission Sitting in Divisions. - The Commission shall sit in two (2) Divisions to hear and decide protests or petitions in ordinary actions, special actions, special cases, provisional remedies, contempt, and special proceedings except in accreditation of citizen's arms of the Commission.

Sec. 4. Composition of a Division. - Each Division shall be composed of three Commissioners, one of whom shall be the Presiding Commissioner. The Commission en banc shall determine who shall compose a Division.

Sec. 5. Quorum; Votes Required. - (a) When sitting en banc, four (4) Members of the Commission shall constitute a quorum for the purpose of transacting

business. The concurrence of a majority of the Members of the Commission shall be necessary for the pronouncement of a decision, resolution, order or ruling.

(b) When sitting in Division, two (2) Members of a Division shall constitute a quorum to transact business. The concurrence of at least two (2) Members of a Division shall be necessary to reach a decision, resolution, order or ruling. If this required number is not obtained, the case shall be automatically elevated to the Commission en banc for decision or resolution.

(c) Any motion to reconsider a decision, resolution, order or ruling of a Division shall be resolved by the Commission en banc except motions on interlocutory orders of the division which shall be resolved by the division which issued the order.

Sec. 6. Change in Composition; Substitution. - The composition of a Division may be changed by the Chairman of the Commission whenever necessary, Provided that no change shall be made more than once every three (3) months; Provided Moreover, that notice thereof in writing shall be furnished the parties in cases pending before the Division concerned.

Whenever there is a vacancy in a Division because a member inhibits himself, is absent, or is disqualified from sitting in a case, or when a division has only two (2) regular members, the Chairman may appoint a substitute Commissioner, or the Chairman himself may sit as substitute or third member, and in that event he shall preside.

Sec. 7. Sessions. - The Commission or the Divisions shall hold sessions on such days and time as it may specify at the session hall of the Commission, or at such other places in the Philippines as it may designate.

Sec. 8. Assignment of Cases. - The assignment of cases of the two (2) Divisions herein constituted shall be done strictly through raffle to be conducted regularly by the Chairman of the Commission in the presence of at least a majority of the Commissioner; Provided, That the assignment of cases shall be made as evenly as possible.

Sec. 9. Consolidation of Cases. - When an action or proceeding involves a question of law and fact which is similar to or common with that of another action or proceeding, the same may be consolidated with the action or proceeding bearing the lower docket number.

Rule 4 - Disqualification and Inhibition

Section 1. Disqualification or Inhibition of Members. - (a) No Member shall sit in any case in which he or his spouse or child is related to any party within the sixth civil degree or consanguinity or affinity, or to the counsel of any of the parties

within the fourth civil degree of consanguinity or affinity, or in which he has publicly expressed prejudgment as may be shown by convincing proof, or in which the subject thereof is a decision promulgated by him while previously serving as presiding judge of an inferior court, without the written consent of all the parties, signed by them and entered in the records of the case; Provided, that no Member shall be the "ponente" of an en banc decision/resolution on a motion to reconsider a decision/resolution written by him in a Division.

(b) If it be claimed that a Member is disqualified from sitting as above provided, the party raising the issue may, in writing, file his objection with the Commission, stating the grounds therefor. The member concerned shall either continue to participate in the hearing or withdraw therefrom, in accordance with his determination of the question of his disqualification. His decision thereon shall forthwith be made in writing and filed with the Commission for proper notation and with the records of the case. No appeal or stay shall be allowed from, or by reason of, his decision in favor of his own competency until after final judgment in the case.

(c) A Member may, in the exercise of his sound discretion, inhibit himself from sitting in a case for just or valid reasons other than those mentioned above.

Sec. 2. Disqualification Resulting in Lack of Quorum. - If the disqualification or inhibition of a Member should result in a lack of quorum in the Commission sitting en banc, the Presiding Justice of the Court of Appeals, upon request of the Commission, shall designate a Justice of said Court to sit in said case for the purpose of hearing and rendering a decision thereon.

PART III

INITIATION OF ACTIONS OR PROCEEDINGS BEFORE THE COMMISSION

Rule 5. - Parties to Actions or Proceedings

Section 1. *Applicability.* - the Rules under Part III shall apply to all actions and proceedings hereinafter provided for.

Sec. 2. *Who may be Parties.* - Only natural or juridical persons or entities duly authorized by law, such as a voter, a candidate, or registered political parties, organization or coalition of political parties, including parties or organizations under the party-list system, and any such person permitted by these Rules to bring an action or proceeding may be parties in any action or proceeding before the Commission.

Sec. 3. *Parties in Interest.* - All actions filed with the Commissioner must be prosecuted and defended in the name of the real party in interest.

Sec. 4. *Designation of Parties.* - A person qualified to be a party under Sec. 2 of this Rule seeking relief shall be referred to as Petitioner or Protestant. Any person who claims interest adverse to the petitioner or protestant or against whom a claim or interest is directed by the petitioner or protestant, shall be referred to as the Respondent or Protestee.

Sec. 5. *Class Suit.* - When the subject matter of the controversy is one of common or general interest to many persons, and the parties are so numerous that it is impracticable to bring them all before the Commission, one or more may sue or defend for the benefit of all. But in such case, the Commission shall make sure that the parties actually before it are sufficiently numerous and representative so that all interests concerned are fully protected. Any party in interest shall have a right to intervene to protect his individual interest.

Sec. 6. *Compulsory Joinder of Indispensable Parties.* - Parties in interest without whom no final determination of an action can be had shall be joined either as petitioner or protestant or respondent or protestee.

Rule 6 - Commencement of Action or Proceedings

Sec. 1. *Commencement of Action or Proceedings by Parties.* - Any natural or juridical person authorized by these rules to initiate any action or proceeding shall file with the Commission a protest or petition alleging therein his personal circumstances as well as those of the protestee or respondent, the jurisdictional facts, and a concise statement of the ultimate facts constituting his cause or causes of action and specifying the relief sought. He may add a general prayer for such further or other relief as may be deemed just or equitable.

Sec. 2. *Commencement of Action by the Commission.* - In cases where the Commission is authorized to initiate motu proprio an action or proceeding, the Commission shall issue an order for hearing reciting therein the purpose for which the hearing is being called for and a concise statement of facts giving rise thereto. Copies of such order shall be served upon persons or registered political parties, organizations or coalition of political parties known to have an interest in the matter or who may be affected thereby, and published in a newspaper of general circulation in the Philippines at least ten (10) days before the scheduled date of hearing.

Rule 7 - Pleadings

Section 1. *Filing of Pleadings.* - Every pleading, motion and other papers must be filed in ten (10) legible copies. However, when there is more than one respondent or protestee, the petitioner or protestant must file additional number of copies of the petition or protest as there are additional respondents or protestees.

Sec. 2. *How Filed.* - The documents referred to in the immediately preceding section must be filed directly with the proper Clerk of Court of the Commission personally, or, unless otherwise provided in these Rules, by registered mail. In the latter case, the date of mailing is the date of filing and the requirement as to the number of copies must be complied with.

Sec. 3. *Form of Pleadings, etc.* - (a) All pleadings allowed by these Rules shall be printed, mimeographed or typewritten on legal size bond paper and shall be in English or Filipino.

(b) Protests or petitions in ordinary actions, special actions, special cases, special reliefs, provisional remedies, and special proceedings, as well as counter-protests, counter-petitions, interventions, motions for reconsideration, and appeals from rulings of board of canvassers shall be verified. All answers shall be verified.

(c) A pleading shall be verified only by an affidavit stating that the person verifying the same has read the pleading and that the allegations therein are true of his own knowledge. Verifications based on "information or belief" or upon "knowledge", "information" or "belief" shall be deemed insufficient.

(d) Each pleading shall contain a caption setting forth the name of the Commission, the title of the case, the docket number and the designation of the pleading. When an action or proceeding has been assigned to a Division, the caption shall set forth the name of the Division.

Sec. 4. *Docket and Assignment of Numbers.* - Upon the Filing of a protest or petition, the Clerk of Court of the Commission concerned shall docket the same and assign to it a docket number. The numbering must be consecutive according to the date it is filed, must bear the year, and prefixed as follows:

- (a) EPC - for Ordinary Actions
- (b) EAC - for Appealed Cases
- (c) SPA - for Special Actions
- (d) SPC - for Special Cases
- (e) SPR - for Special Reliefs
- (f) SPP - for Special Proceedings
- (g) EO - for Election Offenses

Sec. 5. *Non-acceptance of Pleading.* - No pleading shall be accepted by the Commission unless it conforms to the formal requirement provided herein.

Rule 8 - Intervention

Section 1. *When Proper and Who may be Permitted to Intervene.* - Any person allowed to initiate an action or proceeding may, before or during the trial of an action or proceeding, be permitted by the Commission, in its discretion, to intervene in such action or proceeding, if he has legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or when he is so situated as to be adversely affected by such action or proceeding.

Sec. 2. *Motion for Intervention.* - A person desiring to intervene shall file a motion for leave of the Commission or the Division with notice upon all the parties to the action.

Sec. 3. *Discretion of Commission.* - In allowing or disallowing a motion for intervention, the Commission or the Division, in the exercise of its discretion, shall consider whether or not the intervention will unduly delay or prejudice and adjudication of the rights of the original parties and whether or not the intervenor's rights may be fully protected in a separate action or proceeding.

Sec. 4. *Protest/Petition or Answer in Intervention.* - The intervention shall be made by protest or petition filed and served in due form, and may be answered as if it were an original protest or petition; but where intervenor unites with the protestee or respondent in resisting the claims of protestant or petitioner, the intervention may be made in the form of an answer to the protest or petition.

Rule 9 - Amended and Supplemental Pleadings

Section 1. *When Amendments Allowed as a Matter of Right.* - A party may amend his pleadings once as a matter of course at any time before a responsive pleading is served, or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, he may so amend it at any time within five days after it is served.

Sec. 2. *Amendments Only by Leave.* - After the case is set for hearing, substantial amendments may be made only upon leave of the Commission or the Division, as the case may be. Such leave may be refused if it appears to the Commission or the Division that the motion was made with intent to delay the action or that the cause of action or defense is substantially altered. Orders of the Commission or the Division upon the matters provided in this section shall be made upon motion duly filed, and after the adverse the party has been notified and afforded an opportunity to be heard.

Sec. 3. *Matters Subject of Supplemental Pleadings.* - Upon motion of a party the Commission or a Division, as the case may be, may, upon notice and upon such terms as are just, permit him to serve a supplemental pleading setting forth transactions, occurrences or events which have happened since the date of the pleading sought to be supplemented. If the Commission or the Division deems it advisable that the adverse party should plead thereto, it shall so order, specifying the time therefor.

Rule 10 - Periods for Pleading

Section 1. *Title to Answer.* - Unless otherwise provided in these Rules, (a) In ordinary actions, special reliefs, and special proceedings, the answer must be filed within five (5) days from service of summons and a copy of the petition; and

(b) In special actions and special cases, the answer must be filed within three (3) days from service of summon and a copy of the petition.

Sec. 2. *Answer to Amended Protest or Petition.* - If the protest or petition is amended, the time fixed for the filing and service of the answer shall, unless otherwise ordered, run from receipt of the notice of the order admitting the amended protest or petition or from service of such amended protest or petition. An answer filed before the amendment shall stand as an answer to the amended protest or petition, unless a new one is filed within five (5) days from notice or service as herein provided.

Sec. 3. *Answer to Counter-Protest or Counterclaim.* - A counter-protest, or a counterclaim when appropriate, must be filed within five (5) days from the date of service thereof upon the protestant or petitioner.

Sec. 4. *Period of Intervene and Time to Answer Intervention.* - Whenever intervention is allowed the same must be filed within five (5) days from receipt of the order permitting the intervention, unless a different period is fixed by the Commission or Division.

Sec. 5. *Reply.* - Unless otherwise provided in these Rules, a reply may be filed within five (5) days from receipt of the answer.

Sec. 6. *Extension of Time to Plead.* - Unless otherwise provided in these Rules, the time to plead may be extended by the Commission upon motion and on such terms as it may deem just.

Rule 11 - Motions

Section 1. *Motions Defined.* - Every applications for an order not included in a decision of the Commission or a Division may be called a motion.

Sec. 2. *Motions Must be in Writing.* - All motions shall be in writing, except motions for continuance made in the presence of the adverse party, or those made in the course of a hearing or trial.

Sec. 3. *Contents of Motions.* - A motion shall state the order sought to be obtained and the grounds upon which it is based.

Sec. 4. *Notice.* - Notice of a motion shall be served by the movant to all parties concerned, at least three (3) days before the hearing thereof, together with a copy of the motion. For good cause shown, the motion may be heard on shorter notice, especially on matters which the Commission or the Division may dispose of on its own motion.

The notice shall be directed to the parties concerned and shall state the time and place of the hearing of the motion.

Sec. 5. *Proof of Service.* - No motion shall be acted upon by the Commission without proof of service of notice thereof, except when the Commission or a Division is satisfied that the rights of the adverse party or parties are not affected.

Sec. 6. *No oral Arguments for Motions.* - No oral argument shall be heard in support of motions unless, for special reasons, the Commission or a Division directs otherwise.

