



Republic of the Philippines
Supreme Court
Manila

A.M. No. 10-4-29-SC

**THE 2010 RULES
of the
PRESIDENTIAL ELECTORAL TRIBUNAL**

MANILA, PHILIPPINES
MAY 2010



Republic of the Philippines
Supreme Court
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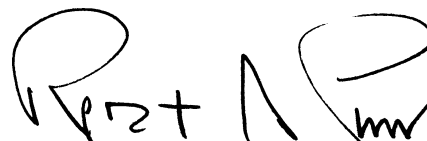
A.M. No. 10-4-29-SC

**THE 2010 RULES OF THE
PRESIDENTIAL ELECTORAL TRIBUNAL
RESOLUTION**

Acting on the recommendation of the Sub-committee on The Internal Rules of the Supreme Court submitting for this Court's consideration and approval the proposed 2010 Rules of the Presidential Electoral Tribunal, the Court Resolved to APPROVE the same.

These Rules shall take effect after publication in a newspaper of general circulation in the Philippines.

May 4, 2010.


REYNATO S. PUNO
Chief Justice



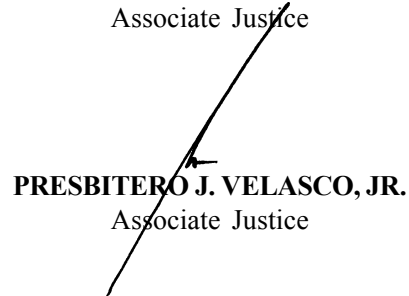
ANTONIO T. CARPIO
Associate Justice



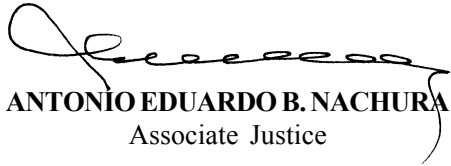
RENATO C. CORONA
Associate Justice




CONCHITA CARPIO MORALES
Associate Justice



PRESBITERO J. VELASCO, JR.
Associate Justice



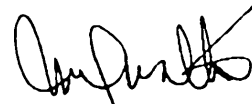
ANTONIO EDUARDO B. NACHURA
Associate Justice



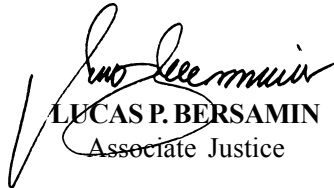
TERESITA J. LEONARDO-DE CASTRO
Associate Justice



ARTURO D. BRION
Associate Justice



DIOSDADO M. PERALTA
Associate Justice



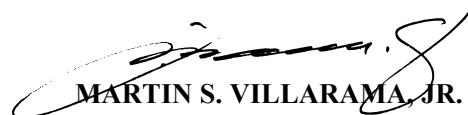
LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



ROBERTO A. ABAD
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice

THE 2010 RULES
of the
PRESIDENTIAL ELECTORAL TRIBUNAL

TITLE AND CONSTRUCTION

RULE 1. Title. – These Rules shall be known and cited as *The 2010 Rules of the Presidential Electoral Tribunal*. (R1a)

RULE 2. Definition of Terms. – When used in these Rules, the following terms shall mean:

a) Tribunal - the Presidential Electoral Tribunal, sitting *en banc* or in Divisions;

b) Automated Election System or AES - an election system using appropriate technology in voting, counting, consolidating, canvassing, transmitting election results, and other electoral processes;

c) Precinct Count Optical Scan or PCOS - a technology using an optical ballot scanner, located in every precinct, that scans or reads paper ballots that voters mark by hand and are inserted in the scanner to be counted;

d) Official ballot - the paper ballot with the pre-printed names of all candidates and with ovals corresponding to each of the names printed. The ovals are the spaces where voters express their choice by shading with a marking pen;

e) Picture image of the ballot - the image of the ballot that the PCOS machine captures at the time the voter feeds the ballot into it, which image is stored in a memory or removable data storage device attached to the PCOS machines;

f) Election Returns - the document showing the date of the election, the province, city, municipality and the precinct in which it is held, and the votes in figures for each candidate in a precinct or clustered precincts;

g) Electronic Election Returns - copies of the election returns in electronic form generated by the PCOS machine and electronically transmitted to the Municipal or City Board of Canvassers for the official canvass, to the COMELEC Back-Up Server, and to the Server for the dominant majority and dominant minority parties, the citizens' arm authorized by the COMELEC to conduct a parallel count, and the Kapisanan ng mga Brodkasters sa Pilipinas or KBP;

h) Printed Election Returns - copies of the election returns printed by the PCOS machine on paper and authenticated by the manual signatures and thumbmarks of the members of the Board of Election Inspectors (BEI);

i) Electronic transmission - the act of conveying data in electronic form from one location to another;

j) Canvass proceedings - the consolidation of precinct election results for the Offices of the President and Vice President at the municipal, city, or district level; district election results at the municipal or city level; municipal or city election results at the provincial level; and provincial election results at the national level, specifically Congress, including the formal proclamation of the winners in the elections;

k) Consolidation Machine - the machine used at the canvass proceedings to consolidate precinct results, municipal and city results, or provincial results for purposes of getting the total votes of all candidates for the Offices of the President and Vice President;

