

Election Law and the 2025 Elections

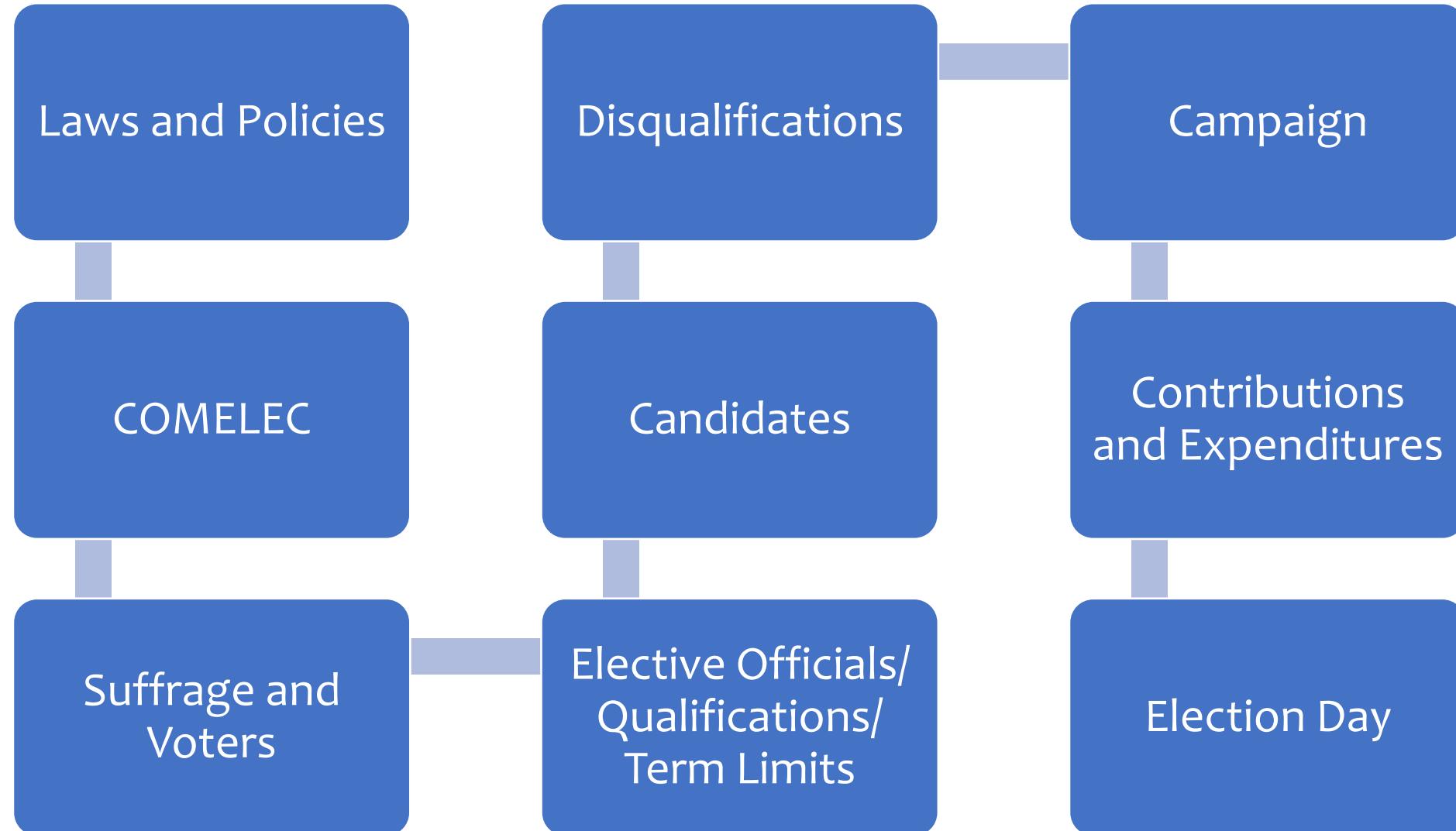
Atty. Alberto C. Agra

Law Professor and Bar Reviewer, Election Law,
Local Government Law and Administrative Law
Proponent, Election Law-for-All
Author, Ballot Unboxed Newsletter
Host, Batas et AL – 2025 Election Series





Discussion Flow: 9 Topics



Topic/ Subject Matter



We will answer
62 questions.

