

III. Election Law
2023 Bar Review
based on SC Syllabus

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A1. Suffrage: Qualifications of Voters

- Filipino citizen
- At least 18 yo on election day
- Resident in Philippines for at least 1 year prior to election (*domicile or permanent residency*)
- Resident in place where propose to vote for 6 months prior to election day (*domicile, permanent or temporary residency*)
- Found in the Constitution
- List finite/ exclusive
- No substantive requirements by Congress/ COMELEC

A1. Suffrage: Disqualification of Voters

- Sentenced by final judgment (*imprisonment of 1 year or more*)
- Sentenced to suffer accessory penalty (*political rights*)
- Adjudged by final judgement (*crime involving disloyalty*)
- Declared insane or incompetent
- Post-registration
- Cannot be couched to constitute as a substantive qualification
- By law

A2. Suffrage: Registration of Voters

- **Nature:** Continuing
- **Listing:** Computerized List at all Levels
- **Number:** 200 Voter-Precinct (precinct as voting unit; several precincts can be clustered during elections)
- **Biometrics:** Mandatory for new; for registered voters, validation (No Bio = No Boto)
- **Changes:** Permanent but subject to changes
 - + like new voters, transfer of resident from, reactivation
 - like cancellation (death), annulment of book of voters, transfer of resident to, deactivation

A2. Suffrage: Deactivation of Voters

- Disqualified to Vote
 - Failed to Vote in 2 preceding elections
 - Registration excluded by the Court
 - Lose Filipino Citizenship
 - Failure to have biometrics taken (validation)
- (Not permanent disenfranchisement – can apply for reactivation)*

A3. Suffrage: Inclusion and Exclusion Proceedings

- **What?** Applications already acted upon
- **Where File?** MTC (*not COMELEC*), then RTC (*not COMELEC*), then SC (*question of law*)
- **Grounds?**
 - Inclusion - Disapproval or Name Stricken Out (*not failure to apply*)
 - Exclusion - Not Qualified or Fictitious Voter

A4. Suffrage: Local and Overseas Absentee Voting

Local

- Vote prior to Election Day
- Not in their precinct because of work (*government official/ employee, AFP, PNP and media*)
- Nationally-elective positions
- Manual system

Overseas

- Qs – Citizens | Not disqualified | 18 yo
- DQs – No citizen | renounced and allegiance with another country | convicted | insane
- Nationally-elective positions
- Registration and/or certification as an overseas voter (*in person at any post abroad or at designated reg'n centers*)
- Voting may be done either personally, by mail or by any other means

A5. Suffrage: Detainee Voting

- Persons Deprived of Liberty (PDL) qualified to vote
 - formally charged and awaiting trial while confined in jail
 - serving prison sentence for less than 1 year
 - convicted for rebellion or sedition.
- National and Local Elections
- Vote:
 - special voting centers established in the detention facility
 - voting precincts if their registered hometown is in the same city or municipality where the jail is located (*with court approval*)

B1. Candidacy: Qualifications of Candidates

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

B1. Candidacy: Disqualifications of Candidates

- Lack qualifications/ possess disqualifications
- Violate Term Limits
- Commission of an election offense
- Nuisance Candidate
- Sentenced by Final Judgment (*accessory penalty*)
- Willfully Commits Material Misrepresentation
- No valid, timely and properly filed CoC

B1. Candidacy: Disqualifications of Candidates

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

B1. Candidacy: Disqualifications of Candidates

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

B2. Candidacy: Filing of Certificates of Candidacy

a) Effect of Filing

- Candidate: Intent + File CoC + Start of Campaign Period (*under Automated – Operative Fact*)
- Prior to Campaign Period (*being a candidate*): No unlawful acts/ omissions pertaining to candidates
- Incumbent Public Officials:
 - Appointive: Ipso facto resigned upon CoC filing
 - Elective: Not deemed resigned (*continue till June 30*)

B2. Candidacy: Filing of Certificates of Candidacy

b) Substitution and Withdrawal of Candidates

- *Death*: Substitution till mid-day Election day
- *Withdrawal*: anytime (to be substituted – on or before deadline)
- *Disqualification*:
 - No, if Illegitimate, i.e., violate term limit, nuisance, not qualified, material misrepresentation
 - Yes, if Election Offense
- Substituted and Substitute from same political party
- Substitute must be qualified for position