l) Statement of Votes by Precinct, Municipality, City, District, Province, or Overseas Absentee Voting (OAV) Station - a document in electronic and in printed form generated by the canvassing or consolidating machines or computers during the canvass proceedings of the votes obtained by the candidates for the Offices of the President and Vice President in each precinct, municipality, city, district, province, or OAV Station;

m) City, municipal, district, or provincial certificate of canvass - a document in electronic and in printed form containing the total votes in figures obtained by each candidate for the Offices of the President and Vice President in a city, municipality, district, or province, the electronic form of which is the official canvass result and is the result electronically transmitted to Congress;

n) Certificate of Canvass and Proclamation - the official printed document that contains the names of the candidates for the Offices of the President and Vice President who obtain the highest number of votes and certifies to their proclamation as winners;

o) Data storage device - the device where electronic documents are stored and from which such documents may be obtained when necessary to verify the accuracy and correctness of election data; it includes the back-up storage device in which authentic electronic copies of the data are also stored;

p) Audit log - the document that contains the list of all activities performed by the PCOS machines from the time it was switched on until the time it was turned off; and

q) Electronic document - information or the representation of information, data, figures, symbols, or other modes of written expression, described or however represented, by which a fact may be proved and affirmed, which is received, recorded, transmitted, stored, processed, retrieved, or produced electronically and includes digitally signed documents and any print-out or output, readable by sight or other means, which accurately reflects the electronic document.

For purposes of these Rules, electronic documents refer to either the picture image of the ballots and electronic copies of the election returns, of statements of votes, of certificates of canvass, and of the other electronic data relative to the processing done by the PCOS machines and the various consolidation machines. (n)

RULE 3. Construction. – These Rules shall be liberally construed to achieve a just, expeditious, and inexpensive determination and disposition of every contest before the Tribunal. (R2)

THE TRIBUNAL

RULE 4. *Meeting, quorum and Divisions.* – The Presidential Electoral Tribunal shall meet on such days and hours as it may designate at the call of the Chairman or of a majority of its Members. The presence of the majority of the Members shall be necessary to constitute a quorum. In the absence of the Chairman, the next senior Member shall preside.

In the absence of a quorum, the Members present, who shall not be less than five, may constitute themselves into an executive body whose actions shall be subject to confirmation by the Tribunal at its next regular meeting.

The Tribunal may constitute itself into Divisions for the purpose of allocating and distributing its workload. Each Division shall act on such matters as may be assigned to it by the Tribunal. (R3)

RULE 5. *Place of meetings.* – The Tribunal or its Divisions shall meet in the Session Hall of the Supreme Court or at such other place as may be designated. (R4)

RULE 6. *Control and supervision.* – The Tribunal shall have exclusive control and supervision of all matters pertaining to its operation. (R5)

RULE 7. *Express and implied powers.* – The Tribunal shall exercise all powers expressly vested in it by the Constitution or by law, and such other powers as may be inherent, necessary or incidental thereto for the accomplishment of its purposes and functions. (R6)

RULE 8. *Inherent powers.* – The Tribunal shall have the following inherent powers:

- (a) Preserve and enforce order in proceedings before it or before any of its Divisions or officials acting under its authority;
- (b) Administer or cause to be administered oaths in any contest before it, and in any other matter where it may be necessary in the exercise of its powers;

- (c) Compel the attendance of witnesses and the production of evidence in any contest before it;
- (d) Compel obedience to its decisions, resolutions, orders and processes;
- (e) Control its processes and amend its decisions, resolutions or orders to make them conformable to law and justice;
- (f) Authorize a copy of a lost or destroyed pleading or other paper to be filed and used instead of the original copy thereof, and to restore and supply deficiencies in its records and proceedings; and
- (g) Promulgate its own rules of procedure and amend or revise the same. (R7)

RULE 9. *Powers and duties of the Chairman.* – The Chairman shall have the following powers:

- (a) Issue calls for the sessions of the Tribunal;
- (b) Preside at the sessions of the Tribunal;
- (c) Preserve order and decorum during the sessions and for that purpose take such steps as may be convenient or as the Tribunal may direct;
- (d) Enforce the decisions, resolutions and orders of the Tribunal;
- (e) With the concurrence of the Tribunal and in accordance with the provisions of the Civil Service Law, appoint the employees of the Tribunal and impose disciplinary sanctions on them, including dismissal from the service. The confidential employees of every Member shall serve at his pleasure and in no case beyond his own term;
- (f) Exercise administrative supervision over the personnel of the Tribunal, including the Office of the Clerk of the Tribunal; and
- (g) Perform such other functions and acts as may be necessary or appropriate to ensure the efficiency of the Tribunal. (R8)

RULE 10. *Administrative Staff of the Tribunal.* – The Tribunal shall have a Clerk and a Deputy Clerk. Unless the Tribunal provides

otherwise, the administrative staff of the Tribunal shall be composed of the following:

- (a) Canvass Board Division
- (b) Legal Division
- (c) Information Systems and Judicial Records Management Division
- (d) Personnel Division
- (e) Finance and Budget Division
- (f) Accounting Division
- (g) Cash Division. (R9)

RULE 11. *The Clerk of the Tribunal.* – The Tribunal may designate the Clerk of the Supreme Court as the Clerk of the Tribunal who shall perform the following duties:

