



Republic of the Philippines
COMMISSION ON ELECTIONS
Manila

**IN THE MATTER OF THE AMENDMENT
TO RULES 23, 24 AND 25 OF THE
COMELEC RULES OF PROCEDURE FOR
PURPOSES OF THE 13 MAY 2013
NATIONAL, LOCAL AND ARMM
ELECTIONS AND SUBSEQUENT
ELECTIONS.**

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*Chairman
Commissioner
Commissioner
Commissioner
Commissioner
Commissioner*

Promulgated: September 25, 2012

RESOLUTION NO. 9523

WHEREAS, Section 3 of Article IX-C of the 1987 Constitution provides that the Commission on Elections shall promulgate its rules of procedure in order to expedite the disposition of election cases, including pre-proclamation controversies.

WHEREAS, in order to fulfill the Commission's constitutional mandate of deciding election cases filed before it, there is an imperative need to reconstruct, reform and amend the present COMELEC Rules of Procedure, specifically Rules 23, 24, and 25 for purposes of the 13 May 2013 National, Local and ARMM Elections and subsequent elections.

WHEREAS, the reconstructed, reformed and amended Rules shall provide updated and simplified procedural guidelines for petitions to deny due course to or cancel certificate of candidacy, declare nuisance candidates and disqualify candidates.

WHEREAS, all other rules, resolutions or regulations of this Commission that are inconsistent with any provision of these Rules are hereby deemed repealed or modified accordingly.

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NOW THEREFORE, the Commission **RESOLVED,** as it is hereby **RESOLVES,** to amend Rules 23, 24, and 25 of the present COMELEC RULES OF PROCEDURE to read as follows:

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

Section 1. *Ground for Denial or Cancellation of Certificate of Candidacy.* — A verified Petition to Deny Due Course to or Cancel a Certificate of Candidacy for any elective office may be filed by any registered voter or a duly registered political party, organization, or coalition of political parties on the exclusive ground that any material representation contained therein as required by law is false.

A Petition to Deny Due Course to or Cancel Certificate of Candidacy invoking grounds other than those stated above or grounds for disqualification, or combining grounds for a separate remedy, shall be summarily dismissed.

Section 2. *Period to File Petition.* — The Petition must be filed within five (5) days from the last day for filing of certificate of candidacy; but not later than twenty five (25) days from the time of filing of the certificate of candidacy subject of the Petition. In case of a substitute candidate, the Petition must be filed within five (5) days from the time the substitute candidate filed his certificate of candidacy.

Section 3. *Where to file petition.* — The Petition herein mentioned shall be filed in the place where the certificate of candidacy subject of the Petition was filed or at the Office of the Clerk of the Commission.

In case the Petition is filed with the field officer, the field officer concerned shall instantly transmit ten copies (10) of the Petition together with the payment received and duplicate copy of the official receipt issued to the **Office of the Clerk of the Commission,** Commission on Elections in Manila.

Petitions filed through mail and/or not in accordance with the herein rules shall not be accepted or docketed. However, the petitioner may re-file the Petition in accordance with the herein rules before the lapse of the reglementary period provided for the filing of the Petition.

Section 4. *Procedure to be observed.* — Both parties shall observe the following procedure:

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1) The petitioner shall, before filing of the Petition, furnish a copy of the Petition, through personal service to the respondent. In cases where personal service is not feasible, or the respondent refuses to receive the Petition, or the respondents' whereabouts cannot be ascertained, the petitioner shall execute an affidavit stating the reason or circumstances therefor and resort to registered mail as a mode of service. The proof of service or the affidavit shall be attached to the Petition to be filed;

2) The Petition intended for the Commission shall be in eleven (11) copies. Upon receipt of the Petition, payment of the filing fee of P10,000.00 and legal research fee of P100.00 and official receipt, the Office of the Clerk of the Commission shall docket the Petition and assign to it a docket number, which must be consecutive according to the order of receipt, and must bear the year and prefixed as **SPA (DC)**;

3) The Petition shall contain the correct information as to the addresses, telephone numbers, facsimile numbers, and electronic mail of both parties and counsel, if known.