Sec. 7. *Motion Day.* - The first hours of the session of the Commission en banc or of the division shall be devoted to hearings of motions.

Sec. 8. *Omnibus Motion.* - A motion assailing a pleading or a proceeding shall include all objections then available, and all objections not so included shall be deemed waived.

Rule 12 - Service and Filing of Pleadings and Other Papers

Section 1. *Filing with the Commission.* - The Filing of pleadings, appearances, motions, notices, and other papers with the Commission as required by these rules shall be made by filing them personally or through a duly authorized representative with the appropriate Clerk of Court of the Commission, or by registered mail except in a special action to declare a candidate as a nuisance candidate. If filed personally or by a duly authorized representative, the Clerk of Court shall stamp on the pleading the date and hour of filing. If filed by registered mail, the date of the mailing of motions, pleadings, or other papers or payments or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of their filing, payment or deposit with the Commission. The envelope shall be attached to the records of the case.

Sec. 2. *Papers to be Filed and Served.* - Orders required to be served, pleadings subsequent to a petition or protest, written motions other than those which may be heard ex-parte, and written notices, appearances, demand or offer of judgment or similar papers shall be filed with the Commission and served upon the parties affected thereby. If any of the parties has appeared by an attorney or attorneys, service shall be made upon his attorney or upon any of his attorneys, unless service upon the party himself is ordered by the Commission or Division. Where one attorney appears for several parties, he shall be entitled to only one copy of any paper served upon him by the opposite side.

Sec. 3. *Mode, Completion and Proof of Service.* - Service of pleadings, motions, notices, orders or judgment and other papers, the completeness thereof, and proof of such service shall be made in the manner prescribed by the Rules of Court of the Philippines.

Rule 13 - Prohibited Pleadings

Section 1. *What Pleadings are not Allowed.* - The following pleadings are not allowed:

- (a) motion to dismiss;
- (b) motion for a bill of particulars;
- (c) motion for extension of time to file memorandum or brief;
- (d) motion for reconsideration of an en banc ruling, resolution, order or decision except in election offense cases;
- (e) motion for re-opening or re-hearing of a case;
- (f) reply in special actions and in special cases; and
- (g) supplemental pleadings in special actions and in special cases.

PART IV

DISPOSITION OF ACTIONS OR PROCEEDINGS

Rule 14 - Summons

Section 1. *Clerk to Issue Summons.* - Unless otherwise provided herein, the Clerk of Court of the Commission or the division concerned shall issue the corresponding summons to the protestee or respondent within three (3) days following the filing of a protest or petition in ordinary actions except appeals from decisions of courts in election protest cases, in special actions, special cases, special reliefs, and in special proceedings.

Sec. 2. *Contents.* - Summons shall be directed to the protestee or respondent, signed by the Clerk of Court of the Commission or the division concerned under the seal of the Commission, and shall contain (a) the name of the Commission or its Division and the names of the parties; (b) a direction that the protestee or respondent shall answer within the time fixed by these Rules.

A copy of the protest or petition shall be attached to the original and to each copy of the summons.

Sec. 3. *Issuance of Other Summons.* - If a summons is returned without being served on any of the protestees or respondents, or if it has been lost, the Clerk of Court concerned, on demand of the protestant or petitioner, may issue another summons as the case may require, in the same form as the original.

Sec. 4. *By Whom Summons May be Served.* - The summons may be served by personal service or by mail. Personal service may be made by a bailiff of the Commission or the division or upon request of the Commission or a Division, by the sheriff of any court in the place where the parties to be served reside; or for special reasons, by any person especially authorized by the Commission or a Division.

Sec. 5. *Return.* - When the service has been completed by personal service, the server shall give notice thereof, by registered mail, to the protestant or petitioner or his counsel and shall return the summons to the Clerk of Court concerned who issued it, accompanied with the proof of service.

Sec. 6. *Proof of Service.* - Proof of service of summons shall be made in the manner provided for in the Rules of Court in the Philippines.

Rule 15 - Pre-Trial

Section 1. *Purpose of Pre-Trial.* - At the discretion of the Commission or the Division, the parties and their attorneys may be required to appear before it for a pre-trial conference to consider:

- (a) The simplification of issues;
- (b) The possibility of obtaining admission of facts and of documents to avoid unnecessary proof;
- (c) The limitation of the number of witnesses; and
- (d) Such other matters as may be aid in the prompt disposition of the action or proceeding.

This rule shall not apply to election protest cases filed before the Commission on Elections. In such cases, the parties shall submit, to form part of the record of the case, a position paper which summarizes their legal positions.

Rule 16 - Subpoena

Section 1. *Subpoena Ad Testificandum or Subpoena Duces Tecum.* - Subpoena ad testificandum or subpoena duces tecum may be issued by the Commission or the Division motu proprio, or upon request of the parties in any case.

Sec. 2. *By Whom Issued.* - The subpoena shall be heard by the Chairman of the Commission in cases heard en banc, or by the Presiding Commissioner of the Division concerned.

Sec. 3. *Form and Contents.* - A subpoena shall be signed by the Clerk of Court concerned. It shall state the name of the Commission or the Division issuing it and the title of the action; it shall be directed to the person whose attendance is required, and in the case of a subpoena duces tecum, it shall also contain a reasonable description of the books, documents or things demanded which may appear prima facie relevant.

Sec. 4. *Authority of Officials of the Commission to Issue Subpoena.* - Officials of the Commission authorized under these Rules to hear cases and receive evidence or conduct preliminary investigation shall have the authority to issue subpoena in connection with such cases.

Rule 17 - Hearings

Section 1. *Notice of Hearing.* - After the issues have been joined, the case shall be set for hearing and the parties, thru counsel, shall be served, personally or by registered mail, giving sufficient time for the notice thereof to be received by the parties not less than three (3) days before the date set. Whenever necessary, telegraphic notices shall be sent simultaneously with the formal notice of hearing.

Sec. 2. *Order of Hearing.* - Unless the Commission or the Division, as the case may be, for special reasons, directs otherwise, the order of hearing shall be as follows:

- (a) The petitioner or protestant shall present evidence on his part;
- (b) The protestant-in-intervention, if any, shall present evidence on his part;
- (c) The respondent or protestee shall then offer evidence in support of his defense or counter-protest, if any;

(d) The parties may then respectively offer rebutting evidence only, unless the Commission or the Division, as the case may be, for good reasons, in the furtherance of justice, permits them to offer evidence upon their original case;

(e) When the evidence is concluded, unless the parties agree to submit the case without arguments, the parties or their counsel may be allowed to argue, subject to such limitation of time as the Commission or the Division may prescribe;

(f) In lieu of oral arguments, the parties may be allowed to submit their respective memoranda within a period of three (3) days.

Sec. 3. Oral Testimony Dispensed with Where Proceedings are Summary. - When the proceedings are authorized to be summary, in lieu of oral testimonies, the parties may, after due notice, be required to submit their position paper together with affidavits, counter-affidavits and other documentary evidence; and when there is a need for clarification of certain matters, at the discretion of the Commission or the Division, the parties may be allowed to cross-examine the affiants.

This provision shall likewise apply to cases where the hearing and reception of evidence are delegated by the Commission or the Division to any of its officials; and when there is a need for clarification of certain matters, the hearing officer may schedule a hearing to propound clarificatory questions, observing for that purpose Section 6 of Rule 34 of these Rules.

Sec. 4. Period to Terminate Hearing When Delegated. - The hearing and reception of evidence, when delegated by the Commission or a Division to any of its officials, shall be completed within three (3) days. The official concerned shall submit his findings, report and recommendation to the Commission or the Division within three (3) days from such completion.

Sec. 5. Agreement on Facts. - The parties to any action may agree in writing on the facts involved in the case.

Rule 18 - Decisions

Section 1. Procedure in Making Decisions. - The conclusions of the Commission in any case submitted to it for decision en banc or in Division shall be reached in consultation before the case is assigned by raffle to a Member for the writing of the opinion of the Commission or the Division and a certification to this effect signed by the Chairman or the Presiding Commissioner, as the case may be, shall be incorporated in the decision. Any Member who took no part, or dissented, or abstained from a decision or resolution must state the reason therefor.

Every decision shall express therein clearly and distinctly the facts and the law on which it is based.

Sec. 2. *Minute Resolution.* - No minute resolution resolving a case shall be rendered if evidence has been adduced and received.

Sec. 3. *When Extended Opinion Reserved.* - When in a given resolution or decision the writing of an extended opinion is reserved, the extended opinion shall be released within fifteen (15) days after the promulgation of the resolution.

Sec. 4. *Period to Appeal or File Motion for Reconsideration When Extended Opinion is Reserved.* - If an extended opinion is reserved in a decision or resolution, the period to file a petition for certiorari with the Supreme Court or to file a motion for reconsideration shall begin to run only from the date the aggrieved party received a copy of the extended opinion.

Sec. 5. *Promulgation.* - The promulgation of a decision or resolution of the Commission or a Division shall be made on a date previously fixed, of which notice shall be served in advance upon the parties or their attorneys personally or by registered mail or by telegram.

Sec. 6. *Procedure if Opinion is Equally Divided.* - When the Commission en banc is equally divided in opinion, or the necessary majority cannot be had, the case shall be reheard, and if on rehearing no decision is reached, the action or proceeding shall be dismissed if originally commenced in the Commission; in appealed cases, the judgment or order appealed from shall stand affirmed; and in all incidental matters, the petition or motion shall be denied.

Sec. 7. *Period to Decide by the Commission En Banc.* - Any case or matter submitted to or heard by the Commission en banc shall be decided within thirty (30) days from the date it is deemed submitted for decision or resolution, except a motion for reconsideration of a decision or resolution of a Division in Special Actions and Special Cases which shall be decided within fifteen (15) days from the date the case or matter is deemed submitted for decision, unless otherwise provided by law.

Sec. 8. *Period to Decide by a Division.* - Any case or matter heard by a Division shall be decided within ten (10) days from the date it is deemed submitted for decision or resolution, except in Special Actions and Special Cases which shall be decided or resolved within five (5) days from the date they are deemed submitted for decision or resolution, unless otherwise provided by law

Sec. 9. *When Deemed Submitted for Decision.* - (a) A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief or memorandum as required in these Rules or by the Commission en banc or by a Division.

(b) However, if the hearing and reception of evidence are delegated to any of its officials, the case or matter shall be deemed submitted for decision as of the date of the receipt of the findings, report and recommendation of the official so delegated.

Sec. 10. *Duty to Certify to the President.* - In election protests and quo warranto cases, if the decision shall be that none of the parties has been legally elected, the Commission shall certify such decision to the President of the Philippines.

Sec. 11. *Duty to Notify Other Agencies of the Government.* - (a) As soon as a decision in an election protest within the original jurisdiction of the Commission or in a quo warranto case becomes final and executory, notices thereof shall be sent to the President, the Secretary of Local Government, the Chairman of the Commission on Audit, and the Secretary of the Sangguniang Pampook in the case of regional officials, the Secretary of the Sangguniang Panlalawigan in the case of provincial officials, and the Secretary of the Sangguniang Panglungsod in the case of city officials.

(b) As soon as a decision or resolution in an appealed election case becomes final and executory, notices thereof shall be sent to the President, the Secretary of Local Government, the Chairman of the Commission on Audit, and the Secretary of the Sangguniang Bayan in the case of municipal officials and the Secretary of the Sangguniang Barangay in the case of barangay officials.

Sec. 12. *Dissemination of Decision in a Petition to Deny Due Course to or Cancel a Certificate of Candidacy or to Declare a Candidate as a Nuisance Candidate.* - The Commission shall, within twenty-four (24) hours from the promulgation of a decision in petitions to deny due course to or cancel a certificate of candidacy, declare a candidate a nuisance candidate or disqualify a candidate, disseminate its decision, or the decision of the Supreme Court if the Commission's decision is brought by the aggrieved party to said Court, to the election registrars concerned, boards of election inspectors, and the general public in the political subdivision concerned through the fastest means available.

Sec. 13. *Finality of Decisions or Resolutions.* - (a) In ordinary actions, special proceedings, provisional remedies and special reliefs a decision or resolution of the Commission en banc shall become final and executory after thirty (30) days from its promulgation.

(b) In Special Actions and Special Cases a decision or resolutions of the Commission en banc shall become final and executory after five (5) days from its promulgation unless restrained by the Supreme Court.

(c) Unless a motion for reconsideration is seasonably filed, a decision or resolution of a Division shall become final and executory after the lapse of five (5)

days in Special actions and Special cases and after fifteen (15) days in all other actions or proceedings, following its promulgation.

Rule 19 - Motions for Reconsideration

Section 1. *Grounds of Motion for Reconsideration.* - A motion for reconsideration may be filed on the grounds that the evidence is insufficient to justify the decision, order or ruling; or that the said decision, order or ruling is contrary to law.

Sec. 2. *Period for Filing Motions for Reconsideration.* - A motion to reconsider a decision, resolution, order, or ruling of a Division shall be filed within five (5) days from the promulgation thereof. Such motion, if not proforma, suspends the execution or implementation of the decision, resolution, order or ruling.