- (a) Receive all pleadings and other documents properly presented, indicating on each document the date and time of its filing, and furnishing each Member a copy;
- (b) Keep a separate docket wherein shall be entered in chronological order election contests, *quo warranto* cases and proceedings had therein;
- (c) Attend meetings or sessions of the Tribunal and keep minutes of the meetings or sessions which shall be a clear and succinct account of all its proceedings;
- (d) Certify under the Seal of the Tribunal its decisions, resolutions, orders and notices;
- (e) Keep a judgment book containing a copy of each decision, final order or resolution rendered by the Tribunal in the order of their dates, and a Book of Entries of Judgment containing in chronological order entries of the dispositive portions of all decisions, final orders or resolutions of the Tribunal;
- (f) Implement the decisions, resolutions, orders and processes issued by the Tribunal;
- (g) Keep and secure all scanned ballots stored in their ballot boxes, the minutes of voting and counting of votes, the printed election returns, the statements of votes (SOVs),

the certificates of canvass (COCs), the certificate of canvass and proclamation (COCP) and other documents used in the counting, canvassing, and consolidation of votes as well as their equivalent electronic documents saved and stored in accordance with the election rules;

- (h) Keep an inventory and have the custody of the Seal and other public property belonging to or assigned for the use of the Tribunal;
- (i) Keep an account of the funds set aside for the expenses of the Tribunal, as well as the funds received and disbursed relative to the cases; and
- (j) Keep such other books and perform such other duties as are prescribed by law for the Clerk of the Supreme Court or as the Tribunal may direct.

The Deputy Clerk shall assist the Clerk of the Tribunal and shall perform such other duties and functions as may be assigned to him by the latter. (R10)

RULE 12. *The Seal.* – The Seal of the Tribunal shall be circular in shape and shall contain in the upper part the words “Presidential Electoral Tribunal,” in the center the coat of arms of the Government of the Philippines and at the base the name “Republic of the Philippines.”

The Seal of the Tribunal shall be affixed to all decisions, rulings, resolutions, orders or notices of the Tribunal, certified copies of official records and such other documents which the Tribunal may require to be sealed. (R11)

ELECTION CONTESTS

RULE 13. *Jurisdiction.* – The Tribunal shall be the sole judge of all contests relating to the election, returns, and qualifications of the President or Vice-President of the Philippines. (R12)

RULE 14. *How initiated.* – An election contest is initiated by the filing of an election protest or a petition for *quo warranto* against the President or Vice-President. An election protest shall not include

a petition for *quo warranto*. A petition for *quo warranto* shall not include an election protest. (R13)

RULE 15. Election protest. – The registered candidate for President or Vice-President of the Philippines who received the second or third highest number of votes may contest the election of the President or Vice-President, as the case may be, by filing a verified election protest with the Clerk of the Presidential Electoral Tribunal within thirty days after the proclamation of the winner. (R14)

RULE 16. Quo warranto. – A verified petition for *quo warranto* contesting the election of the President or Vice-President on the ground of ineligibility or disloyalty to the Republic of the Philippines may be filed by any registered voter who has voted in the election concerned within ten days after the proclamation of the winner. (R16)

RULE 17. Contents of the protest or petition. – (A) An election protest or petition for *quo warranto* shall commonly state the following facts:

- (a) the position involved;
 - (b) the date of proclamation; and
 - (c) the number of votes credited to the parties *per* the proclamation.
- (B) A *quo warranto* petition shall also state:
- (a) the facts giving the petitioner standing to file the petition;
 - (b) the legal requirements for the office and the disqualifications prescribed by law;
 - (c) the protestee's ground for ineligibility or the specific acts of disloyalty to the Republic of the Philippines.
- (C) An election protest shall also state:
- (a) that the protestant was a candidate who had duly filed a certificate of candidacy and had been voted for the same office.
 - (b) the total number of precincts of the region, province, or city concerned;

- (c) the protested precincts and votes of the parties to the protest in such precincts per the Statement of Votes By Precinct or, if the votes of the parties are not specified, an explanation why the votes are not specified; and
- (d) a detailed specification of the acts or omissions complained of showing the electoral frauds, anomalies, or irregularities in the protested precincts. (n)

RULE 18. *Extensions of time.* – The periods provided in Rules 15 and 16 above are jurisdictional and cannot be extended. (R17a)

RULE 19. *Damages.* – Actual or compensatory, moral and exemplary damages as provided by law may be claimed in election protests or *quo warranto* proceedings when warranted. (R18)

RULE 20. *Petitions to be filed with the Tribunal.* – Election protests and petitions for *quo warranto* may be filed with the Office of the Clerk of the Tribunal in eighteen legible copies. The Clerk shall indicate on the petition the date and hour of receipt. (R19)

RULE 21. *Summary dismissal of election contest.* – An election protest or petition for *quo warranto* may be summarily dismissed by the Tribunal without requiring the protestee or respondent to answer if, *inter alia*:

- (a) the protest or petition is insufficient in form and substance;
- (b) the protest or petition is filed beyond the periods provided in Rules 15 and 16;
- (c) the filing fee is not paid within the periods provided for in these Rules;
- (d) the cash deposit or the first Two Hundred Thousand Pesos (₱ 200,000.00) is not paid within ten days after the filing of the protest; and
- (e) the protest or petition or copies and their annexes filed with the Tribunal are not clearly legible. (R20a)