4) No Petition shall be docketed unless the requirements in the preceding paragraphs have been complied with;

5) Upon the proper filing and docketing of the Petition, the Clerk of the Commission shall, within three (3) days, issue summons with notice of conference through personal service, or in the event of impossibility or shortness of time, resort to telegram, facsimile, electronic mail, or through the fastest means of communication to the respondent and notice of conference to the petitioner;

6) Within a non-extendible period of five (5) days from receipt of summons, the respondent shall, personally or through his authorized representative, file his verified Answer to the Petition with the Office of the Clerk of the Commission in ten (10) legible copies, with proof of personal service of answer upon the petitioner. A motion to dismiss shall not be admitted, but grounds thereof may be raised as an affirmative defense. The failure of the respondent to file his verified Answer within the reglementary period shall bar the respondent from submitting controverting evidence or filing his memorandum.

7) The Clerk of the Commission or, in his/her absence, his/her duly authorized representative, shall preside during the conference. It shall be the

duty of the parties or their duly-designated counsel, possessing a written authority under oath, to appear during the conference. Should the petitioner or his authorized counsel fail to appear, the Petition shall be dismissed. Should respondent or his authorized counsel fail to appear, the Petition shall be deemed submitted for resolution. If the petitioner or respondent is not present during the conference, the failure of the counsel to produce a written authority under oath shall have the effect of non-appearance unless the counsel has previously filed a pleading bearing the conformity of his client. The following matters shall be taken up during the conference:

- (a) Production of a written authority under oath of counsel;
- (b) Comparison between the original and/or certified true copies and copies of documentary and real evidence; and
- (c) Setting of the period to file the parties' respective memorandum, which shall not be later than ten (10) days from the date of the conference.

8) Unless the Division or the Commission *En Banc* requires a clarificatory hearing, the case shall be deemed submitted for resolution upon the receipt of both parties' Memoranda or upon the expiration of the period to do so, whichever comes sooner.

9) The Memorandum of each party shall contain, in the above order herein indicated, the following:

- (a) A "**Statement of the Case**", which is a clear and concise statement of the nature of the action, a summary of the documentary evidence, and other matters necessary to an understanding of the nature of the controversy;
- (b) A "**Statement of the Issues**", which is a clear and concise statement of the issues;
- (c) The "**Argument**" which is a clear and concise presentation of the argument in support of each issue;

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- (d) The "**Objections to Evidence**", which states the party's objections to the real and documentary evidence of the other party and stating the legal grounds for such objection;
- (e) The "**Relief**" which is a specification of the judgment which the party seeks to obtain. The issues raised in his/its pleadings that are not included in the Memorandum shall be deemed waived or abandoned. The Commission may consider the memorandum alone in deciding or resolving the Petition, said memorandum being a summation of the parties' pleadings and documentary evidence; and
- (f) **Annexes** — which may consist of the real and documentary evidence, including affidavits of witnesses in lieu of oral testimony, in support of the statements or claims made in the Memorandum.

10) Prior to promulgation of a decision or resolution, a Division or the Commission *En Banc* may, in its discretion, call for a hearing in the event it deems it necessary to propound clarificatory questions on factual issues.

11) No other pleadings seeking affirmative relief shall be allowed. If after termination of the Conference, but prior to promulgation of a decision or resolution, a supervening event occurs that produces evidence that could materially affect the determination of the grant or denial of the Petition, a party may submit the same to the Division or Commission *En Banc*, where applicable, through a Manifestation.

Section 5. 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 only in cases involving barangay officials.

Section 6. Promulgation. — The promulgation of a decision or resolution of the Division or the Commission *En Banc* shall be made by filing or delivering a complete copy of the decision, resolution, order or ruling to the Clerk of the Commission concerned. J.

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The Clerk of the Commission shall provide the parties a copy of the Decision or Resolution of the Division or Commission *En Banc* only by personal service or registered mail.

Section 7. Motion for Reconsideration. — A motion to reconsider a Decision, Resolution, Order or Ruling of a Division shall be filed within five (5) days from receipt thereof and upon the payment of filing fee in the amount of P1,000.00. Such motion, if not pro-forma, suspends the execution for implementation of the Decision, Resolution, Order and Ruling. The movant shall be required to furnish a copy of his motion for reconsideration to the adverse party prior to filing the same with the Office of the Clerk of Commission.

Within forty-eight (48) hours from the filing thereof, the Clerk of the Commission shall notify the Presiding Commissioner. The latter shall within two (2) days thereafter certify the case to the Commission *En Banc*.

The Clerk of the Commission shall calendar the Motion for Reconsideration for the resolution of the Commission *En Banc* within three (3) days from the certification thereof without need of comment from the adverse party.