Question

Answer



(1) Laws and Policies

What is the purpose/
object of Philippine
elections under the
1987 Constitution?

CHOPFE
Credible
Honest
Orderly
Peaceful
Free
Elections



(1) Laws and Policies

Can Congress:

1. Require all elective officials to be **high school graduates**?
2. Provide for **2 Vice-Mayors** (1 elected and 1 appointed)?

1. No, for National Elective Positions, while Yes for Local.
2. Yes, for local elective positions:
 - The 1987 Constitution does not prescribe the structure, qualifications and manner by which LGU officials are selected.
 - Congress has legislative control over the structure and qualifications of LGU officials.



(1) Laws and Policies

1. Can **Congress** postpone the 2025 National, Regional and Local Elections?
2. Can **COMELEC** reschedule the elections in the whole country?

1. Yes, provided:
 - Valid reason
 - Not impair suffrage/ regularity of elections
2. No, unless:
 - Congress delegates this authority
 - For now, only in a political subdivision



(2) COMELEC

Can COMELEC, through a Resolution, provide for:

1. A mix of automated and manual systems for national elections (**Hybrid**)?
2. Registration of **social media** accounts and penalties for violators?
3. Continuance in office of **appointive officials** who are party-list nominees?

Principle of Subordinate Legislation

1. No, since Automated Election Law requires automation of elections nationwide.
2. Yes, Fair Election Act covers all other forms of media and violation of FEA IRR is considered an election offense.
3. No, since appointive officials deemed resigned. (SC TRO)



(2) COMELEC

Can the COMELEC:

1. Augment items from its **savings?**
2. **Resolve all Election Protests?**
3. Choose an Automated System **without ballots?**
4. Division adjudicate all cases at the **first instance?**
1. Fiscal Autonomy
2. Jurisdiction depends on elective position (PET, SET, HRET, COMELEC, RTC and MTC)
3. Automated Election Law empowers COMELEC to choose (Paper-based or Direct Recording)
4. Quasi-Judicial (Division) or Administrative (En Banc)



(2) COMELEC

Quasi-Judicial (Division)

- Disqualification cases
- Election Protest
- Pre-Proclamation Controversy
- Annulment of Proclamation

Administrative (En banc)

- Canvassing for Senators and Party-List
- Failure of Elections
- Postponement of Elections
- Filing of Information for an Election Offense
- Annulment of Book of Voters
- Accreditation of Party-List Organizations



(2) COMELEC

1. Can a **decision** of the **COMELEC Division** be elevated to the **Supreme Court** without filing an **MR** with **En banc**?
2. Can a **taxpayer question** a **COMELEC En Banc Resolution** with the **Supreme Court** without filing an **MR**?

General Rule: Exhaust Administrative Remedies unless (bypass COMELEC En banc):

1. Rule (Quasi-Legislation)
2. Urgency
3. Constitutional Issue
4. Transcendental Concern
5. Pure Question of Law
6. Strong Public Interest



(3) Suffrage and Voters

True or False

1. One must be **qualified** to be a **voter** at the time one applies for registration.
2. A person **born** in X and **studies** in Y, can be a registered voter in X or Y.
3. A voter who failed to vote in **2 previous elections** cannot vote in any election.
1. False, since reckoning point is election day (right to register vs. right to vote)
2. True, since resident of both places (can only be a voter in one place; if multiple, allowed to vote in one/ 1st).
3. False, since voter can apply for reactivation.