Sec. 3. *Form and Contents of Motion for Reconsideration.* - The motion shall be verified and shall point out specifically the findings or conclusions of the decision, resolution, order or ruling which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or the provisions of law alleged to be contrary to such findings or conclusions.

Sec. 4. *Effect of Motion for Reconsideration on Period to Appeal.* - A motion to reconsider a decision, resolution, order or ruling when not pro-forma, suspends the running of the period to elevate the matter to the Supreme Court.

Sec. 5. *How Motion for Reconsideration Disposed Of.* - Upon the filing of a motion to reconsider a decision, resolution, order or ruling of a Division, the Clerk of Court concerned shall, within twenty-four (24) hours from the filing thereof, notify the Presiding Commissioner. The latter shall within two (2) days thereafter certify the case to the Commission *en banc*.

Sec. 6. *Duty of Clerk of Court of Commission to Calendar Motion for Resolution.* - The Clerk of Court concerned shall calendar the motion for reconsideration for the resolution of the Commission *en banc* within ten (10) days from the certification thereof.

PART V

PARTICULAR ACTIONS OR PROCEEDINGS

A. ORDINARY ACTIONS

Rule 20 - Election Protests

Section 1. *Filing of Election Protest.* - A verified petition contesting the election of

any regional, provincial or city official shall be filed by any candidate who duly filed a certificate of candidacy and has been voted for the same office, within ten (10) days after the proclamation of the results of the election.

Each contest shall refer exclusively to one office, but contests for offices of the Sangguniang Pampook, Sangguniang Panlalawigan or Sangguniang Panglungsod may be consolidated in a single case.

Sec. 2. Contents of Answer. - The answer must specify the nature of the defense and may set forth special and affirmative defenses.

Sec. 3. Counter-Protest or Counterclaim. - The protestee may incorporate in his answer a counter-protest or a counterclaim.

Sec. 4. General Denial. - If no answer is filed to the protest or counter-protest, a general denial shall be deemed to have been entered.

Sec. 5. Protestant's Reply. - The protestant may file a reply.

Sec. 6. Revision of Ballots. - When the allegations in a protest or counter-protest so warrant, or whenever in the opinion of the Commission or Division the interest of justice so demands, it shall immediately order the ballot boxes containing ballots and their keys, list of voters with voting records, book of voters, and other documents used in the election to be brought before the Commission, and shall order the revision of the ballots.

Sec. 7. Composition and Compensation of Revision Committee. - For the above purpose, the Commission may constitute a committee on the revision of ballots which shall be composed of the following with the corresponding compensation per ballot box contested:

1. A Chairman, who shall be a lawyer of the Commission - P150.00
2. One Revisor/Alternate for the Protestant - P100.00
3. One Revisor/Alternate for the Protestee - P100.00

Other Support Staff:

4. Clerk - P50.00
5. Typist - P50.00
6. Ballot Box Custodian - P50.00

Sec. 8. *Revision Expenses.* - The compensation of the members and staff shall be deducted from the cash deposit of the protestant or the protestee as the case may be, and other incidental expenses such as supplies and transportation in the supplies and transportation in the gathering of the protested ballot boxes.

Sec. 9. *Venue of the Revision.* - The revision of ballots shall be made in the Office of the Clerk of Court concerned or at such places as the Commission or Division shall designate and shall be completed within three (3) months from the date of the order; unless otherwise directed by the Commission.

Sec. 10. *Custody of Election Records and Paraphernalia.* - The ballot boxes containing ballots and their keys, the list of voters with the voting records, book of voters, and other documents used in the election, shall be kept and held secure in a place to be designated by the Commission, in the care and custody of the ballot box custodian of the Electoral Contests Adjudication Department and under the authority of the Chairman.

Sec. 11. *Report of Committee on Revision.* - The committee on revision of ballots shall make a statement of the condition in which the ballot boxes and their contents were found upon the opening of the same, and shall classify the ballots so examined and set forth clearly any objection that may have been offered to each ballot in the report to be submitted by them. Disputed ballots shall be numbered consecutively for purposes of identification in the presence and under the direction of the committee chairman. After examination, the ballots and other election documents shall be returned to their respective boxes under lock but disputed ballots shall be placed in a separate envelope duly sealed and signed by the members of the committee and then returned to the box. For purposes of making said report, which shall be submitted in twelve (12) legible copies, only the prescribed form prepared by the Commission shall be used.

Sec. 12. *Prohibited Access.* - During the revision of ballots, no person other than the Members of the Commission, members of the committee on revision of ballots, the Clerk of Court concerned or the latter's authorized representatives and the parties, their attorney or their duly authorized representatives shall have access to the place where said revision is taking place.

Sec. 13. *Book of Voters as Evidence.* - In election contests, the book of voters shall be conclusive in regard to the question as to who has the right to vote in said election.

Rule 21 - Quo warranto

Sec. 1. *Petition for Quo Warranto.* - Any voter contesting the election of any regional, provincial or city official on the ground of ineligibility or of disloyalty to the Republic of the Philippines may file a petition for quo warranto with the Electoral Contests Adjudication Department.

Sec. 2. *Period Within Which to File.* - A petition for quo warranto may be filed within ten (10) days from the date the respondent is proclaimed.

Rule 22 - Appeals from Decisions of Courts in Election Protest Cases

Section 1. *Caption and Title of Appealed Cases.* - In all election contests involving the elections, returns, and qualifications of municipal or barangay officials, the party interposing the appeal shall be called the "Appellant" and the adverse party the "Appellee", but the title of the case shall remain as it was in the court of origin.

Sec. 2. *Attorneys.* - The attorneys of the parties in the courts shall be considered as their respective attorneys in the Commission, unless otherwise manifested.

Sec. 3. *Notice of Appeal.* - Within five (5) days after promulgation of the decision of the court, the aggrieved party may file with said court a notice of appeal, and serve a copy thereof upon the attorney of record of the adverse party.

Sec. 4. *Immediate Transmittal of Records of the Case.* - The Clerk of the court concerned shall, within fifteen (15) days from the filing of the notice of appeal, transmit to the Electoral Contests Adjudication Department the complete records of the case, together with all the evidence, including the original and three (3) copies of the transcript of stenographic notes of the proceedings.

Sec. 5. *Filing of Briefs.* - The Clerk of Court concerned, upon receipt of the complete records of the case, shall notify the appellant or his counsel to file with the Electoral Contests Adjudication Department within thirty (30) days from receipt of such notice, ten (10) legible copies of his brief with proof of service thereof upon the appellee.

Within thirty (30) days from receipt of the brief of the appellant, the appellee shall file ten (10) legible copies of his brief with proof of service thereof upon the appellant.

Sec. 6. *Contents of Brief.* - The brief shall have the same contents as those provided under Sections 16 and 17, Rule 46 of the Rules of Court. A copy of the decision appealed from shall be attached as an appendix to the appellant's brief.

Sec. 7. *Reply Brief.* - The appellant may file a reply brief within twenty (20) days from receipt of appellee's brief.

Sec. 8. *When Case May Be Set for Oral Argument.* - Upon the filing of appellant's reply brief, or after the expiration of the time for its filing, the case shall be deemed submitted for decision, unless within fifteen (15) days therefrom, any party asks, and for special reason, is thereafter granted permission for oral argument, or unless the Commission motu proprio requires it. Oral arguments

shall be confined to such points as the Commission may specify in an order setting the date therefor. The Commission may admit memoranda in lieu of oral argument.

Sec. 9. Grounds for Dismissal of Appeal. - The appeal may be dismissed upon motion of either party or at the instance of the Commission on any of the following grounds:

- (a) Failure of the appellant to pay the correct appeal fee;
- (b) Failure of the appellant to file copies of his brief within the time provided by these rules;
- (c) Want of specific assignment of errors in the appellant's brief; and
- (d) Failure to file notice of appeal within the prescribed period.

Sec. 10. Withdrawal of Appeal. - An appeal may be withdrawn as a matter of right at any time before the filing of appellee's brief. After the filing of the appellee's brief, the withdrawal may be allowed at the discretion of the Commission.

B. SPECIAL ACTIONS

Rule 23 - Petition to Deny Due Course to or Cancel Certificates of Candidacy

Section 1. Grounds for Denial of Certificate of Candidacy. - A petition to deny due course to or cancel a certificate of candidacy for any elective office may be filed with the Law Department of the Commission by any citizen of voting age or a duly registered political party, organization, or coalition or political parties on the exclusive ground that any material representation contained therein as required by law is false.

Sec. 2. Period to File Petition. - The petition must be filed within five (5) days following the last day for the filing of certificate of candidacy.

Sec. 3. Summary Proceeding. - The petition shall be heard summarily after due notice.

Sec. 4. Delegation of Reception of Evidence. - The Commission may designate any of its officials who are members of the Philippine Bar to hear the case and to receive evidence.

Rule 24 - Proceedings Against Nuisance Candidates

Section 1. Grounds. - Any candidate for any elective office who filed his

certificate of candidacy to put the election process in mockery or disrepute or to cause confusion among the voters by the similarity of the names of the registered candidates or who by other acts or circumstances is clearly demonstrated to have no bona fide intention to run for the office for which the certificate of candidacy has been filed, thus preventing a faithful determination of the true will of the electorate, may be declared a nuisance candidate and his certificate of candidacy may be denied due course or may be cancelled.

Sec. 2. Who May File Petition to Declare a Candidate as Nuisance Candidate. - Any registered candidate for the same elective office may file with the Law Department of the Commission a petition to declare a candidate as a nuisance candidate.

The Commission may, at any time before the election, motu proprio refuse to give due course to or cancel a Certificate of Candidacy of any candidate on any of the grounds enumerated under Section 1 of this Rule or when the substitute Certificate of Candidacy is not a proper case of substitution under Section 77 of the Omnibus Election Code.

Sec. 3. Period to File the Petition. - The petition shall be filed personally or through an authorized representative, within five (5) days from the last day for the filing of certificates of candidacy.

Sec. 4. Summary Proceeding. - The petition shall be heard summarily after due notice.

Sec. 5. Delegation of Reception of Evidence. - The hearing and reception of evidence may be delegated in like manner as provided in Sec. 4 of the preceding Rule.

Rule 25 - Disqualification of Candidates

Section 1. Grounds for Disqualification. - Any candidate who does not possess all the qualifications of a candidate as provided for by the Constitution or by existing law or who commits any act declared by law to be grounds for disqualification may be disqualified from continuing as a candidate.

Sec. 2. Who May File Petition for Disqualification. - Any citizen of voting age, or duly registered political party, organization or coalition of political parties may file with the Law Department of the Commission a petition to disqualify a candidate on grounds provided by law.

Sec. 3. Period to File Petition. - The petition shall be filed any day after the last day for filing of certificates of candidacy but not later than the date of proclamation.

Sec. 4. *Summary Proceeding.* - The petition shall be heard summarily after due notice.

Sec. 5. *Effect of Petition if Unresolved Before Completion of Canvass.* - If the petition, for reasons beyond the control of the Commission, cannot be decided before the completion of the canvass, the votes cast for the respondent may be included in the counting and in the canvassing; however, if the evidence of guilt is strong, his proclamation shall be suspended notwithstanding the fact that he received the winning number of votes in such election.

Rule 26 - Postponement or Suspension of Elections

Section 1. *Postponement of Election.* - When for any serious cause such as violence, terrorism, loss or destruction of election paraphernalia or records, force majeure, and other analogous causes of such nature that the holding of a free, orderly, honest, peaceful and credible election should become impossible in any political subdivision, the Commission, *motu proprio*, or upon a verified petition by any interested party, and after due notice and hearing whereby all interested parties are afforded equal opportunity to be heard, may postpone the election therein to a date which should be reasonably close to the date of the election not held, suspended, or which resulted in a failure of election, but not later than thirty (30) days after the cessation of the cause of such postponement or suspension of the election or failure to elect.

Sec. 2. *Failure of Election.* - If, on account of force majeure, violence, terrorism, fraud or other analogous causes the election in any precinct has not been held on the date fixed, or had been suspended before the hour fixed by law for the closing of the voting, or after the voting and during the preparation and the transmission of the election returns or in the custody of canvass thereof, such election results in a failure to elect, and in any of such cases the failure or suspension of election would affect the result of the election, the Commission shall, on the basis of a verified petition by any interested party and after due notice and hearing, call for the holding or continuation of the election not held, suspended or which resulted in a failure to elect on a date reasonably close to the date of the election not held, suspended or which resulted in a failure to elect but not later than thirty (30) days after the cessation of the cause of such postponement or suspension of the election or failure to elect.

Sec. 3. *Motu Proprio Postponement.* - When the Commission acts *motu proprio*, notices of hearing must be sent to all interested parties by the fastest means available.

Sec. 4. *When Based Upon a Verified Petition.* - Unless a shorter period is deemed necessary by circumstances, within twenty-four (24) hours from the filing of the petition, the Clerk of Court concerned shall forthwith serve notices to all

interested parties, indicating therein the date of hearing, through the fastest means available.

Sec. 5. Time to File Opposition. - Unless a shorter period is deemed necessary by the circumstances, within two (2) days from receipt of the notice of hearing, any interested party may file an opposition with the Law Department of the Commission.