SUMMONS, ANSWERS AND COUNTER-PROTESTS

RULE 22. *Summons.* – If the election protest or the petition for *quo warranto* is not summarily dismissed in accordance with the

immediately preceding Rule, the Clerk of the Tribunal shall issue the corresponding summons to the protestee or respondent together with a copy of the protest or petition requiring him to file an answer within ten days from receipt of the summons. (R21)

RULE 23. *Answer.* – The answer shall be verified and may set forth special and affirmative defenses. The protestee or respondent may incorporate in his answer a counter-protest or counterclaim which shall be filed with the Clerk of the Tribunal. The answer must be filed within ten days from receipt of summons in eighteen clearly legible copies with proof of service of a copy upon the protestant or petitioner. (R22)

RULE 24. *Counter-protest.* – A counter-protest must be verified and filed within ten days from receipt of the summons and the protest. The counter-protestee shall answer the counter-protest within ten days from receipt of a copy thereof. (R23)

RULE 25. *Motion to dismiss.* – No motion to dismiss shall be entertained. Instead, any ground for a motion to dismiss may be pleaded as an affirmative defense in the answer to the protest or counter-protest or petition for *quo warranto*. In the exercise of its discretion, the Tribunal may hold a preliminary hearing on such ground. (R24)

RULE 26. *Extensions of time.* – No motion for extension of time to file an answer or a separate counter-protest may be granted except for compelling reasons and only for a period not exceeding ten days. (R25)

RULE 27. *Failure to answer; effect.* – If no answer is filed to the protest, counter-protest or the petition for *quo warranto* within the period fixed in these Rules, a general denial shall be deemed to have been entered. (R26)

RULE 28. *Amendments, limitations.* – After the expiration of the period for filing of the protest, counter-protest or petition for *quo warranto*, no substantial amendments which broaden the scope of the action or introduce an additional cause of action shall be

allowed. An amendment involving form may be admitted at any stage of the proceedings.

After the period for receiving the evidence has commenced, no amendment to the pleadings affecting the merits of the case shall be granted except for justifiable reasons.

When the Tribunal admits an amended protest, counter-protest or petition, it may require the other party to answer the same within ten days from service of a copy of such amended protest, counter-protest or petition and of the resolution admitting the same. (R27)

RULE 29. Preliminary conference. –

(a) *Purpose.* – After the filing of the last pleading, the Tribunal shall order a preliminary conference to consider:

- (1) the possibility of obtaining stipulations or admissions of facts and documents to avoid unnecessary proof;
- (2) the simplification of the issues;
- (3) the limitation of the number of witnesses;
- (4) the most expeditious manner for the retrieval of ballot boxes containing the ballots, election returns, certificates of canvass and other election documents involved in the election protest; and
- (5) such other matters as may aid in the prompt disposition of the election protest or petition for *quo warranto*.

(b) *Preliminary conference brief.* – The parties shall file with the Tribunal and serve on the adverse party a preliminary conference brief at least five days before the date of the preliminary conference, which shall contain:

- (1) stipulations or admissions of facts and documents;
- (2) the issues to be resolved;
- (3) the numbers and names of witnesses, and the nature and substance of their respective testimonies;
- (4) the list of not more than three provinces which the parties may designate pursuant to Rule 65; and
- (5) the proposal on the prompt disposition of the case.

(c) *Preliminary conference order.* – The Tribunal shall issue an order reciting the matters taken up during the preliminary conference and the action thereon. (R28)

RULE 30. *Other pleadings; how filed.* – Except for the original election protest or petition for *quo warranto* which the Tribunal itself serves on the adverse party, together with the summons, all other pleadings shall be filed with the Office of the Clerk of the Tribunal in eighteen clearly legible copies and must be accompanied with proof of service of a complete copy upon the adverse party or parties.

No action shall be taken on pleadings that fail to comply with this Rule. (R29)

RULE 31. *Proof of service.* – Proof of personal service shall consist of a written admission of the party served or the affidavit of the party serving, containing a full statement of the date, place and manner of service. If service is made by registered mail, proof shall be made by affidavit of the sender and the registry receipt issued by the mailing office. The registry return card shall be filed with the Tribunal immediately upon receipt by the sender or, in lieu thereof, the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee, as the case may be. A resort to modes other than personal service must be accompanied by a written explanation why the service or filing was not done personally. (R30)

FILING FEES, CHARGES AND DEPOSITS

RULE 32. *Filing fees.* – No protest, counter-protest or petition for *quo warranto* shall be deemed filed without the payment to the Tribunal of the filing fee in the amount of One Hundred Thousand Pesos (P 100,000.00).