(3) Suffrage and Voters

True or False

4. A voter can question the **qualification of another** voter only up to January 27, 2025.
5. COMELEC can **annul** 10 Book of Voters of a city.
6. A Pollwatcher can **challenge a voter** for selling his/her vote.
4. False, deadline for filing Exclusion Petitions is February 1, 2025.
5. True, for irregularities on preparation of Book of Voters (not on Qs or DQs).
6. True, on ground of Illegal Acts (but Voter can vote if takes an oath)



(4) Elective Officials

1. Do our laws require all elective officials to be **natural-born citizens**?
2. Is a Mayor **deemed resigned** if he/she files a CoC for Representative?
3. Can a Male be a **Party-List Representative** of a Women's Party that obtains 1.7% of 2nd votes?
1. No, only for those holding national positions (not local).
2. No, Mayor continues in office up to 12:00 n.n., June 30, 2025.
3. Yes, for as long as he is an advocate of women's rights and a member of that party. Yes, provided not all seats are filled-up.



(4) When is a Term considered a Full Term for Local Elective Officials?

LEO serves a FULL Term when/ even if ...

1. LEO assumes an **appointive public office**.
2. LEO **resigns** from his/her elective post.
3. LEO **abandons** his/her office.
4. LEO takes a **vacation**.
5. LEO is placed under **preventive suspension**.
6. LEO serves in an **acting capacity** because of a temporary vacancy.
7. LEO who **vacates** an office because of an immediately executory decision of **dismissal by the Ombudsman**.
8. An LGU is **converted to a different level of LGU** (same territory and inhabitants) when the LEO has served 3 consecutive terms for the same office.

LEO does NOT serve a FULL Term when ...

1. LEO assumes an elective post via **succession** due to a permanent vacancy.
2. LEO who **assumes** an elective post because of an immediately executory decision of **dismissal of the Ombudsman**.
3. LEO is **suspended**.
4. LEO assumes office after **winning** in a **recall election**.
5. LEO **loses** in a **recall election** and ousted from office.
6. LEO is ousted from his/her office because of a **quo warranto** case.
7. LEO wins an **Election Protest**.
8. LEO wins a Petition for **correction of manifest errors**.
9. LEO is removed from office after his/her **proclamation is annulled**.



(5) Candidates

Is it correct to say that person is already a **candidate** at the time he/she files his/her **Certificate of Candidacy (CoC)**?

Can/ must he/she, **prior to the campaign period**:

1. Campaign,
2. Follow specifications for posters and streamers, and
3. Account for contributions and expenditures?

No, since under the Automated Election Law, a candidate:

1. Is one who seeks public elective office,
2. Has filed his/her CoC, and
3. Campaign period has started.

Today till the start of the campaign period, CoC filers are just Aspirants.

Unlawful acts/ omissions for candidates are reckoned at start of campaign period.



(5) Candidates

Prior to the start of the campaign period (when there are no candidates), what are the possible **liabilities of aspirants?**

- Libel and Cyber-Libel
- Perjury
- Unfair Labor Practice
- Revised Penal Code-Crimes
- Tax Evasion
- Fraud
- Bouncing Checks
- Littering

Local Elective Officials:

- Malversation
- Graft
- Dishonesty
- Abandonment
- Dereliction of Duty
- Abuse of Authority
- Oppression



(5) Candidates

1. Who is an **Independent Aspirant/ Candidate?**
2. What are the **effects/ implications if one is Independent?**

Considerations
1. Registered Party
2. Nominated
3. Accepted
4. Subsisting
5. Only 1 Party
6. Authorized Representative

Effects if Independent:
1. Cannot be substituted
2. “IND” across name in ballot
3. Can spend up to P5/voter
4. Can appoint Pollwatchers/ lawyers



(5) Candidates

Can an Aspirant/
Candidate be
substituted on the
grounds of:

1. Withdrawal
2. Death
3. Disqualification
today?

- No, for withdrawal (substitution only allowed during period to file CoCs)
- Yes, for death (up to mid-day of election day; November 15 for name in ballot)
- Yes, for DQ if final judgment (up to mid-day of election day; November 15 for name in ballot) and based on election offense

(6) Disqualifications

What **case** can be filed against an aspirant/ candidate who:

1. Is **not a Filipino** when indicated in his/her CoC that he/she is one?
2. Commits **vote-buying**?
3. Is a **US permanent resident**?
4. Has **no bona fide intention**?
1. Deny/ Cancel CoC for Willful Material Misrepresentation (and not qualified)
2. Disqualification (during campaign period)
3. Disqualification
4. Nuisance Candidate (lack of resources and unpopularity not grounds)



(6) Cases against Local Elective Officials

1. What happens to **pending cases** against Local Elective Officials?
2. Can an LEO be **suspended** during the Election Period?
3. Can an LEO be **recalled** today?