Sec. 6. Summary Proceeding. - The hearing of the case shall be summary in nature.

Sec. 7. Delegation of Reception of Evidence. - The Commission may designate any of its officials who are members of the Philippine Bar to hear the case and to receive evidence.

Sec. 8. Determination of Cessation of Cause. - The determination of the cessation of the cause of the postponement or suspension of election or failure of election falls within the exclusive prerogative of the Commission.

C. IN SPECIAL CASES

Rule 27 - Pre-Proclamation Controversies

Section 1. Jurisdiction of the Commission in Pre-Proclamation Controversies. - The Commission has exclusive jurisdiction in pre-proclamation controversies arising from national, regional or local election.

A pre-proclamation controversy may be raised by any candidate or by any registered political party, organization, or coalition of political parties before the board of canvassers or directly with the Commission.

Sec. 2. Pre-Proclamation Controversies: How Commenced. - Questions affecting the composition or proceedings of the Board of Canvassers or correction of manifest errors may be initiated in the Board or directly with the Commission. However, matters raised under Sections 233, 234, 235, and 236 of the Omnibus Election Code in relation to the preparation, transmission, receipt, custody and appreciation of the election returns, and the Certificate of Canvass shall be brought in the first instance before the board of canvassers concerned only.

Sec. 3. Summary Hearing and Disposition of Pre-Proclamation Controversies. - All pre-proclamation controversies shall be heard summarily after due notice provided that pre-proclamation controversies on election returns or certificates of canvass shall, on the basis of the records and evidence elevated to it by the board of canvassers, be disposed of summarily by the Commission en banc within seven (7) days from receipt thereof, provided further, that said decision

shall be executory after the lapse of seven (7) days from receipt thereof by the boards of canvassers concerned except petitions filed Under Sec. 5 hereof which shall be immediately executory upon receipt by the boards of canvassers concerned.

Sec. 4. Issues that May Be Raised in the Pre-Proclamation Controversies. - The following are the proper issues that may be raised in a pre-proclamation controversy:

- (a) Illegal composition or proceedings of the board of canvassers;
- (b) The canvassed election returns, or the certificate of canvass in appropriate cases, are incomplete, contain material defects, appear to be tampered with or falsified, or contain discrepancies in the same returns or in other authentic copies thereof;
- (c) The election returns or certificate of canvass were prepared under duress, threats, coercion, or intimidation, or they are obviously manufactured or not authentic; and
- (d) When substitute or fraudulent returns or certificates of canvass in controverted polling places were canvassed, the results of which materially affected the standing of the aggrieved candidate or candidates.
- (e) Correction of manifest errors.

Sec. 5. Pre-proclamation Controversies Which May Be Filed Directly With the Commission. - (a) The following pre-proclamation controversies may be filed directly with the Commission:

- 1) When the issue involves the illegal composition or proceedings of the board of canvassers as when a majority or all of the members do not hold legal appointments or are in fact usurpers; or when the canvassing has been a mere ceremony that was pre-determined and manipulated to result in nothing but a sham canvassing as where there was convergence of circumstances of precipitate canvassing, terrorism, lack of sufficient notice to the members of the board of canvassers and disregard of manifest irregularities on the face of the questioned returns or certificates of canvass in appropriate cases;
- 2) When the issue involves the correction of manifest errors in the tabulation or tallying of the results during the canvassing as where (1) a copy of the election returns or certificate of canvass was tabulated more than once, (2) two or more copies of the election returns of one precinct, or two or more copies of certificate of canvass were tabulated separately, (3) there has been a mistake in the copying of the figures into the statement of votes or into the certificate of canvass, or (4) so-called

returns from non-existent precincts were included in the canvass, and such errors could not have been discovered during the canvassing despite the exercise of due diligence and proclamation of the winning candidates had already been made.

(b) If the petition involves the illegal composition or proceedings of the board under subparagraph (1) of paragraph (a) above, it must be filed immediately when the board begins to act as such, or at the time of the appointment of the member whose capacity to sit as such is objected to if it comes after the canvassing of the board, or immediately at the point where the proceedings are or begin to be illegal.

If the petition is for correction, it must be filed not later than five (5) days following the date of proclamation and must implead all candidates who may be adversely affected thereby.

(c) Upon the docketing of such petition, the Clerk of Court concerned shall forthwith issue summons, with a copy of the petition, to the respondents.

(d) The Clerk of Court concerned shall immediately set the petition for hearing.

(e) The petition shall be heard and decided by the Commission *en banc*.

(f) When the petition involves the composition or proceedings of the board, the board of canvassers shall not commence, proceed or resume the canvass unless otherwise ordered by the Commission.

Sec. 6. Rights of Political Parties and Candidates Before the Board of Canvassers in Pre-Proclamation Cases. - (a) Any registered political party, organization, or coalition of political parties, through their representatives, and any candidate, has the right to be present and to counsel during the canvass of election returns, or certificates of canvass in appropriate cases.

Only one counsel may argue for each registered political party, organization, or coalition of political parties, or candidate. Counsel shall have the right to examine the election returns or certificates of canvass being canvassed without touching them, make their observations thereon, and file their challenges and objections thereto.

No dilatory action shall be allowed by the board of canvassers which may impose time limits for oral argument.

(b) Any registered political party, organization, or coalition of political parties, through their representatives and any candidate is entitled to obtain a copy of the Statement of Votes per precinct and a copy of the certificate of canvass duly signed by all the members of the board of canvassers.

Sec. 7. Correction of Errors in Tabulation or Tallying of Results by the Board of Canvassers. - (a) Where it is clearly shown before proclamation that manifest errors were committed in the tabulation or tallying of election returns, or certificates of canvass, during the canvassing as where (1) a copy of the election returns of one precinct or two or more copies of a certificate of canvass were tabulated more than once, (2) two copies of the election returns or certificate of canvass were tabulated separately, (3) there was a mistake in the adding or copying of the figures into the certificate of canvass or into the statement of votes by precinct, or (4) so-called election returns from non-existent precincts were included in the canvass, the board may motu proprio, or upon verified petition by any candidate, political party, organization or coalition or political parties, after due notice and hearing, correct the errors committed.

(b) The order for correction must be made in writing and must be promulgated.

(c) Any candidate, political party, organization or coalition of political parties aggrieved by said order may appeal therefrom to the Commission within twenty-four (24) hours from the promulgation.

(d) Once an appeal is made, the board of canvassers shall not proclaim the winning candidates, unless their votes are not affected by the appeal.

(e) The appeal must implead as respondents the Board of Canvassers concerned and all parties who may be adversely affected thereby.

(f) Upon receipt of the appeal, the Clerk of Court concerned shall forthwith issue summons, together with a copy of the appeal, to the respondents.

(g) The Clerk of Court concerned shall immediately set the appeal for hearing.

(h) The appeal shall be heard and decided by the Commission en banc.

Sec. 8. Procedure Before the Board of Canvassers When Composition or Proceedings of Board are Contested. - (a) When the composition or proceeding of the board of canvassers, are contested the board of canvassers shall, within twenty-four (24) hours, make a ruling thereon with notice to the contestant who, if adversely affected, may appeal the matter to the Commission within three (3) days after the ruling with proper notice to the board of canvassers. The Commission en banc shall summarily decide the case within five (5) days from the filing thereof.

(b) Upon receipt of such appeal, the Clerk of Court concerned shall immediately set the case for hearing, with due notice to the parties, by the Commission en banc.

(c) During the pendency of the appeal, the board of canvassers shall immediately suspend the canvass until the Commission orders the continuation or resumption thereof.

Sec. 9. Procedure Before Board of Canvassers When Inclusion or Exclusion of Election Returns are Contested. - (a) Any candidate, registered political party, organization or coalition or political parties contesting the inclusion or exclusion in the canvass of any election returns on any of the grounds provided in Section 3 of this Rule or by law, shall present or submit their oral objection to the Chairman of the Board of Canvassers, stating the grounds therefor, at the time the contested returns is opened or presented for inclusion or exclusion.

(b) The objections must be faithfully recorded, noted and entered in the minutes of the canvassing indicating therein the date and hour the objection was made.

(c) The board shall automatically defer the canvass of the contested returns, after recording separately the results therein, and shall proceed to canvass the other returns which are not contested.

(d) Simultaneously with the oral objection, the objecting party shall also enter his objection in the form for written objections to be prescribed by the Commission. Within twenty-four (24) hours from and after the presentation of such an objection, the objecting party shall submit the evidence in support of the objections, which shall be attached to the form for written objections. With the same period of twenty-four hours after presentation of the objection, any party may file a written and verified opposition to the objection in the form also to be prescribed by the Commission, attaching thereto supporting evidence, if any. The Board shall not entertain any objection or opposition unless reduced to writing in the prescribed forms.

The evidence attached to the objection or opposition, submitted by the parties, shall be immediately and formally admitted into the records of the Board by the Chairman of the board of canvassers affixing his signature at the back of each and every page thereof.

(e) Upon receipt of the evidence, the Board shall take up the contested returns, consider the written objections thereto and opposition, if any, and summarily and immediately rule thereon. The Board shall enter its ruling on the prescribed form and authenticate the same by the signature of its members.

(f) Any party adversely affected by the ruling of the Board shall immediately inform the Board if he intends to appeal said ruling. The Board shall enter said information in the Minutes of Canvass, set aside the returns and proceed to consider the other returns.

(g) After all the uncontested returns have been canvassed and the contested returns ruled upon by it, the Board shall suspend the canvass. Within forty-eight (48) hours therefrom, any party adversely affected by the ruling may file with the Board a written and verified Notice to Appeal; and within an inextendible period of five (5) days thereafter, an appeal may be taken to the Commission.

Immediately upon receipt of the Notice of Appeal, the Board shall make an appropriate report to the Commission, elevating therewith the complete records and evidence submitted in the canvass, furnishing the parties with the copies of the report.

(h) On the basis of the records and evidence elevated to it by the Board, the Commission en banc shall decide summarily the appeal within seven (7) days from the receipt of said records and evidence. Any appeal brought before the Commission on the ruling of the Board, without the accomplished forms and the evidence appended thereto, shall be summarily dismissed.

The decision of the Commission en banc shall be executory after the lapse of seven (7) days from receipt thereof by the boards of canvassers concerned.

(i) The board of canvassers shall not proclaim any candidate as winner unless authorized by the Commission in writing after the latter shall have ruled on the objections brought to it on appeal by the aggrieved party. Any proclamation in violation hereof shall be void ab initio, unless the contested returns will not adversely affect the uncontested results of the elections.

(j) If in the course of the canvass the boards' copy of the election returns is missing, the board shall, by messenger or otherwise obtain such missing returns from the board of election inspectors concerned, or if said returns have been lost or destroyed, the board of canvassers, upon prior authority of the Commission, may use any of the authentic copies of said election returns or a certified true copy of said election returns issued by the Commission.

(k) If it clearly appears that some requisites in form or data had been omitted in the election returns, the Board of Canvassers shall call for all the members of the board of election inspectors concerned by the most expeditious means, for said board to effect the correction: provided that in case the omission in the election return is that of the name of any candidate and/or his corresponding votes, the board of canvassers shall require the board of election inspectors concerned to complete the necessary data in the election returns and affix therein their initials: Provided, further, that if the votes omitted in the returns cannot be ascertained by other means except by recounting the votes, the board of canvassers shall immediately make a report thereon to the Commission and the latter, after satisfying itself that the identity and integrity of the ballot box have not been violated, shall order the board of election inspectors to open the ballot box, and, also after satisfying itself that the integrity of the ballots therein has been duly

preserved, order the board of election inspectors to count the votes for the candidates whose votes have been omitted with notice thereof to all candidates for the position involved and thereafter complete the returns.

(l) When the board of canvassers determines that the election returns submitted to it appear to be tampered with, altered or falsified after they have left the hands of the board of inspectors, or otherwise not authentic or were prepared by the board of election inspectors under duress, force, or intimidation, or prepared by persons other than the members of the board of election inspectors, the board of canvassers shall use the other copies of said election returns, and if necessary, the copy inside the ballot box which, upon prior authority of the Commission, may be retrieve. If the other copies of the returns are likewise tampered with, altered, falsified, not authentic, prepared under duress, force, intimidation, or prepared by persons other than the members of the board of election inspectors, the board of canvassers shall immediately bring the matter to the attention of the Commission. The Commission shall then, after giving notice to all candidates concerned and after satisfying itself that nothing in the ballot box indicates that its identity and integrity have been violated, order the opening of the ballot box and, likewise after satisfying itself that the integrity of the ballots therein has been duly preserved, shall order the board of inspectors concerned to recount the votes of the candidates affected and when proper, to prepare a new return which shall then be used by the board of canvassers as basis of the canvass.

(m) In case it appears to the board of canvassers that there exists discrepancies in the other authentic copies of the election returns from a precinct or discrepancies in the votes of any candidate in words and figures in the same returns, and in either case the difference affects the results of the election, the Commission, upon motion of the board of canvassers or any candidate affected and after due notice to all candidates concerned, shall proceed summarily to determine whether the integrity of the ballot box had been preserved, and once satisfied thereof shall order the opening of the ballot box to recount the votes cast in the precinct solely for the purpose of determining the true result of the count of votes of the candidates concerned.