B2. Candidacy: Filing of Certificates of Candidacy

c) Nuisance Candidates

- **Considerations?** Campaign Capability, Intention, Performance, Exposure, Platform, Party Affiliation, Organization, Profession, Income, Health, Education, Name (*unpopularity and being an independent candidate not sufficient grounds; disqualifying a candidate on the ground of lack of financial resources to wage a campaign amounts to a property requirement and cannot be done*)
- **Who Files?** Real Parties-in-Interest, i.e., those with similar names with nuisance candidates, others are silent observers; vote for nuisance will be credited to legitimate candidate since nuisance was never a candidate
- **When File?** Within 5 days from Last Day Filing of Certificate of Candidacy

B2. Candidacy: Filing of Certificates of Candidacy

d) Duties of the COMELEC

- 1 candidate = 1 CoC (*withdraw others if more than 1*)
- if CoC void, filer not considered a candidate from the beginning even if cancelled after elections
- If filed in due form, COMELEC ministerial duty to receive COC
- Comelec may look into patent defects of CoCs
- COMELEC may cancel/ deny due course

C1. Campaign: Premature Campaigning

- No premature campaigning since no "campaigning" before campaign period since an aspirant/ filer only becomes a candidate at start of campaign period
- Unlawful acts and omissions only at start of campaign period

C2. Campaign: Prohibited Contributions

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

C3. Campaign: Lawful Election Propaganda

- **Definition:** Act *designed* to promote the election or defeat of a candidate (*candidate-specific*); satire of political parties on social issues not election propaganda/freedom of speech (*not follow campaign rules*)
- **Operative Act:** *Intent/ Design* material (*not all acts of beneficence are considered campaigning*) and Period (*start of campaign*)
- Forming Organizations
- Holding Rallies
- Making Speeches
- Distributing Campaign Materials
- Soliciting Votes
- Publishing Advertisements

C3. Campaign: Lawful Election Propaganda

- Printed Materials (8.5" W x 14" L)
- Letters
- Posters (2' x 3') in Poster Areas (12' x 16') and Houses/ Private Property with consent
- Rally Streamers (3' x 8')
- **Print:** 1/4th page in broadsheet; 1/2 in tabloid 3x a week
- **Television:** 120 minutes (for national); 60 minutes (for local) per station (not overall)
- **Radio:** 180 minutes (for national); 90 minutes (for local)
(Note: being in news not counted)

C3. Campaign: Prohibited Election Propaganda

- Foreign Intervention
- Removal or Destruction of Lawful Propaganda
- Materials not Disclose Payor
- Exceed Limits (Time and Space)
- Not report all contribution
- Exceed Limits (P10, P5, P3)
- Expenditures made by unauthorized persons
- Transportation, Foods and Drinks During Rallies
- Movie or Video of or by Candidate

C4. Campaign: Limitations on Expenses

*President/ Vice-
President:
P10/ Voter
Others –
Independent:
P5/ voter
Others under
Political Party:
P3/ Voter*

- Use of Facilities
- Travel
- Compensation
- Communications
- Written Materials
- Pollwatchers
- Office/ HQ

- Advertisements
 - Meetings/ Rallies
 - Volunteers
 - Counsel*
 - Copying of List of Voters*
 - Sample Ballots*
- (* - not included in cap)

C5. Campaign: Statement of Contributions and Expenses

- File within 30 days from elections
- Repeated failure of not filing Statement of Contributions and Expenditures – perpetual disqualification

D1. Remedies and Jurisdiction: Petition to Deny Due Course or Cancel a Certificate of Candidacy

- **What?** Willful Material Misrepresentation
 - Material – pertains to Qualifications and Disqualifications, residency; knew conviction of crime involving moral turpitude (libel); violation of 3-term rule (*not material if pertaining to surname, profession, political party affiliation, civil status, legitimacy*)
 - Willful/ Deliberate – Intent to defraud voters
 - Candidate not actually qualified
- **Where File?** Comelec Division (*summary nature, rule on patent misrepresentations, not make conclusions of law contrary to jurisprudence*)
- **When File?** 25 days from Filing of CoC (*reglementary period must be strictly applied*)

D2. Remedies and Jurisdiction: Petition for Disqualification

○What Offenses?