DISCIPLINARY ACTIONS AGAINST AND CANDIDACIES OF LOCAL ELECTIVE OFFICIALS

- 1. No investigation during the election period.
- 2. No suspension during the election period unless with COMELEC approval.
- 3. No preventive suspension during the election period.
- 4. No recall on the last year.
- 5. No condonation because of re-election.



(7) Campaign

Can a Mayor:

1. give **sports equipment** with his/her name as part of the LGU's sports program during the campaign period?
2. give **ayuda** to inhabitants after a calamity?

Yes,

1. Campaign designed to promote election or defeat of a candidate (intent).
2. Governance ≠ Campaign.
3. If not help, may be held liable for Dereliction of Duty.



(7) Campaign

Who among our
Public Officers can/
cannot campaign?

ELECTION 101
WITH
ATTY. AL AGRA
Election Law Expert

**BALLOT
UNBOXED**

CAMPAIGNING BY PUBLIC OFFICERS, EMPLOYEES, & OTHERS

CSC Memorandum No. 02-1992 and CSC-COMELEC Joint Circular No. 01-2016

CAN CAMPAIGN

- President
- Vice-President
- Executive Secretary
- Department Secretaries
- Members of the Cabinet
- Senators
- Representatives
- Local Government Elective Officials (Regional, Provincial, City, Municipal and Barangay)
- Personal and Confidential Staff and Consultants of the above

CANNOT CAMPAIGN

- Justices and Judges
- Undersecretaries, Assistant Secretaries and Bureau Heads
- Directors/Trustees/ Members of GOCCs/ Government Instrumentalities
- Civil Servants
- Members of AFP
- Members of PNP
- Public School Teachers
- LGU Appointive Officials
- Temporary Employees, Contractuals and Casuals

ALBERTOCAGRA.COM

BALLOTUNBOXED.COM/SUBSCRIBE

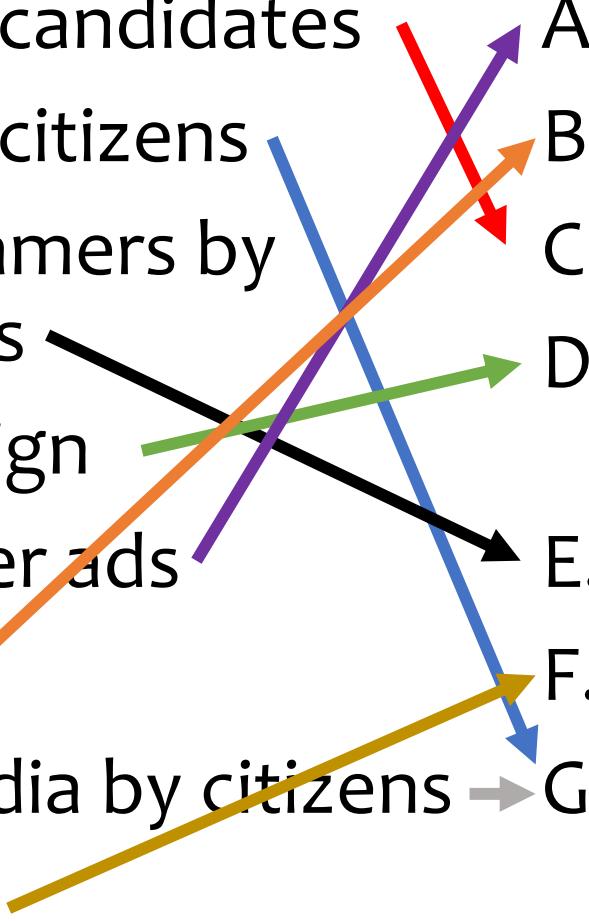
(7) Campaign

Matching Type

1. Poster by candidates
2. Poster by citizens
3. Rally streamers by candidates
4. TV campaign
5. Newspaper ads
6. Stickers
7. Social Media by citizens
8. Billboards