(n) When the evidence submitted to the board of canvassers indicate a failure of elections in a precinct or precincts and the number of registered voters therein would affect the final result of the election, the board of canvassers shall bring the matter to the attention of the Commission. Until this issue is resolved the board of canvassers shall suspend the proclamation of any candidate.

Sec. 10. Appeals from Rulings of Board of Canvassers. - (a) A party aggrieved by a ruling of the Board of Canvassers shall, within forty-eight hours from receipt of a copy of the ruling of the Board of Canvassers, file with the Board a written and verified Notice of Appeal; and within an inextendible period of five (5) days, he shall file his appeal to the Commission.

Upon receipt of the appeal, the Commission en banc shall immediately determine whether the issues related therein are grounds proper for pre-proclamation controversy. If the issues raised are not among the grounds enumerated under Sec. 3 of this Rule, the same shall be dismissed, otherwise it shall be raffled to any of the two (2) divisions of the Commission which shall dispose of it summarily within three (3) days from the period of referral by the Commission en banc.

(b) The appeal filed with the Commission shall be docketed by the Clerk of Court concerned.

(c) The answer/opposition shall be verified.

(d) The Division to which the case is assigned shall immediately set the case for hearing.

(e) At the hearing, no new evidence shall be received, unless for good reasons shown, it is clearly and convincingly established that the appellant was deprived of due process by the board of canvassers.

(f) If the appellant is allowed to present new evidence, oral testimonies may be dispensed with, and in lieu thereof, the parties may be required to submit their position papers, together with affidavits, counter-affidavits, and other documentary evidence, after which the case shall be deemed submitted for decision.

Sec. 11. Period Within Which Boards of Canvassers Must Complete Canvass. - Subject to reasonable exceptions, board of canvassers must complete their canvass within thirty-six (36) hours in cities not comprising at least one legislative district, and in municipalities; within forty-eight (48) hours in cities comprising one or more legislative district and within seventy-two (72) hours in the provinces.

Sec. 12. Submission of the Minutes of the Proceedings of the Board. - Within 15 days from the termination of canvass, the secretary of the board of canvassers shall submit to the Law Department of the Commission on Elections in Manila by registered mail a certified copy of the minutes of the proceedings of the board, together with its written rulings on objections to the composition or proceedings of the board of canvassers, to the inclusion or exclusion of election returns or to correction of tabulation, and any evidence offered by the parties, and shall notify by telegram the said department of the date and the manner of transmittal of the minutes.

D. SPECIAL RELIEFS

Rule 28 - Certiorari, Prohibition and Mandamus

Sec. 1. *When Available.* - In aid of its appellate jurisdiction in election cases before courts of general jurisdiction relating to the elections, returns and qualifications of elective Municipal officials, and before courts of limited jurisdiction in cases relating to the elections, returns and qualifications of elective barangay officials, the Commission en banc may hear and decide petitions for certiorari, prohibition or mandamus.

Sec. 2. *Petition for Certiorari or Prohibition.* - When any court or judge hearing election cases has acted without or in excess of its or his jurisdiction or with grave abuse of discretion and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a petition for certiorari or prohibition with the Commission alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings, as the law requires, of such court or judge, or commanding it or him to desist from further proceeding with the action or matter specified therein, as the case may be.

The petition shall be accompanied by a certified true copy of the judgment or order subject thereof, together with all pleadings and documents relevant and pertinent thereto.

Sec. 3. *Petition for Mandamus.* - When a court or judge in an election case unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from his office in relation to such case and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a petition with the Commission alleging the facts with certainty and praying that judgment be rendered commanding the respondent immediately or at some other specified time to do the act required to be done to protect the rights of the petitioner and to pay the damages sustained by the petitioner by reason of the acts complained of.

Sec. 4. *Duty of Clerk of Court of the Commission.* - Upon the filing of the petition, the Clerk of Court concerned shall calendar the case for en banc ex-parte hearing of the Commission to determine if it is sufficient in form and substance.

Sec. 5. *Order to Answer.* - If the Commission en banc shall determine that the petition is sufficient in form and substance, it shall issue an order requiring the respondent to answer the petition within ten (10) days from receipt of a copy thereof. Such order shall be served on the respondent in such manner as the Commission may direct, together with a copy of the petition.

Sec. 6. *Proceedings After Answer.* - Once an answer is filed, or the time for its filing has expired, the Commission may order the proceedings complained of to be forthwith certified for review and shall hear the case, and if after such hearing the Commission finds that the allegations are true, it shall render judgment for

such relief prayed as the petitioner is entitled to, with or without costs, as justice requires.

Rule 29 - Contempt

Section 1. *Direct Contempt Punished Summarily.* - A person guilty of misbehavior in the presence of or so near the Commission or any of its Divisions as to obstruct or interrupt the proceedings before it or them, including disrespect toward the Commission or Division, offensive personalities toward others or refusal to be sworn or to answer as a witness, or to subscribe to an affidavit or deposition when lawfully required to do so, may be summarily adjudged in direct contempt by the Commission or any of its Division and punished by a fine not exceeding two hundred (P200.00) pesos or imprisonment not exceeding ten (10) days, or both, at the discretion of the Commission or Division.

Sec. 2. *Indirect Contempt.* - After charge in writing has been filed with the Commission or Division, as the case may be, and an opportunity given to the respondent to be heard by himself or counsel, a person guilty of the following acts may be punished for indirect contempt:

- (a) Misbehavior of the responsible officer of the Commission in the performance of his official duties or in his official transactions;
- (b) Disobedience of or resistance to a lawful writ, process, order, judgment or command of the Commission or any of its Divisions, or injunction or restraining order granted by it;
- (c) Any abuse of or any unlawful interference with the process or proceedings of the Commission or any of its Divisions not constituting direct contempt under Section 1 of this Rules;
- (d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice by the Commission or any of its Divisions;
- (e) Assuming to be an attorney and acting as such without authority; and
- (f) Failure to obey a subpoena duly served.

Sec. 3. *Penalty for Indirect Contempt.* - If adjudged guilty, the accused may be punished by a fine not exceeding one thousand (P1,000.00) pesos or imprisonment for not more than six (6) months, or both, at the discretion of the Commission or Division.

Sec. 4. *Warrant of Arrest on a Witness Who Fails to Attend.* - Any provision of these Rules to the contrary notwithstanding, in case of failure of a witness to

attend despite the issuance of a valid subpoena, the Commission or any of its Divisions, upon proof of service of the subpoena to said witness, may issue a warrant of arrest against said witness and direct that he be brought before the Commission or any of its Divisions where his attendance is required.

E. PROVISIONAL REMEDIES

Rule 30 - Injunction

Section 1. *Preliminary Injunction.* - The Commission or any of its Divisions may grant preliminary injunction in any ordinary action, special action, special case, or special relief pending before it.

Sec. 2. *Grounds for Issuance of Preliminary Injunction.* - A preliminary injunction may be granted at any time after the commencement of an action or proceeding and before judgment when it is established that:

(a) The petitioner or protestant is entitled to the relief demanded and the whole or part of such relief consists in restraining the commission or continuance of the acts complained of, or in the performance of an act or acts, either for a limited period or perpetually; asia dc

(b) The commission or continuance of some act complained of during the pendency of the action or the non-performance thereof would work injustice to the petitioner or protestant;

(c) The respondent or protestee is doing, threatens, or is about to do, or is procuring to be done, some act in violation of petitioner's/protestant's rights respecting the subject of the action, and tending to render the judgment ineffectual.

Sec. 3. *Grant of Injunction Discretionary.* - The grant of the preliminary injunction is entirely left to the sound discretion of the Commission or its Divisions.

Sec. 4. *Bond for Preliminary Injunction.* - No writ of preliminary injunction shall be issued unless the applicant shall file a bond, in an amount to be fixed by the Commission or the Division concerned, to the effect that the petitioner/protestant will pay to such party all damages which the latter may sustain by reason of the injunction if the Commission or the Division concerned shall finally decide that the petitioner/protestant was not entitled thereto.

Sec. 5. *Preliminary Injunction Not Granted Without Notice; Issuance of Restraining Order.* - No preliminary injunction shall be granted without notice to the adverse party. If it shall appear from the facts shown by affidavits or the verified petition that great or irreparable injury would result to the applicant before

the matter can be heard on notice, the Commission or any Division to which the application for preliminary injunction was made, may issue a restraining order to be effective only for a period of twenty (20) days from date of its issuance. Within the said twenty-day period, the Commission or the Division as the case may be, must cause an order to be served on the respondent requiring him to show cause, at a specified time and place, why the injunction should not be granted, and determine within the same period whether or not the preliminary injunction shall be granted and shall accordingly issue the corresponding order. In the event that the application for preliminary injunction is denied, the restraining order is deemed automatically vacated.

F. SPECIAL PROCEEDINGS

Rule 31 - Annulment of Permanent List of Voters

Section 1. *Grounds.* - Any book of voters not prepared in accordance with the provisions of law, or the preparation of which has been effected with fraud, bribery, forgery, impersonation, intimidation, force, or any other similar irregularity, or which list is statistically improbable, may be annulled by the Commission.

Sec. 2. *Petition to Annul.* - Any voter, election registrar, or duly registered political party, organization or coalition of political parties may file with the Law Department of the Commission a petition to annul a permanent list of voters.

Sec. 3. *Notice of Hearing.* - Within three days from the filing of the petition, the Clerk of Court concerned shall make a report of the petition of the Commission which shall determine either to give it due course or to deny the same. If the Commission shall decide to give it due course, an Order to that effect, fixing the date of hearing, shall be published in a newspaper of general circulation in the province or city concerned once a week for two consecutive weeks, the last of which shall not be less than ten days prior to the date of hearing. Copies of the order shall likewise be furnished to all registered political parties, organization or coalition or political parties in the province or city concerned. Expenses for the publication and notices shall be borne by the petitioner, which as preliminary estimated, shall be deposited with the Commission. If the petitioner is an Election Registrar the expenses for publication shall be borne by the Commission.

Sec. 4. *Time to File Opposition.* - On or before the date set for the hearing, any interested party may file a verified opposition to the petition.

Sec. 5. *Summary Proceedings.* - The petition may be heard summarily.

Sec. 6. *Delegation of Hearing and Reception of Evidence.* - The hearing and reception of evidence may be delegated by the Commission to any of its officials who are members of the Philippine Bar.

Sec. 7. Prohibition of Execution of Decision. - Any provision of these Rules to the contrary notwithstanding, a decision to annul a book of voters shall not be executed within sixty (60) days before an election.

Rule 32 - Registration of Political Parties or Organization

Section 1. *Petition for Registration.* - Any political party, organization or coalition of political parties seeking registration pursuant to Section 2 (5), Subdivision C of Article IX of the Constitution shall file with the Law Department of the Commission a petition duly verified by its President and Secretary -General, or any official duly authorized to do so under its Constitution and By-laws;

Sec. 2. Contents of Petition. - The petition for registration shall state the following:

- (1) Full name of the political party, organization or coalition of political parties;
- (2) The principal headquarters and post office address for election purposes, including its branches and divisions, if any;
- (3) The date and place of its organization;
- (4) The date and manner of election or selection of its officers;
- (5) The names and addresses of its organizers and officers, Executive Committee members, Directorate, or Party Convention delegates, if any;
- (6) The extent of its constituency;
- (7) Its program of government;
- (8) That it is not a religious sect or denomination;
- (9) That it shall not pursue its goals through violence or other unlawful means;
- (10) That it shall uphold and adhere to the Constitution and shall obey all laws and legal orders promulgated by duly constituted authorities;
- (11) That it is not supported by, nor does it accept financial contribution from any foreign government or their agencies; and
- (12) Other information that may be material and relevant to the petition.

Sec. 3. *Other Requirements.* - The petitioner shall attach to the petition for registration ten (10) copies of its constitution and by-laws, party platform, organizational papers, declarations of political creed or code of political ethics and such other documents of similar or equivalent character.

Sec. 4. *Verification.* - Before taking action on the petition, the Commission shall first verify, through its field offices, the status and capacity of the petitioner and the veracity of the allegations in the petition and its enclosures. Not later than fifteen (15) days from notice of the Commission's instruction, the field office concerned shall submit its written report, in ten (10) copies, together with supporting documents or records, if any.

Sec. 5. *Notice of Hearing.* - Upon receipt of the reports from its field offices, the Commission shall immediately set the petition for hearing and shall send notices to the petitioner and other parties concerned.

Sec. 6. *Publication of Petition and notice of Hearing.* - On the day following the receipt of the notice of hearing, the petitioner shall cause the publication of the petition, together with the notice of hearing, in three (3) daily newspaper of general circulation, notifying in writing the Commission of such action.

Sec. 7. *Certificate of Registration.* - A certificate of registration shall be issued by the Commission upon approval of the petition, which shall be displayed in the main office and in all chapters of the petitioner.