If a claim for damages or attorney's fees is set forth in a protest, counter-protest or petition for *quo warranto*, an additional filing fee shall be paid, which shall be, if the sum claimed is:

(1) Not more than P20,000 P 240.00

- (2) More than P20,000 but less than P40,000 P 300.00
 - (3) P40,000 or more but less than P60,000 P 400.00
 - (4) P60,000 or more but less than P80,000 P 500.00
 - (5) P80,000 or more but less than P100,000 P 800.00
 - (6) P100,000 or more but less than P150,000..... P1,200.00
 - (7) For each P1,000 in excess of P150,000..... P 100.00
- (R31a)

RULE 33. *Cash deposit.* – In addition to the fees mentioned above, each protestant or counter-protestant shall make a cash deposit with the Tribunal in the following amounts:

(a) If the protest or counter-protest does not require the bringing to the Tribunal of ballot boxes and other election documents and paraphernalia, Twenty Thousand Pesos (P20,000.00);

(b) If the protest or counter-protest requires the bringing of ballot boxes and election documents or paraphernalia, Five Hundred (P500) Pesos for each precinct involved. If the amount of the deposit does not exceed Two Hundred Thousand Pesos (P200,000.00), the same shall be made in full with the Tribunal within ten days after the filing of the protest or counter-protest; and

(c) If the amount of the deposit exceeds Two Hundred Thousand Pesos (P200,000.00), a partial deposit of at least Two Hundred Thousand Pesos (P200,000.00) shall be made within ten days after the filing of the protest or counter-protest. The balance shall be paid in such installments as may be required by the Tribunal on at least five days advance notice to the party required to make the deposit.

The cash deposit shall be applied by the Tribunal to the payment of all expenses incidental to the bringing of the ballot boxes and election documents or paraphernalia to the Tribunal and returning them after the case is terminated, and to the compensation of the members of the revision committees. When the Tribunal determines that the circumstances demand, it may require additional cash deposits. Any unused cash deposit shall be returned to the protestant or counter-protestant after complete termination of the protest or counter-protest. (R32a)

RULE 34. *Effect of failure to make cash deposit.* – If a party fails to make the cash deposits or additional deposits herein required within the prescribed time limit, the Tribunal may dismiss the protest or counter-protest, or take such action as it may deem equitable under the circumstances. (R33)

RULE 35. *Other legal fees.* – The following legal fees shall be charged and collected:

- (a) For furnishing certified transcripts of records or copies of any decision, resolution, record or entry of which any person is entitled to demand and receive a copy, for each page P20.00
The Certification is charged separately in the amount of P 200.00
 - (b) For furnishing certified transcripts of notes taken by stenographers to every person requesting the same for each page of not less than two hundred and fifty words P 20.00
 - (c) For every search for anything above a year's standing and reading the same P 200.00
 - (d) For every certificate not on process P 100.00
- (R34a)

**PRODUCTION AND CUSTODY OF BALLOT
BOXES, ELECTION DOCUMENTS, DATA
STORAGE DEVICES, AND MACHINES
USED IN ELECTIONS**

RULE 36. *Issuance of precautionary protection order.* – Where the allegations in a protest so warrant, the Tribunal shall, simultaneous with the issuance of summons, order the municipal treasurer and election officer, and the responsible personnel and custodian to take immediate steps or measures to safeguard the integrity of all the ballot boxes and their contents, lists of voters with voting records, books of voters and other documents or paraphernalia used in the election, as well as data storage devices containing electronic data evidencing the conduct and the results of elections in the contested precincts. (n)

RULE 37. *When ballot boxes and election documents are brought before the Tribunal.* – (a) Within forty-eight hours from receipt of the answer with counter-protest, if any, the Tribunal shall, when the allegations in a protest or counter-protest warrants, order the ballot boxes and their contents with their keys, lists of voters with voting records, books of voters, the electronic data storage devices, and other documents, paraphernalia, or equipments relative to the precincts involved in the protest or counter-protest, to be brought before it. (R35a)

(b) The Tribunal shall notify the parties of the date and time for the retrieval of the above-named items from their respective custodians. The parties may send representatives to witness the same. The absence, however, of a representative of a party shall not be reason to postpone or delay the bringing of the ballot boxes, election documents, and data storage devices, into the custody of the Tribunal. (n)

(c) The Tribunal may, in its discretion, seek the assistance of the Philippine National Police or the Armed Forces of the Philippines in ensuring the safe delivery of the ballot boxes and election paraphernalia into the custody of the Tribunal. (n)

(d) Where any of the ballot boxes, ballots, election returns, election documents or paraphernalia mentioned in the first paragraph above are also involved in election contests before other *fora*, such as the Senate Electoral Tribunal or the House of Representatives Electoral Tribunal, the Tribunal shall have preferential right over the custody and revision of ballots involved in simultaneous protests. The Tribunal shall, however, make the appropriate coordination and request with the other electoral bodies involved as to temporary prior custody of ballot boxes and revision of ballots and other documents and storage devices, or the synchronization of such recount of ballots. (R35a)

(e) The expenses necessary and incidental to the bringing of the ballot boxes, election documents, and devices shall be shouldered and promptly paid by the protestant and the counter-protestant, if any, in proportion to the precincts involved. The expenses necessary

and incidental to the return of the ballot boxes, election documents, and storage devices to their original custodians or the proper electoral bodies after the termination of the case shall be shared proportionately by the protestant and protestee based on the number of precincts respectively contested by them. (R36a)

REVISION OF VOTES

RULE 38. *Start of revision.* – The revision of votes shall commence on the date specified in the preliminary conference order, unless rescheduled by the Tribunal. (n)

RULE 39. *Revision Committees; under the Tribunal's supervision.*
– (a) The Tribunal shall constitute such number of Revision Committees (RC) as may be necessary. The Tribunal's Clerk of Court shall submit a list of such committees to the Chairman of the Tribunal for his approval. (R37a)