- Enumerated in Section 68 OEC (2 options – DQ case or Election Offense criminal case): Vote-Buying, Terrorism, Unlawful Expenditures, Unlawful Campaign, Coercion of Subordinates, Threats, Prohibition against Release of Public Funds
- Other election offenses – file EO case – RTC hears)

○Where File? Comelec Division

○When File? Before Proclamation

D3. Remedies and Jurisdiction: Failure of Election, Call for Special Election

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

D4. Remedies and Jurisdiction: Pre-Proclamation Controversy

Aspects

- BoC-related, i.e., Objections pertaining to Proceedings and Composition of BoC allowed – file with BoC or COMELEC division
- Results-related, i.e., Material Defects, Manifest Errors, Omission, Discrepancy – not allowed under COMELEC Resolution
- Violence, Voting Procedure, Eligibility of Voters – not allowed since require evidence aliunde

D5. Remedies and Jurisdiction: Election Protest

1. Filed by candidate
2. Within period (10 or 30 days)
3. Protestee proclaimed
4. Protestant admits legality of proclamation
5. Payment of filing fee
6. Allegations of fraud and irregularities (*casting-counting-canvassing determine evidence*)
7. Identify precincts/ areas
8. Verified
9. Certificate of non-forum shopping
10. Proper venue (*PET-SET-HRET-COMELEC-RTC*)

D5. Remedies and Jurisdiction: Election Protest

- **Material Qualifications vs. Will of Electorate:** former
- **Procedure:** Revision and Trial
- **If prosper:** Protestee removed, true winner proclaimed
- **Effect of Next Election:** rendered moot upon the occurrence of a subsequent election since it is impossible to assume office for the previous term

D5. Remedies and Jurisdiction:

Quo Warranto

- **Grounds:** Disloyalty to Republic or Ineligibility
- **Venue:** Same as Election Protest
- **If prosper:** Respondent ousted; special elections or succession
- **Proof:** Burden on petitioner to prove DQ by substantial evidence then burdens shifts to candidate to disprove
- **Covers Impeachable Officers:** quo warranto and impeachment can proceed independently and simultaneously

D6. Remedies and Jurisdiction

a) COMELEC

- **Independent 7-Person Constitutional Body** – administrative agency, public office, 2 levels in exercise of quasi-judicial functions, fixed term, permanent appointments, Chairperson as Head of Agency
- **Plenary authority** to decide all questions affecting elections except the question as to the right to vote (*qualifications of voters*)
- Enjoys **Fiscal Autonomy** (*automatic and regular release of budget; can augment items in its appropriations from its savings*)

D6. Remedies and Jurisdiction

a) COMELEC

- **Schedule elections** (*other than 2nd Monday of May*): (1) when the law specifically sets date; and (2) when the law delegates the setting of the date of the elections to COMELEC
- **Wide** discretion in adopting means to carry out its mandate of ensuring **CHOPFE**; not straitjacketed by procedural rules but cannot amend laws; fixing length and start date of election period outside the 120-day default period does not amount to undue delegation; may disregard use of old forms

D6. Remedies and Jurisdiction

a) COMELEC

- **Enforcement Power:** All election laws (*persons and policies*); exclusion of others; enforce, not amend laws; power to investigate implied from power to enforce
- **Quasi-Judicial Power:** Qualifications and Election Contests (*excludes Suffrage*); act promptly on cases
- **Quasi-Legislative:** can promulgate 6 types of rules; issuance mandatory (law states “shall”)
- **Control and Supervision:** over BEIs and BOCs, over election officers since its agents