Section 8. Effect if Petition Unresolved. — If a Petition to Deny Due Course to or Cancel a Certificate of Candidacy is unresolved by final judgment on the day of elections, the petitioner may file a motion with the Division or Commission *En Banc*, as may be applicable, to suspend the proclamation of the candidate concerned, provided that the evidence for the grounds for denial to or cancel certificate of candidacy is strong. For this purpose, at least three (3) days prior to any election, the Clerk of the Commission shall prepare a list of pending cases and furnish all Commissioners copies of the said list.

A Decision or Resolution is deemed final and executory if, in case of a Division ruling, no motion for reconsideration is filed within the reglementary period, or in cases of rulings of the Commission *En Banc*, no restraining order is issued by the Supreme Court within five (5) days from receipt of the decision or resolution.

Section 9. Effect of Granting of Petition. — In the event a Petition to Deny Due Course to or Cancel a Certificate of Candidacy is granted by final judgment as defined in the immediately preceding section, the votes cast for the

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candidate whose certificate of candidacy has been cancelled or denied due course shall be deemed as stray votes.

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.

Section 2. Who May File Petition to Declare a Candidate as Nuisance Candidate. — Any registered candidate for the same position may file a verified Petition to declare a candidate as a nuisance candidate.

Section 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. In case of a substitute candidate, the Petition must be filed within five (5) days from the time the substitute candidate filed his certificate of candidacy.

Section 4. Motu Proprio Cases. — The Commission may, at any time before the election, *motu proprio*, declare a candidate as a nuisance candidate subject to an opportunity to be heard.

Section 5. Applicability of Rule 23. — Except for *motu proprio* cases, Sections 3, 4, 5, 6, 7, 8 and 9 of Rule 23 shall apply in proceedings against nuisance candidates.

Rule 25 - Disqualification of Candidates

Section 1. Grounds. — Any candidate who, in an action or protest in which he is a party, is declared by final decision of a competent court, guilty of, or found by the Commission to be suffering from any disqualification provided by law or the Constitution. d.

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A Petition to Disqualify a Candidate invoking grounds for a Petition to Deny to or Cancel a Certificate of Candidacy or Petition to Declare a Candidate as a Nuisance Candidate, or a combination thereof, shall be summarily dismissed.

Section 2. *Who May File Petition for Disqualification.* — Any registered voter or any duly registered political party, organization or coalition of political parties may file a verified Petition to disqualify a candidate.

Section 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.

Section 4. *Applicability of Rule 23.* — Except in *motu proprio* cases, Sections 3, 4, 5, 6, 7 and 8 of Rule 23 shall apply in proceedings to disqualify a candidate.

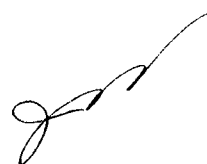
Section 5. *Effect of Petition if Unresolved Before Completion of Canvass.* — If a Petition for Disqualification is unresolved by final judgment on the day of elections, the petitioner may file a motion with the Division or Commission *En Banc* where the case is pending, to suspend the proclamation of the candidate concerned, provided that the evidence for the grounds to disqualify is strong. For this purpose, at least three (3) days prior to any election, the Clerk of the Commission shall prepare a list of pending cases and furnish all Commissioners copies of said the list.

In the event that a candidate with an existing and pending Petition to disqualify is proclaimed winner, the Commission shall continue to resolve the said Petition.

Section 6. *Effect of Granting of Petition.* — In the event a Petition to disqualify a candidate is granted by final judgment as defined under Section 8 of Rule 23 and the disqualified candidate obtains the highest number of votes, the candidate with the second highest number of votes cannot be proclaimed and the rule of succession, if allowed by law, shall be observed. In the event the rule of succession is not allowed, a vacancy shall exist for such position."

RESOLVES FURTHER, that this Resolution shall take effect on the seventh (7th) day after its publication in two (2) daily newspapers of general circulation in the Philippines;

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RESOLVES FURTHER, that the Education and Information Department shall cause the publication of this Resolution in two (2) daily newspapers of general circulation in the Philippines and give the same the widest dissemination possible.

RESOLVES FURTHER, that the Clerk of the Commission shall implement this Resolution.

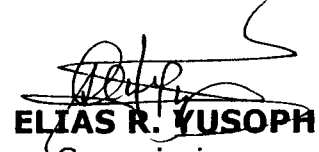
SO ORDERED.


SIXTO S. BRILLANTES, JR.
COO0012675
Chairman


RENE V. SARMIENTO
Commissioner


LUCENITO N. TAGLE
Commissioner


ARMANDO C. VELASCO
Commissioner


ELIAS R. YUSOPH
Commissioner


CHRISTIAN ROBERT S. LIM
Commissioner

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