Sec. 8. *Cancellation of Registration.* - Upon verified complaint of any interested party, or motu proprio by the Commission, the registration of any political party, coalition of political parties or organization under the party-list system may be cancelled after due notice and hearing on the following grounds:

- a) Acceptance by the political party, coalition of political parties, or organizations or any of its candidates, of financial contributions from foreign governments and/or their agencies for activities related to elections;
- b) Violation of laws, rules or regulations relating to elections, plebiscites, referenda, or initiative;
- c) Untruthful statements in its petition for registration;
- d) The said political party, coalition of political parties or organization has become a religious sect or denomination, is pursuing its goals thru violence or other unlawful means, is refusing to adhere to or uphold the Constitution of the Philippines, or is receiving support from any foreign government, and

e) Failure to comply with applicable laws, rules or regulations of the Commission.

f) Failure to field official candidates in the last two preceding elections or failure of their candidates to obtain at least five (5) per centum of the votes cast in the last two preceding elections.

Rule 33 - Accreditation of Citizens' Arms of the Commission

Sec. 1. *Who May Be Accredited as Citizens' Arms of the Commission.* - Any bona fide non partisan group, association or organization from the civic, youth, professional, educational, business or labor sectors with identifiable leadership, membership and structure, and with demonstrated capacity to promote the public interest and assist the Commission in the performance of its functions and activities as mandated by the Constitution and by law, may be accredited as citizens' arms of the Commission.

Sec. 2. *Petition to be Accredited.* - The group, association or organization mentioned in Section 1 hereof may file a petition for accreditation duly verified by its President, Chairman of the Board of Directors, or any of its duly authorized officer.

Sec. 3. *Contents of the Petition.* - The petition shall state the following:

(a) The constituency to which petitioner seeks accreditation;

(b) That it is not supporting any candidate, political party, organization or coalition of political parties, in the constituency where it seeks accreditation;

(c) Nature of its membership (whether civic, youth etc.); names of its officers or organizers, location of principal office or place of business and an assurance of its capability to undertake a coordinated operation and activity to assist the Commission;

(d) That it shall submit itself to the direct and immediate control and supervision and comply with the orders of the Commission in the performance of its specific functions and activities provided by law, and such other functions and activities provided by law, and such other functions and activities which the Commission may assign;

(e) That it shall strictly remain non-partisan and impartial during the registration and election periods;

(f) That it is not supported by or under the influence of any foreign government or any of its agencies or instrumentalities; or of any foreigner, whether natural or juridical person;

(g) That it shall not solicit or receive, directly or indirectly, any contribution or aid of whatever form or nature from any foreign government, or any of its agencies or instrumentalities, or from any foreigner, a natural or juridical person;

(h) That it does not seek to achieve its objectives, goals or programs through violence or other unlawful means, nor aim to propagate any ideology opposed to the principles of a republican and democratic government; and

(i) That it undertakes to police its ranks and prevent infiltration by persons or groups of persons who may, directly or indirectly, destroy its character of non-partisanship and impartially.

Sec. 4. Notice of Hearing. - Upon the filing of the petition, the Commission en banc shall immediately set it for hearing. The Commission may, if it deems necessary, order the publication of the petition in a newspaper of general circulation at the expense of the petitioner.

Sec. 5. Opposition. - Any person, group, association or organization, political party or coalition of political parties possessing relevant information or evidence against the petitioner may oppose its accreditation by filing a verified opposition.

Notwithstanding the absence of any opposition, the Commission may *motu proprio* require the petitioner to present evidence to support its petition.

Sec. 6. Decision. - The decision of the Commission granting the petition may provide conditions to be strictly complied with by the petitioner.

Sec. 7. Certificate of Accreditation. - If the decision is for the accreditation of the petitioner, the Commission shall issue a certificate of accreditation containing the following:

(a) The name of the group or organization;

(b) The constituency to which it is accredited; and

(c) The political exercise for which it is accredited.

Sec. 8. Submission of Names and Addresses of Local Representatives. - After its accreditation, the petitioner shall submit to the Election Registrars in the constituency where it is accredited, the names and addresses of its local

representatives who shall act as non-partisan watchers and substitute watchers therein during the entire electoral exercise.

Sec. 9. Appointment of Watchers by Election Registrars. - Unless the impartiality or non-partisanship of the members concerned is questioned in writing, the Election Registrar shall extend the corresponding appointments to such members as poll watchers stating therein the precincts to which they are assigned. The members so appointed shall have the same duties, functions, and rights as watchers of registered political parties, organization or coalition of political parties.

Sec. 10. Revocation of Accreditation. - The accreditation of any group, association or organization as Citizens' Army may be revoked by the Commission after notice and hearing, whenever it shows or acts with partiality in any political issue or to any political party, organization or coalition of political parties, or has performed acts in excess of its duties and functions as provided by law, or has failed to comply with the conditions imposed upon it in the decision granting accreditation.

Sec. 11. Expiration of Accreditation. - The accreditation shall automatically lapse at the end of the election period of the political exercise for which the petitioner was accredited as citizens' arm.

G. ELECTION OFFENSES

Rule 34 - Prosecution of Election Offenses

Section 1. Authority of the Commission to Prosecute Election Offenses. - The Commission shall have the exclusive power to conduct preliminary investigation of all election offenses punishable under the election laws and to prosecute the same, except as may otherwise be provided by law.

Sec. 2. Continuing Delegation of Authority to Other Prosecution Arms of the Government. - The Chief State Prosecutor, all Provincial and City Fiscals, and/or their respective assistants are hereby given continuing authority, as deputies of the Commission, to conduct preliminary investigation of complaints involving election offenses under the election laws which may be filed directly with them, or which may be indorsed to them by the Commission or its duly authorized representatives and to prosecute the same. Such authority may be revoked or withdrawn any time by the Commission whenever in its judgment such revocation or withdrawal is necessary to protect the integrity of the Commission, promote the common good, or when it believes that successful prosecution of the case can be done by the Commission.

Sec. 3. Initiation of Complaint. - Initiation of complaint for election offenses may be done motu proprio by the Commission, or upon written complaint by any

citizen of the Philippines, candidate, registered political party, coalition of political parties or organizations under the partylist system or any accredited citizens arms of the Commission.

Sec. 4. Form of Complaint and Where to File. - (a) When not initiated motu proprio by the Commission, the complaint must be verified and supported by affidavits and/or any other evidence. Motu proprio complaints may be signed by the Chairman of the Commission, or the Director of the Law Department upon direction of the Chairman, and need not be verified;

(b) The complaint shall be filed with the Law Department of the Commission; or with the offices of the Election Registrars, Provincial Election Supervisors or Regional Election Directors, or the State Prosecutor, Provincial Fiscal or City Fiscal. If filed with any of the latter three (3) officials, investigation thereof may be delegated to any of their assistants.

(c) If filed with the Regional Election Directors or Provincial Election Supervisors, said officials shall immediately furnish the Director of the Law Department a copy of the complaint and the supporting documents, and inform the latter of the action taken thereon.

Sec. 5. Referral for Preliminary Investigation. - if the complaint is initiated motu proprio by the Commission, or is filed with the Commission by any aggrieved party, it shall be referred to the Law Department for investigation. Upon direction of the Chairman of the Commission, the preliminary investigation may be delegated to any lawyer of said Department, or to any of the Regional Election Directors or Provincial Election Supervisors, or any lawyer of the Commission .

Sec. 6. Conduct of Preliminary Investigation. - (a) If on the basis of the complaint, affidavits and the supporting evidence, the investigating officer finds no ground to continue with the inquiry, he shall recommend the dismissal of the complaint and shall follow the procedure prescribed in Section 8(c) of this Rule. Otherwise, he shall issue a subpoena to the respondent, attaching thereto a copy of the complaint, affidavits and other supporting documents giving said respondent ten (10) days from receipt within which to submit counter-affidavits and other supporting documents. The respondent shall have the right to examine all other evidence submitted by the complainant.

(b) Such counter-affidavits and other supporting evidence submitted by the respondent shall be furnished by him to the complainant.

(c) If the respondent cannot be subpoenaed, or if subpoenaed, does not submit counter-affidavits within the ten day period, the investigating officer shall base his resolution on the evidence presented by the complainant.

(d) If the investigating officer believes that there are matters to be clarified, he may set a hearing to propound clarificatory questions to the parties or their witnesses, during which the parties shall be afforded an opportunity to be present but without the right to examine or cross-examine. If the parties so desire, they may submit questions to the investigating officer which the latter may propound to the parties or witnesses concerned.

(e) Thereafter, the investigation shall be deemed concluded, and the investigating officer shall resolve the case within ten (10) days therefrom. Upon the evidence thus adduced, the investigating officer shall determine whether or not there is sufficient ground to hold the respondent for trial.

Sec. 7. Presumption of Existence of Probable Cause. - A complaint initiated motu proprio by the Commission is presumed to be based on sufficient probable cause and the investigating officer must forthwith issue the subpoena mentioned in the immediately preceding section.

Sec. 8. Duty of Investigating Officer. - The preliminary investigation must be terminated within twenty (20) days after receipt of the counter-affidavits and other evidence of the respondents, and resolution thereof shall be made within five (5) days thereafter.

(a) If the investigating officer finds no cause to hold the respondent for trial, he shall recommend dismissal of the complaint.

(b) If the investigating officer finds cause to hold the respondent for trial, he shall prepare the resolution, and the corresponding information wherein he shall certify under oath that he has examined the complainant and his witnesses, that there is reasonable ground to believe that a crime has been committed and that the accused was informed of the complaint and of the evidence submitted against him and that he was given an opportunity to submit controverting evidence.

(c) In either case, the investigating officer shall, within five (5) days from the rendition of his recommendation, forward the records of the case to:

1) The Director of the Law Department of the Commission in cases investigated by any of the Commission lawyers or filed personnel, and

2) The State Prosecutor, Provincial Fiscal or City Fiscal, as the case may be, pursuant to the continuing authority provided for in Section 2 of this Rule.

Sec. 9. Duty of the Law Department, State Prosecutor, Provincial or City Fiscal Upon Receipt of Records. - (a) Within ten (10) days from receipt of the records stated in paragraph (c) of the immediately preceding section, the State Prosecutor, Provincial or City Fiscal shall take appropriate action thereon, immediately informing the parties of said action.

(b) In cases investigated by the lawyers or the field personnel of the Commission, the Director of the Law Department shall review and evaluate the recommendation of said legal officer, prepare a report and make a recommendation to the Commission affirming, modifying or reversing the same shall be included in the agenda of the succeeding meeting en banc of the Commission. If the Commission approves the filing of an information in court against the respondent/s, the Director of the Law Department shall prepare and sign the information for immediate filing with the appropriate court.

(c) In all other cases, if the recommendation to dismiss or the resolution to file the case in court is approved by State Prosecutor, Provincial or City Fiscal, they shall likewise approve the Information prepared and immediately cause its filing with the proper court.

(d) If the recommendation to dismiss is reversed on the ground that a probable cause exists, the State Prosecutor, or the Provincial or City Fiscal, may, by himself prepare and file the corresponding information against the respondent or direct any of his assistants to do so without conducting another preliminary investigation.

Sec. 10. Appeals from the Action of the State Prosecution, Provincial or City Fiscal. - Appeals from the resolution of the State Prosecutor, or Provincial or City Fiscal on the recommendation or resolution of investigating officers may be made only to the Commission within ten (10) days from receipt of the resolution of said officials, provided, however that this shall not divest the Commission of its power to motu proprio review, revise, modify or reverse the resolution of the chief state prosecutor and/or provincial/city prosecutors. The decision of the Commission on said appeals shall be immediately executory and final.

Sec. 11. Duty of State Prosecutor, Provincial or City Fiscal to Render Reports. - The State Prosecutor, Provincial or City Fiscal shall, within five (5) days from the rendition of their resolution on recommendation or resolution of investigating officers, make a written report thereof to the Commission. They shall likewise submit a monthly report on the status of cases filed with and/or prosecuted by them or any of their assistants pursuant to the authority granted them under Section 2 of this Rule.

Sec. 12. Private Prosecutor. - The appearance of a private prosecutor shall be allowed in cases where private rights involving recovery of civil liability are

involved.

PART VI

PROVISIONS GOVERNING ELECTION CONTESTS AND QUO WARRANTO CASES BEFORE TRIAL COURT

Rule 35 - Election Contests Before Courts of General Jurisdiction.

Section 1. *Original Jurisdiction of Regional Trial Courts.* - Regional trial courts shall have exclusive original jurisdiction over contests relating to the elections, returns and qualifications involving elective municipal officials.

Sec. 2. *Filing of Election Contests.* - A petition contesting the election of any municipal official shall be filed with the proper Regional Trial Court or mailed at the post office as registered matter addressed to said Court, together with six (6) legible copies thereof, by any candidate for the same office who has duly filed a certificate of candidacy and who was voted in the election. Each contest shall refer exclusively to one office, but contests for offices of the Sangguniang Bayan may be consolidated in one case.

Sec. 3. *Period to File Petition.* - The petition shall be filed within ten (10) days following the date of proclamation of the results of the election.

Sec. 4. *Designation of Parties.* - The party bringing the action shall be designated as the Protestant, and the party against whom the action is brought shall be designated as the Protestee.