(b) Each RC shall be composed of a Coordinator who shall be a lawyer of the Tribunal, a recorder, a clerk, a typist and a ballot box custodian and one representative each from the protestant and the protestee. The Chairman of the Tribunal shall designate the RC Coordinators from among its personnel. The parties shall also designate their respective alternative representatives. (R37a)

(c) The RCs shall conduct the revision of votes in the Tribunal's premises or at such other places as it may designate but in every case under its strict supervision. The members of the RCs shall discharge their duties with the highest degree of integrity, conducting the proceedings with the same dignity and discipline as if undertaken by the Tribunal itself. They shall exercise extraordinary diligence and take precautionary measures to prevent the loss, disappearance or impairment of the integrity of the ballots and the other election documents, whether electronic or printed, and other election paraphernalia. (n)

RULE 40. *Compensation of the members of the RCs.* – The Tribunal shall fix the compensation of the members of the RCs, including the fees for supplies and materials at One Thousand Five

Hundred Pesos (P1,500) per clustered precinct and shall be distributed as follows:

a. Chairman	P540.00
b. Recorder	P240.00
c. Ballot Box Custodian	P240.00
d. Typist	P240.00
e. Supplies/materials	P184.00

The amount of P6.00 shall also be allocated for storage of the election paraphernalia and P50.00 for the honoraria of the warehouse handlers. The representatives of the parties shall be directly compensated by their respective principals or by parties themselves. (n)

RULE 41. *Continuous revision.* – Once commenced, the revision of votes shall continue from day to day as far as practicable until terminated.

(a) *Period for revision.* – The revision shall be conducted from 8:30 o'clock in the morning to 12:00 noon and from 1:30 to 4:30 o'clock in the afternoon from Monday to Friday, except on non-working holidays. The members of the RCs may take a fifteen-minute break in each session. (n)

(b) *Revision to continue even if a party representative is absent or late.* – The revision of votes shall not be delayed or postponed by reason of the absence or tardiness of a party representative as long as the RC Coordinator and one party representative are present. The Chairman of the Tribunal may at any time designate another Coordinator if the regular Coordinator fails for any reason to report. (n)

(c) *If the representative of the protestee is absent or late.* – If the representative of the protestee is absent or late for thirty minutes and no alternate appears as a substitute, the revision shall, nevertheless, commence; the protestee shall be deemed to have waived the right to appear and to object to the ballots in the precinct or precincts scheduled for revision on that particular day. (n)

(d) *If the representative of protestant or counter-protestant, or of both parties fail to appear.* – If the representative of the protestant, or of both parties and alternates fail to appear for no justifiable reason within one hour after fixed hours from the start of the revision, the ballot boxes scheduled for that day, and the corresponding keys in the possession of the chairperson, shall be returned to the ballot box custodian of the Tribunal and shall no longer be revised; it is understood that the parties waive their right to revise the same, and the RC Coordinator concerned shall state such facts in the corresponding RC report. (n)

RULE 42. *Prohibited access.* – During the revision of votes, no person other than the Members of the Tribunal, the clerk of the Commission, the RC Coordinators, and the members of the RCs, the parties and their duly authorized representatives, shall have access to the revision area. (n)

RULE 43. *Conduct of the revision.* – The revision of votes shall be done through the use of appropriate PCOS machines or manually and visually, as the Tribunal may determine, and according to the following procedures:

- (a) The date and place of the revision and the number of the RCs shall be set during the preliminary conference. (n)
- (b) The RCs shall convene at the appointed place and on the appointed day. (n)
- (c) The ballot boxes containing the ballots from the protested precincts, the data storage device used in such precincts, as well as the machine or any device that can be used to authenticate or assure the genuineness of the ballots shall be brought to the venue of the revision on the same day. (n)
- (d) The different RCs shall be provided with an adequate workspace, with tables and chairs that would enable them to perform the revision in an efficient and transparent manner. (n)
- (e) The RCs shall, upon the request in writing of the parties, randomly pick the precinct that would be the subject of the revision. (n)

- (f) Before opening the ballot box, the RCs shall note its condition as well as that of the locks or locking mechanism and record the condition in the revision report. From its observation, the RCs must also make a determination as to whether the integrity of the ballot box has been preserved. (R40a)
- (g) The ballot box shall then be opened and the ballots shall be taken out. The “valid” ballots shall first be counted, without regard to the votes obtained by the parties. This will be followed by the counting of the torn, unused and stray ballots, as classified at the polling place. (n)
- (h) The votes appearing in election returns copy for the ballot box shall then be recorded in the minutes. (n)
- (i) Prior to the actual conduct of the revision of the votes the RC must authenticate each and every ballot to make sure that they were the same ballots that were cast and fed to the PCOS machine during the elections. The authentication shall be through the use of the PCOS machine actually used during the elections in the subject precinct, or by another device certified by the Commission on Elections (COMELEC) as one that can perform the desired authentication requirement through the use of bar code and ultra-violet ray code detection mechanism. (n)
- (j) Only when the RC, through its coordinator, determines that the integrity of the ballots has been preserved, will the revision proceed. (n)
- (k) Upon such determination, the RC shall then look at the ballot and count the votes as registered in each and every one of them for the contested position. (n)
- (l) In looking at the shades or marks used to register votes, the RC shall bear in mind that the will of the voters reflected as votes in the ballots shall as much as possible be given effect, setting aside any technicalities. Furthermore, the votes thereon are presumed to have been made by the voter and shall be considered as such unless reasons exist that will justify their rejection. However, marks or shades which are less than 50% of the oval shall not be considered

as valid votes. Any issue as to whether a certain mark or shade is within the threshold shall be determined by feeding the ballot on the PCOS machine, and not by human determination. (n)