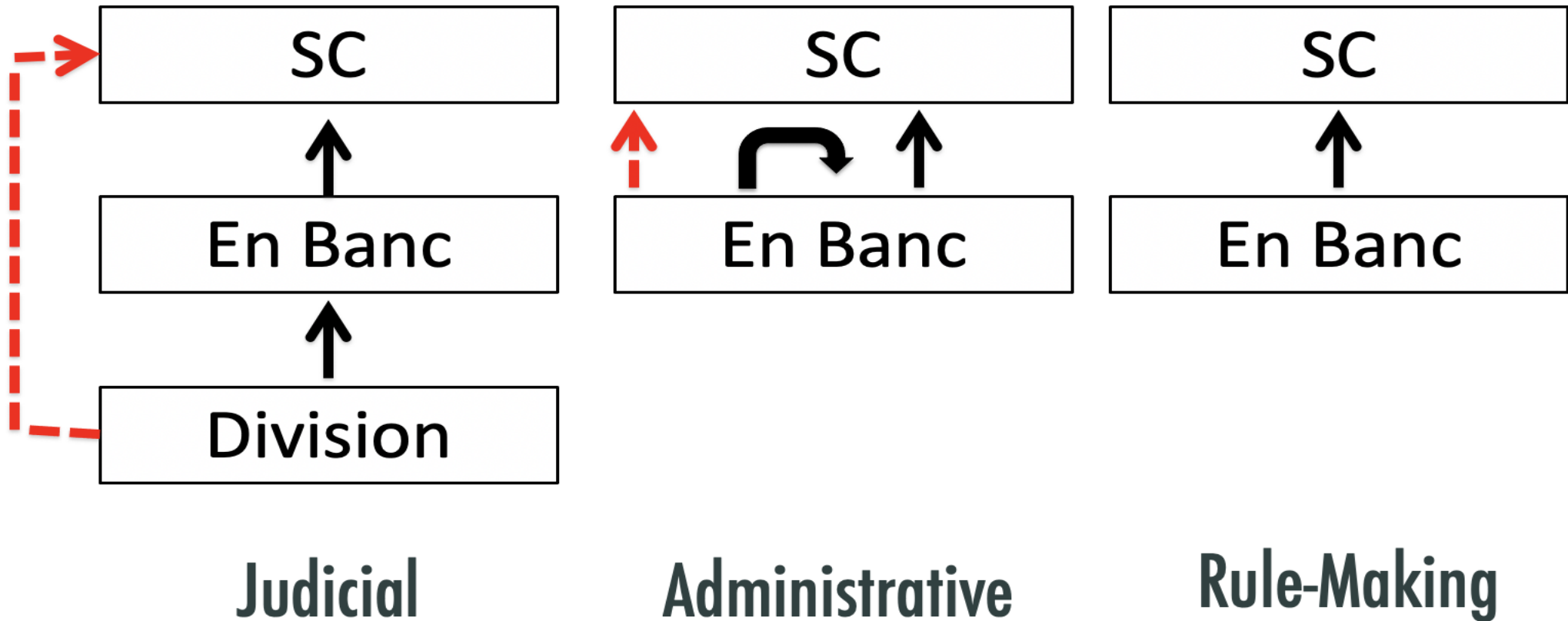
D6. Remedies and Jurisdiction

a) COMELEC

- **Jurisdiction:** Original (*Regional, Provincial and City*); and Appellate (*Municipal, Barangay and Sangguniang Kabataan*)
- **Remedies:** En Banc (*MR, administrative*) and Division (*1st instance, judicial*); 2 Divisions when quasi-judicial
- **Process:** Division - MR to En Banc then Certiorari to SC
- **Contempt:** Judicial Proceedings (*not Administrative*); Indirect contempt for non-appearance pursuant to Comelec's Constitutional power to investigate and CHOPFE

D6. Remedies and Jurisdiction

a) COMELEC



D6. Remedies and Jurisdiction

a) COMELEC

Quasi-Judicial (Division)

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

Administrative (En Banc)

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

D6. Remedies and Jurisdiction

b) Senate Electoral Tribunal (SET) and

c) House of Representatives Electoral Tribunal (HRET)

- SET – exclusive and only task; exclusive jurisdiction over irregularities on canvassing and proclamation; cannot declare void or unconstitutional contracts
- HRET – assumes jurisdiction when proclaimed and taken oath; can annul results in precincts; members from Judicial and Legislative branches indispensable for quorum; factual findings must be respected unless no substantial evidence or manifestly gross errors

D7. Remedies and Jurisdiction:

Recall

- How Initiated: Popular Petition filed with COMELEC (*no more Preparatory Recall Assembly under RA 9244*)
- Ground: Loss of Confidence (*political question*)
- When: Recall election only during 2nd year of 3-year term (*1-Year Ban refers to Recall Election*)
- Candidates: Official subject of recall a candidate
- Term: If official removed, not considered a term

D. Prosecution of Election Offenses

- Offender: Can be committed by candidates, COMELEC officials and voters
- Investigation/ Prosecution: COMELEC Law Department or Prosecutor's Office (*concurrent*)
- Filing of Information: COMELEC En Banc
- Trial: RTC (*full-blown trial; acquit or convict*)
- Penalties: Imprisonment (1 – 6 years); DQ political rights
- Prescription: 5 years from date of commission

Good luck. Thank you.