Sec. 5. *Duty of Clerk of Court to Issue Notice and Serve Copy of Petition.* - It shall be the duty of the Clerk of Court of the trial court to serve notice and a copy of the petition by means of summons upon each respondent within five (5) days after the filing thereof.

Sec. 6. *Petition to be Verified.* - All petitions shall be verified by the parties filing them or their attorneys.

Any subsequent pleading based on facts which ought to be proved shall likewise be verified.

Sec. 7. *Answer, Reply, Counter-Protest and Protest in Intervention.* - (a) Within five (5) days after receipt of notice of the filing of the petition and a copy of the petition, the respondent shall file his answer thereto specifying the nature of his defense, and serve a copy thereof upon the protestant. The answer shall deal only with the election in the precincts which are covered by the allegations of the protest.

(b) Should the protestee desire to impugn the votes received by the protestant in other precincts, he shall file a counter-protest within the same period fixed for the filing of the answer, serving a copy thereof upon the protestant by registered mail or by personal delivery. In such a case, the counter-protest shall be verified.

(c) The protestant shall answer the counter-protest within five (5) days after notice.

(d) Within five (5) days from the filing of the protest, any other candidate for the same office may intervene in the case as other contestants and ask for affirmative relief in his favor by a verified petition in intervention, which shall be substantiated within the same proceeding. The protestant or protestee shall answer the protest-in-intervention within five (5) days after notice.

(e) If no answer shall be filed to the protest, counter-protest or protest-in-intervention within the time limits respectively fixed, a general denial shall be deemed to have been entered.

Sec. 8. Substantial and Formal Amendments of Pleadings. - After the case is set for hearing, no amendment to any pleading affecting the merits of the controversy shall be allowed except by leave of Court and only upon such grounds as will serve public interest. But such leave may be refused if it appears to the court that the motion to amend was made with intent to delay the action. Any amendment in matters of form may be permitted at any stage of the proceedings.

Sec. 9. Filing Fee. - No protest, counter-protest, or protest-in-intervention shall be given due course without the payment of a filing fee in the amount of three hundred pesos (P300.00) for each interest.

Each interest shall further pay the legal research fee as required by law.

If a claim for damages and attorney's fees are set forth in a protest, counter-protest or protest-in-intervention, an additional filing fee shall be paid in accordance with the schedule provided for in the Rules of Court in the Philippines.

Sec. 10. Cash Deposit. - (a) In any protest, counter-protest or protest-in-intervention not requiring ballot revision, the protestant, the counter-protestant, or intervenor, as the case may be, shall upon the payment of the filing fee, make a cash deposit in the amount of five hundred pesos (P500.00) which shall be applied to the payment of all expenses incidental to such protest, counter-protest or protest-in-intervention. When circumstances so warrant, additional cash deposits may be required. Any unused balance thereof shall be returned to the party making the deposit.

(b) In case revision of ballots is required, there shall be deposited, within ten days after being required by the Court, the sum of three hundred pesos (P300.00) for every ballot box for the consumption of revisors at the rate of P100.00 each.

(c) Failure to make the cash deposits herein provided within the prescribed time limit shall result in the automatic dismissal of the protest, counter-protest or protest-in-intervention, as the case may be.

(d) In case the party who has paid the expenses and costs wins, the court shall assess, levy and collect the same as costs from the losing party.

Sec. 11. *Presentation and Reception of Evidence.* - The presentation and reception of evidence in election contests shall be made in accordance with Section 2 of Rule 17 of these Rules, but the same shall be completed within thirty (30) days from the date of the commencement thereof.

Sec. 12. *Custody of Ballot Boxes, Election Documents and Paraphernalia.* - Where allegations in a protests, or counter-protest or protest-in-intervention so warrant, or whenever in the opinion of the Court the interest of justice so demands, it shall immediately order the ballot boxes containing ballots and their keys, list of voters with voting records, books of voters, and other documents used in the election to be brought before it. Said election documents and paraphernalia shall be kept and held secure in a place to be designated by the Court in the care and custody of the Clerk of Court.

Sec. 13. *Revision of Ballots.* - For the purpose of revision of ballots, the court shall appoint a committee composed of a chairman and two members, one member and his substitute to be proposed by the protestant, and the other member and his substitute by the protestee.

The revision of the ballots by the Committee on revision shall be made in the office of the Clerk of Court or at such other place as may be designated by it, but in every case under the Court's strict supervision.

The revision of the ballots shall be completed within twenty (20) days from the date of the order, unless otherwise directed by the Court, subject to the time limits prescribed under Sec. 11 and Sec. 17 of this Rule.

Sec. 14. *Book of Voters as Evidence.* - The book of voters shall be conclusive evidence in regard to the question as to who has the right to vote in said election.

Sec. 15. *Report of the Committee on Revision.* - The committee on revision shall make a statement of the condition in which the ballot boxes and their contents were found upon the opening of the same, classify the ballots so examined, and set forth clearly any objection that may have been offered to each ballot in the

report to be submitted by it. Disputed ballots shall be numbered consecutively for purposes of identification in the presence and under the direction of the official designated by the Court. After examination, the ballots and other election documents shall be returned to their respective boxes, but disputed ballots shall be placed in a separate envelope duly sealed and signed by the members of the committee, after which said envelope shall then be returned to the box. Thereafter, the boxes shall be locked. For purposes of making the report which shall be submitted in twelve (12) legible copies, the form prescribed by the Commission shall be followed.

Sec. 16. *Prohibited Access.* - During the revision of ballots no person other than the Judge, the Clerk of Court, members of the committee on revision of ballots, the parties, their duly authorized representatives shall have access to the place where said revision is taking place.

Sec. 17. *Decision on the Contest.* - The Court shall decide the election contest within thirty (30) days from the date it is submitted for decision, but in every case within six (6) months after its filing and shall declare who among the parties has been elected, or in a proper case, the none of them has been legally elected. The party who in the judgment has been declared elected shall have the right to assume the office as soon as the judgment becomes final.

In case the Court finds that the protestant, protestee or intervenor shall have an equal or highest number of votes, it shall order the drawing of lots by those who have tied and shall proclaim as elected the party who may be favored by luck, and the party so proclaimed shall have the right to assume office in the same manner as if he had been elected by plurality vote.

Sec. 18. *Damages and Attorney's Fees in Election Contests.* - In all election contests, the court may adjudicate damages and attorney's fee as it may deem just and as established by the evidence if the aggrieved party has included such claims in his pleadings.

Sec. 19. *Promulgation and Finality of Decision.* - The decision of the Court shall be promulgated on a date set by it of which due notice must be given the parties. It shall become final five (5) days after its promulgation. No motion for reconsideration shall be entertained.

Sec. 20. *Notice of Final Decision.* - As soon as decision declaring the election of the winner becomes final, notice thereof shall be sent to the Commission on Elections, the Department of Local Government and the Commission on Audit. If the decision be that none of the parties has been legally elected, the Clerk of Court shall certify such decision to the President of the Philippines and to the Commission on Elections.

Sec. 21. *Appeal.* - From any decision rendered by the court the aggrieved party may appeal to the Commission on Elections within five (5) days after the promulgation of the decision.

Sec. 22. *Preferential Disposition of Contests.* - The courts shall give preference to election contests over all other cases, except those of habeas corpus.

Rule 36 - Quo Warranto Case Before Courts of General Jurisdiction

Section 1. *Filing of Petition.* - A voter contesting the election of any municipal official on the ground of ineligibility or disloyalty to the Republic of the Philippines may file a petition for quo warranto with the appropriate Regional Trial Court.

Sec. 2. *Designation of Parties.* - The party filing the petition shall be referred to as the Petitioner and the party against whom it is filed shall be known as the Respondent.

Sec. 3. *Period Within Which to File the Petition.* - The petition shall be filed within ten (10) days after the proclamation of the results of the election.

Sec. 4. *Petition to be Verified.* - The petition shall be verified by the party filing it or by his attorney. Any subsequent pleading based on facts which ought to be proved shall likewise be verified.

Sec. 5. *Filing Fee.* - No petition for quo warranto shall be given due course without the payment of a filing fee in the amount of Three Hundred Pesos (P300.00) and the legal research fee as required by law.

Sec. 6. *Summons.* - It shall be the duty of the Clerk of Court to serve notice and a copy of the petition by means of summons upon each respondent within five (5) days after the filing of the petition.

Sec. 7. *Answer.* - Within five (5) days from receipt of the notice and a copy of the petition, the respondent shall file his verified answer to the petition.

Sec. 8. *Substantial and Formal Amendments of Pleadings.* - The provision of Section 8 of Rule 35 of these Rules shall apply in respect to amendments of pleadings.

Sec. 9. *Immediate Hearing; Presentation and Reception of Evidence.* - Upon the joinder of issues, the Clerk of Court shall immediately set the case for hearing.

The presentation and reception of evidence shall be made in the manner prescribed in Section 2 Rule 17 of these Rules.

Sec. 10. *Termination of Hearing.* - The hearing shall be completed within thirty (30) days from the date of the filing of the petition.

Sec. 11. *Decision.* - The court shall decide the case within thirty (30) days from the date it is submitted for decision, but in every case within six (6) months after its filing.

Sec. 12. *Promulgation and Finality of the Decision.* - The decision of the court shall be promulgated on a date set by it of which due notice must be given the parties. It shall become final five (5) days after its promulgation.

No motion for reconsideration shall be entertained.

Sec. 13. *Notice of Final Decision.* - As soon as a decision becomes final, notice thereof shall be sent to the Commission on Elections, and the Department of Local Government. If the decision is adverse to the respondent, notice shall likewise be sent to the Commission on Audit.

Sec. 14. *Appeal.* - From any decision rendered by the court, the aggrieved party may appeal to the Commission on Elections, without five (5) days after the promulgation of the decision.

Sec. 15. *Preferential Disposition of Quo Warranto Cases.* - The courts shall give preference to quo warranto over all other cases, except those of habeas corpus.

PART VII

ELEVATION OF DECISIONS TO THE SUPREME COURT

Rule 37 - Review of Decisions of the Commission

Section 1. *Petition for Certiorari; and Time to File.* - Unless otherwise provided by law, or by any specific provisions in these Rules, any decision, order or ruling of the Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty (30) days from its promulgation.

Sec. 2. *Non-reviewable Decisions.* - Decisions in appeals from courts of general or limited jurisdiction in election cases relating to the elections, returns, and qualifications of municipal and barangay officials are not appealable.

Sec. 3. *Decisions Final After Five Days.* - Decisions in pre-proclamation cases and petitions to deny due course to or cancel certificates of candidacy, to declare a candidate as nuisance candidate or to disqualify a candidate, and to postpone or suspend elections shall become final and executory after the lapse of five (5) days from their promulgation, unless restrained by the Supreme Court.

PART VIII

GENERAL PROVISIONS

Rule 38 - Clerk of Court and Deputy Clerk of Court of the Commission

Section 1. *Clerk of Court.* - (a) In Special Actions, Special Cases and Special Proceedings, the Director of the Law Department or his duly authorized representative shall serve as the Clerk of Court of the Commission.

(b) In ordinary Actions, and in Special Reliefs, the Director of the Electoral Contests Adjudication Department shall serve as the Clerk of Court of the Commission.

Sec. 2. *Duties of the Clerks of Court.* - The Clerks of Court of the Commission shall, subject to the supervision of the Chairman of the Commission, manage for the Commission the proper hearing and disposition of all cases within their respective area of responsibility as stated in Section 1 hereof. Each shall:

(a) Receive all pleadings and other documents properly presented, endorsing on each such document the date when it was filed, and furnishing each Member a copy thereof;

(b) Keep a judicial docket wherein shall be entered in chronological order the cases and the proceedings had thereon;

(c) Prepare the calendar of cases;

(d) Attend sessions of the Commission and enter in a minute book all proceedings therein;

(e) Issue under his signature and the office seal, notices, orders and decisions which are to be given due course, furnishing each Member copies thereof;

(f) Execute orders, resolutions, decisions and processes issued by the Commission;

(g) Keep a judgment book containing a copy of judgments rendered by the Commission in the order of their dates, and a book of entries of judgments containing at length in chronological order entries of all final judgments or orders of the Commission;

(h) Keep an account of the funds received and disbursed relative to the cases when so directed;

(i) Keep and secure all records, papers, files, exhibits, the office seal and other public property committed to his charge;

(j) Perform such other duties as are prescribed by law for clerks of superior courts; and

(k) Keep such books and perform such duties as the Commission may direct.

Sec. 3. *Deputy Clerks of Court.* - (a) The Assistant Director of the Law Department shall serve as Deputy Clerk of Court in all cases where the Director of said Department acts as the Clerk of Court of the Commission.

(b) The Assistant Director of the Electoral Contests Adjudication Department shall serve as the Deputy Clerk of Court in all cases where the Director of said Department acts as the Clerk of Court of the Commission.

Sec. 4. *Duties of Deputy Clerks of Court.* - The Deputy Clerks of Court shall assist their respective Clerks of Court and shall perform such other duties and functions as may be assigned to them by their respective Clerks of Court.