Choices

- A. 1/4th page in broadsheet
- B. 8.5" W x 14" L
- C. 2' x 3'
- D. 120 (national)/ 60 (local) Minutes per station
- E. 3' x 8'
- F. No longer prohibited
- G. No limit



(7) Campaign

What is Vote-Buying?

ELECTION 101
WITH
ATTY. AL AGRA
Election Law Expert

BALLOT UNBOXED

**BREAKING DOWN
VOTE BUYING
AS AN ELECTION OFFENSE**

Section 261(a)(1), Omnibus Election Code | 1st in the list of 88 Election Offenses in Sec. 261

WHO: VIOLATORS?	Any person <ul style="list-style-type: none">• Candidate• Any Voter• Political Party Official• Party-List Nominee• Government Officials• Supporter• Funder• Pollwatcher
WHAT: ACTS OF BUYER?	<ul style="list-style-type: none">• Giving• Offering• Promising (Buyer commits offense even if the voter does not accept)
WHAT: PURPOSE OF BUYER?	For Voter or Voters to: <ul style="list-style-type: none">• Vote for a Candidate• Not vote for a Candidate• Not Vote
WHAT: CONSIDERATION?	<ul style="list-style-type: none">• Money• Anything of Value• Employment• Franchise• Grant• Expenditure for another
WHEN: PERIOD OF VIOLATION?	Start of the Campaign (when aspirants become candidates)
WHERE: FILE?	<ul style="list-style-type: none">• COMELEC Law Department• Prosecutor's Office• COMELEC Division (for disqualification)
WHAT: PENALTIES?	<ul style="list-style-type: none">• Imprisonment (1 year < x < 6 years)• Disqualification to hold public office• Deprivation of right of suffrage• If candidate, disqualification/removal





(8) Contributions and Expenditures

A senatorial candidate nominated and supported by a registered political party spent P220M. There are 70M voters.

Is the candidate liable?

Rule: P5/voter for independent candidates while P3/voter for affiliated candidates

Maximum: $70M \times P3 = P210M$
(excess of P10M)

Defenses:

1. Spent prior to campaign period
2. Spent for lawyer, printing of sample ballots and photocopying of list of voters



(8) Contributions and Expenditures

Can a candidate be imprisoned for non-filing of the

Statement of Contributions and Expenditures (SOCE)?

Deadline: June 11, 2025 (30 days from Election Day)

Effects of Non-Filing:

1. Cannot assume position
2. Not an election offense
3. Not a ground to disqualify



(9) Election Day

1. What time will **polls open** and close on May 12, 2025?
2. Can a voter serve as **pollwatcher** anywhere?
3. A voter can vote again if **VVPAT** does not reflect votes?
4. Can **you** get a copy of an **Election Return**?
1. 5 – 7am | 7am – 7pm
2. No, Pollwatchers must be registered voters where assigned.
3. No, only objections are allowed.
4. Yes, if represent a dominant party (2), major political party (10) and local party (2).



(9) Canvassing to Proclamation

1. Does COMELEC **proclaim** **all** candidates?
2. Can a candidate file a **pre-proclamation** case assailing the **results**?
3. Can a losing candidate file and **annulment of proclamation** case and an **election protest** at the same time?
1. No, only Senators and Party-List
2. No, under an automated system. Only a pre-proclamation case pertaining to the Board of Canvassers is allowed.
3. No, a Protestant must admit to the legality of the proclamation.

You may now download this
Presentation from the website

-  www.albertocagra.com
-  09175353823
-  alberto agra
-  attyagra
-  alberto.c.agra@gmail.com

Thank you.



<http://ballotunboxed.com/subscribe>