- (m) The rules on appreciation of ballots under Section 211 of the Omnibus Election Code shall apply suppletorily when appropriate. (n)
- (n) There shall be a tally sheet, when conducting a manual count, of at least 5 copies, plus additional copies depending on the number of additional parties, that will be used for the tallying of the votes as they are counted, through the use of the tara or sticks. (n)
- (o) After all the ballots from one ballot box have been counted, the RC shall secure the contested ballots and complete the revision report for said precinct. Thereafter, it shall proceed to revise the votes on the ballots from the next precinct. (n)
- (p) In case of multiple RCs, the revision shall be done simultaneously.
- (q) In the event that the RC determines that the integrity of the ballots and the ballot box was not preserved, as when there is proof of tampering or substitution, it shall proceed to instruct the printing of the picture image of the ballots of the subject precinct stored in the data storage device for the same precinct. The Tribunal may avail itself of the assistance of the COMELEC for the service of a non-partisan technical person who shall conduct the necessary authentication process to ensure that the data or images stored are genuine and not merely substitutes. It is only upon such determination that the printed picture image can be used for the revision of votes. (n)

RULE 44. *Preparation and submission of revision report.* – The RCs shall prepare and submit to the Tribunal a revision report per precinct stating the following:

- (a) The precinct number;
- (b) The date, place and time of revision;

- (c) The condition and serial numbers of the following:
 - (1) Ballot boxes;
 - (2) Locks; and
 - (3) Data storage device;
- (d) The votes of the parties per physical count of the paper ballots;
- (e) The votes of the parties per ballot-box copy of the election returns;
- (f) The number of ballots questioned by the parties indicating their exhibit numbers;
- (g) The number of torn, unused, and stray ballots;
- (h) The entries in the Minutes of Voting and Counting, particularly:
 - (1) The number of registered voters;
 - (2) The number of voters who actually voted;
 - (3) The number of official ballots together with their serial numbers used in the election;
 - (4) The number of ballots actually used indicating the serial numbers of the ballots; and
 - (5) The unused ballots together with their serial numbers.

The revision forms shall be made available prior to the revision. The per-precinct revision report shall be signed and certified to by the revision coordinator and the representatives of the parties, and shall form part of the records of the case. The tally sheet used for the revision shall be attached to the report.

In addition to the per-precinct revision report, the RC shall also prepare and submit to the Tribunal, within seven (7) days from the termination of the revision, a committee report summarizing the data, votes, questions on the ballots, significant observations made in the revision of votes from each of the protested precincts and, later from the counter-protested precincts, and comments and objections in case of disagreement between RC members. Each party furnished with a copy of the committee report may submit their comments thereon within a non-extendible period of seven days from notice. (n)

RULE 45. *Inquiry as to security markings and vital information relative to ballots and election documents.* – When a revision of ballots is ordered, and for the guidance of the members of the Revision Committees, the Tribunal shall direct the COMELEC to give advice and instructions to the RCs on the security markings on the ballots and election documents. The Tribunal shall likewise designate a technical person who shall assist the RCs in authenticating electronic documents if needed, as well as in transforming the same to a form that can make them observable to the Tribunal. (n)

TECHNICAL EXAMINATION

RULE 46. *Motion for technical examination; contents.* – Within five days after completion of the revision of votes, either party may move for a technical examination, specifying:

- (a) The nature of the technical examination requested (e.g., the examination of the genuineness of the ballots or election returns, and others);
- (b) The documents to be subjected to technical examination;
- (c) The objections made in the course of the revision of votes which he intends to substantiate with the results of the technical examination; and
- (d) The ballots and election returns covered by such objections. (R43a)

RULE 47. *Technical examination; time limits.* – The Tribunal may grant the motion for technical examination in its discretion and under such conditions as it may impose. If the motion is granted, the Tribunal shall schedule the technical examination, notifying the other parties at least five days in advance. The technical examination shall be completed within the period allowed by the Tribunal. A party may attend the technical examination, either personally or through a representative, but the technical examination shall proceed with or without his attendance, provided due notice has been given to him.

The technical examination shall be conducted at the expense of the movant and under the supervision of the Clerk of the Tribunal or his duly authorized representative. (R44)

RULE 48. *Experts; who shall provide.* – The Tribunal shall appoint independent experts necessary for the conduct of a technical examination. The parties may avail themselves of the assistance of their own experts who may observe, but not interfere with, the examination conducted by the experts of the Tribunal. (R45)

RULE 49. *Technical examination not interrupted.* – Once started, the technical examination shall continue every working day until completed or until expiration of the period granted for such purpose. (R46)

RULE 50. *Photographing or electronic copying.* – Upon prior approval of the Tribunal, photographing or electronic copying of ballots, election returns or election documents shall be done within its premises under the supervision of the Clerk of the Tribunal or his duly authorized representative, with the party providing his own photographing or electronic copying equipment. (R47a)