Sec. 5. *Division Clerks of Courts.* - Each Division shall have a Division Clerk of Court who must be a ranking lawyer from either the Law Department or the Electoral Contests Adjudication Department and designated by the Commission upon the joint recommendation of the Directors of said departments.

Sec. 6. *Duties of the Division Clerks of Court.* - A Division Clerk of Court shall:

(a) Attend the hearings of sessions of his Division;

(b) Coordinate in the preparation of the calendar of cases;

(c) Call the cases in the calendar during sessions or hearings;

(d) Supervise the stenographers;

(e) Administer oaths to witnesses;

(f) Mark exhibits of the parties, indicating therein the date and affixing thereto his signature;

(g) Be responsible to the Clerk of Court of the Commission for the safety and security of the records of cases and other documents entrusted to him during sessions or hearings; and

(h) Perform such duties as may be assigned by the Presiding Commissioner or by the Clerk of Court concerned.

Sec. 7. *Stenographers.* - Every session or hearing of the Commission, whether en banc or in Division, shall be attended by at least two (2) competent stenographers. asia dc

Sec. 8. *Duties of Stenographers.* - It shall be the duty of the stenographers to:

(a) Record faithfully in stenographic notes the proceedings during the session or hearing of the Commission en banc or of the Division;

(b) At the close of every hearing or session, to deliver immediately the stenographic notes he has taken to the Clerk of Court or Division Clerk of Court who shall initial all the pages thereof and who shall stamp the date of receipt thereon, and when such notes are transcribed, the transcript shall likewise be delivered to the Clerk of Court who shall initial each page thereof. It shall be the duty of the Clerk of Court to demand that the stenographer comply with said task;

(c) Transcribe the notes, upon demand of the Commission or the Division, or by any of the parties, subject to the payment of the prescribed fees; and

(d) Perform such other duties as the Commission may prescribe.

Sec. 9. *Security.* - At any session or hearing of the Commission or any of its Divisions, the Executive Director thru the Assistant Director for Administration, shall provide adequate security for and in the session hall and its premises.

Sec. 10. *Support Staff.* - The Commission or any of the Divisions may require other employees of the Commission to assist the Commission or the Divisions during its session or hearing or in the performance of its duties. They shall be under the supervision of the Clerk of Court concerned.

Rule 39 - Seal of the Commission

Section 1. *Custodian of the Seal.* - The Secretary of the Commission, the Director of the Law Department and the Director of the Electoral Contests Adjudication Department shall each keep a seal of the Commission.

Sec. 2. *Use of the Seal.* - The seal of the Commission shall be affixed to all decisions, orders, rulings or resolutions of the Commission or any of its Divisions, certified copies of official records, and such other documents which the Commission may require to be sealed.

Rule 40 - Fees and Charges

Section 1. *Filing Fees for Election Contests and Quo Warranto.* - (a) The filing fees for election contests and quo warranto cases and petitions for certiorari, prohibition or mandamus filed with the Commission are hereby prescribed as follows:

- (1) Election protests and quo warranto cases P500.00 for each interest;
- (2) Counter-protest or protest-in-intervention P500.00.

Each interest mentioned above shall pay an additional amount of P10.00 as legal research fee in accordance with the provisions of Sec. 4, Republic Act No. 3870, as amended by Presidential Decree No. 200 and Presidential Decree No. 1856.

(b) Cash deposits. - In any protest or counter-protest or protest-in-intervention not requiring ballot revision, the following cash deposits shall be paid by the interested party;

- (1) For each election contest P1,000.00;
- (2) For each counter-protest or protest-in-intervention P1,000.00.

(c) In any protest, counter-protest or protest-in-intervention requiring ballot revision the following cash deposits shall be paid by the interested party:

- (1) For each election contest P5,000.00;
- (2) For each counter-protest or protest-in-intervention P5,000.00.

The cash deposits prescribed above shall be applied to the payment of all expenses incidental to such protest, counter-protest or protest-in-intervention. When circumstances so demand, additional cash deposits may be required. Any unused balance thereof shall be returned to the protestant, counter-protestant or protestant-intervenor, as the case may be.

(d) In case of revision of ballots, there shall be deposited the sum of P350.00 for every ballot box for the compensation of the revisors at the rate of P100.00 each and as reserve for expenses.

(e) If a claim for damages and attorney's fees are set forth in a protest, counter-protest or protest-in-intervention, an additional filing fee shall be paid at the rate of P300.00 for the first one hundred fifty thousand pesos and P4.00 for every one thousand pesos over the first P150.000.00

Sec. 2. *Filing Fees in Special Actions and Special Proceedings.* - (a) The petitioner in any Special Action or Special Proceeding shall pay a filing fee of P500.00.

(b) In every such a case, a legal research fee of P10.00 pursuant to Sec. 4 of Republic Act No. 3870, as amended, shall be paid.

(c) In petition for registration of political parties, organizations or coalition of political parties, there shall be paid an additional sum of P1,000.00 for the certificate of registration.

Sec. 3. *Appeal Fees.* - The appellant in election cases shall pay an appeal fee as follows:

(a) Election cases appealed from Regional Trial Courts P1,000.00.

(b) Election cases appealed from courts of limited jurisdiction P500.00.

In every case, a legal research fee of P20.00 shall be paid by the appellant in accordance with Sec. 4, Republic Act No. 3870, as amended.

Sec. 4. *Where and When to Pay.* - The fees prescribed in Sections 1, 2 and 3 hereof shall be paid to, and deposited with, the Cash Division of the Commission within a period to file the notice of appeal.

Sec. 5. *Filing Fees in Special Cases.* - (a) In special Cases the petitioner shall pay a filing fee of P500.00.

(b) In such cases there shall be imposed an amount of P10.00 as legal research fee in accordance with Sec. 4, Republic Act No. 3870, as amended.

(c) Cash Deposit - If in a Special Case a recount of the ballots is required, the Commission or the Division to which the case is assigned, shall order the interested party to make a cash deposit of P2,000.00 with the Cash Division, Administrative Services Department of the Commission, within a period to be fixed in the order. This amount shall be applied to all expenses incidental to the controversy. When circumstances so demand, additional cash deposits may be required.

Whenever applicable, the revisor's fees fixed on Section 1 (c) above shall be deposited with the Cash Division, Administrative Services Department of the Commission by the party concerned.

Sec. 6. Legal and Administrative Fees, Service Charges and Costs. - The legal fees, service charges and costs prescribed herein are hereby authorized to be charged and/or collected by the Commissioner for the service, action or proceeding hereinafter mentioned.

Sec. 7. Legal Fees. - The following legal fees shall be charged and collected:

(a) For furnishing certified transcripts of records of copies on any record, decision, ruling or entry of which any person is entitled to demand and receive a copy, per page.... P5.00;

(b) For every certificate not on process, first ten (10) pages.... P50.00 succeeding, per page.... P1.00;

(c) For every search of any record (per page) and reading the same P10.00;

(d) For every search of any record (per page) pertaining to election cases and reading the same P20.00

(e) For copying (photo or xerox) of any list, document or record using machines of requesting parties, per page.... P0.50

(f) For filing of a motion for reconsideration on a decision, order or resolution.... P300.00

(g) For copying (xerox) of any list, document or records, using the machines and materials of the Commission, per page.... P1.50

(h) For every issuance of a duplicate voter's identification card. P10.00

The fees and charges prescribed herein shall be reduced by fifty percent (50%) if the purpose of the request is for academic research work.

The department/office which is the legal custodian of the document/record requested shall be responsible for the copying (xeroxing) thereof and shall certify that it is a copy of the official records of the Commission, and shall affix thereto the seal of the Commission.

No certified copy of any official record of the Commission shall be issued without the payment of the corresponding fees.

Sec. 8. Where Fees are to be Paid. - The fees herein before provided shall be paid by the party concerned to the Cash Division, Administrative Service Department of the Commission, at the time of request or demand. If the fees are not paid, the Commission may refuse to take action thereon until they are paid.

Sec. 9. Fees for Bailiffs, Sheriffs, and Other Persons Serving Process. - (a) For executing any process of the Commission, for each kilometer of travel in the service of process, reckoned from the place of service to the place to which the process is returnable, P1.00, but if the process is executed by a municipal deputy sheriff residing in the municipality where the party served is residing such officer shall receive the fees for the service of process without kilometrage, provided that the party requiring the process shall deposit with the Commission at the time

of request the estimated cost of expenses for kilometrage and per diems to be incurred by the Sheriff but more than P1,000.00.

(b) For serving summons and a copy of petition furnished by the petitioner for each respondent, P20.00 but when the respondents reside at the same place, the fee shall be P10.00 for each respondent; and

(c) For serving subpoenas, for each witness served, P5.00 besides travel fees.

Sec. 10. *Fees for Stenographers.* - Stenographers shall give certified transcript of notes taken by them to every person requesting the same upon payment of (a) P2.00 for each page of not less than two hundred and fifty words before the case is brought to the Supreme Court on certiorari, and (b) P1.00 for the same page, thereafter.

Sec. 11. *Witness' Fees.* - Witnesses in any action in the Commission shall be entitled to P20.00 per day and P1.00 for each kilometer of travel in going to the place of hearing and coming from their homes within the Philippines by the nearest route of usual travel, or in lieu of said mileage, actual travel expenses by the cheapest means of transportation.

A witness shall not be allowed compensation for his attendance in more than one case or more than one side of the same case at the same time, but may elect in which of several cases or on which side of a case, if witness is summoned by both sides, to claim his attendance. A person who is compelled to attend the hearing on other business of the Commission shall not be paid as witness.

Sec. 12. *Costs.* - Costs shall be allowed to the prevailing party as a matter of course, but the Commission shall have the power, for special reasons, to adjudge the either party shall pay the costs of an action, or that the same be divided, as maybe equitable. No costs shall be allowed against the Republic of the Philippines unless otherwise provided by law.

Sec. 13. *Costs in Action or Processing.* - In an action or proceeding before the Commission, the prevailing party may recover the following cost:

(a) For his own attendance, and that of his attorney, down to and including final judgment, one hundred peso (P100.00);

(b) All lawful fees charged against him by the Commission, in entering and docketing the action and recording the proceedings and judgment therein and for the issuing of all processes;

(c) If testimony is received in the Commission, not taken in another court and transmitted thereto, the prevailing party shall be allowed the same costs for witness fees, depositions, and process and service thereof as he

would have been allowed for such items had the testimony been introduced in the lower courts; and

(d) The lawful fees of a commissioner in any action may also be taxed against the defeated party, or apportioned as justice requires.

Sec. 14. *When Action or Appeal Dismissed.* - If an action or an appeal is dismissed for want of jurisdiction or otherwise, the Commission nevertheless shall have the power to render judgment for costs, as justice may require.

Sec. 15. *Costs When Action or Appeal Frivolous.* - When an action or an appeal is found to be frivolous, double or treble costs may be imposed on the petitioner or appellant, which shall be paid by his attorney, if so ordered by the Commission.

Sec. 16. *Attorney's Fees as Costs.* - No Attorney's fees shall be taxed as costs against the adverse party, except as provided by the Civil Code. But this section shall have no relation to the fees to be charged by an attorney as against his client.

Sec. 17. *Costs When Witness Fails to Appear.* - If a witness fails to appear at the time and place specified in the subpoena issued by the Commission, the costs of the warrant of arrest of the witness shall be paid by the witness if the Commission shall determine that his failure to answer the subpoena was willful or without just excuse.

Sec. 18. *Non-payment of Prescribed Fees.* - If the fees above prescribed are not paid, the Commission may refuse to take action thereon until they are paid and may dismiss the action or the proceeding.

Sec. 19. *Government Exempt.* - The Republic of the Philippines is exempt from paying the legal fees provided in this resolution.

Sec. 20. *Collection and Remittances of Legal Research Fee.* - The amount collected as legal research fee shall be receipted for as "Legal Research Fund" and shall be immediately remitted to the University of the Philippines.

PART IX

CONCLUDING PROVISIONS

Rule 41 - Supplementary Rules

Section 1. *The Rules of Court.* - In the absence of any applicable provisions in these Rules, the pertinent provisions of the Rules of Court in the Philippines shall be applicable by analogy or in suppletory character and effect.

Rule 42 - Repealing Clause and Effectivity

Section 1. *Repealing Clause.* - All resolutions, rules, regulations or circulars of the Commission or parts thereof which are inconsistent with any provision of these Rules are hereby deemed repealed or modified accordingly.

Sec. 2. *Transitory Provision.* - These rules shall govern all cases brought after they take effect and also further proceedings in cases than pending, except to the extent that in the opinion of the Commission or the court in appropriate cases, an application would not be feasible or would work injustice, in which event the former procedure shall apply.

Sec. 3. *Separability Clause.* - If any part of these Rules is declared unconstitutional, the remaining part not affected thereby shall remain valid and effective.

Sec. 4. *Effectivity.* - These Rules shall be published in the Official Gazette or in two (2) daily newspapers of general circulation and shall take effect on the seventh day following its publication.

Approved: February 15, 1993

[Back to Top](#) - [Back to Main Index - Election Laws of the Philippines](#) - [Back to Home](#)

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