RULE 51. *Scope of technical examination.* – Only the ballots, election returns and other election documents allowed by the Tribunal to be examined shall be subject to such examination. (R48)

SUBPOENAS

RULE 52. *Who may issue.* – The Tribunal may issue subpoena *ad testificandum* or subpoena *duces tecum motu proprio* or upon request of any of the parties. (R50)

RULE 53. *Form and contents.* – A subpoena *ad testificandum*, signed by the Clerk of the Tribunal, shall state the name of the Tribunal, the title of the action and be directed to the person whose attendance is required. A subpoena *duces tecum* shall contain a reasonable description of the books, documents or things demanded which must appear *prima facie* relevant. (R51)

RULE 54. *Authority of Hearing Commissioners to issue subpoena.* – The Tribunal may authorize Hearing Commissioners to issue subpoenas in cases assigned to them for reception of evidence. (R52)

RECEPTION OF EVIDENCE

RULE 55. *Hearings.* – After the submission of all Revision/Correction Reports, the Tribunal may delegate the reception of evidence to a Hearing Commissioner who is a member of the Bar. (R53)

RULE 56. *Preliminary conference.* – The Hearing Commissioner shall fix a date for the reception of evidence and submission of the affidavits of the witnesses of the parties, with the adverse parties being furnished copies.

Reception of evidence shall be done at the offices of the Tribunal unless the Hearing Commissioner directs its reception in some other place. (R54)

RULE 57. *Procedure of hearings.* – At the hearings, the affidavits of the witnesses submitted by the parties shall constitute their direct testimonies. Witnesses who testify may be subject to cross-examination, redirect or re-cross examination. Should the affiant fail to testify, his affidavit shall not be considered as competent evidence for the party presenting the affidavit, but the adverse party may utilize the same for any admissible purpose.

Except on rebuttal or surrebuttal, no witness shall be allowed to testify unless his affidavit was previously submitted to the Tribunal.

However, should a party desire to present additional affidavits or counter-affidavits as part of his direct evidence, he shall manifest during the preliminary conference, stating their purpose. If allowed by the Tribunal, the additional affidavits of the protestee shall be submitted to the Tribunal and served on the adverse party not later than five days after the termination of the preliminary conference. If the additional affidavits are presented by the protestant, the protestee may file his counter-affidavits and serve the same on the protestant within five days of such service. (R55a)

RULE 58. *Cross-examination; effect of absence of a party.* – In the reception of evidence of a party before a Hearing Commissioner, the other party has a right to be present and to cross-examine the witnesses presented.

The Hearing Commissioner may proceed *ex parte* in the absence of the other party provided he has been duly notified of the hearing.

If a party presenting evidence fails to appear at the time and place designated, the Hearing Commissioner may adjourn the proceedings to a future day, giving notice to the absent party or his attorney of the adjournment. The delay shall be charged to the party's period to present evidence. (R56)

RULE 59. *Hearing Commissioner to rule on objections.* – The Hearing Commissioner receiving the evidence shall rule on objections made in the course of cross-examination subject to review by the Tribunal.

An exception to a ruling of the Hearing Commissioner shall not suspend the reception of evidence. (R57)

RULE 60. *Procedure after hearing by Commissioner.* – The Hearing Commissioner shall submit the evidence presented, together with the transcripts of the proceedings held before him, to the Tribunal within five days. (R58)

RULE 61. *Time limit for presentation of evidence.* – Each party is given a period of thirty working days to complete the presentation of his evidence, including its formal offer. This period shall begin from the first date set for the presentation of the party's evidence, either before the Tribunal or a Hearing Commissioner.

The hearing for any particular day or days may be postponed or canceled upon the request of either party. The delay caused by such postponement shall be charged to the period for presenting evidence of the movant.

The following shall not be charged against the period allotted to either party:

(a) The period when presentation of the party's evidence is suspended by order of the Tribunal or the Hearing Commissioner by reason of the pendency of an issue in the nature of a prejudicial question which must first be resolved before the hearing can continue; and

(b) The time taken up in the cross-examination of his witnesses by the other party.

A party may present rebuttal or surrebuttal evidence during the remainder of the thirty-day period that he has not utilized for the presentation of his evidence-in-chief. (R59)

RULE 62. *Evidence not formally offered, inadmissible.* – Evidence not formally offered shall not be admitted and considered by the Tribunal in deciding the case. (R60)

MEMORANDA

RULE 63. *When submitted; contents.* – Within twenty days from receipt of the Tribunal’s ruling on the last offer of evidence by the protestee, the parties shall simultaneously submit their respective memoranda setting forth briefly:

- (a) The facts of the case;
- (b) A complete statement of all the arguments submitted in support of their respective views of the case;
- (c) Objections to the ballots adjudicated to or claimed by the other party in the revision of ballots;
- (d) Refutation of the objections of the other party to the ballots adjudicated to or claimed in the revision of ballots;
- (e) Objections to the tallying of election returns and certificates of canvass raised by the other party in the correction of manifest error; and
- (f) Refutation of the objections raised by the other party to the tallying of election returns and certificates of canvass in the correction of manifest error.

All evidence, as well as objections to evidence presented by the other party, shall be either referred to or contained in the memorandum or in an appendix thereto. (R61)

RULE 64. *Supplemental or rebuttal memorandum.* – When required or allowed by the Tribunal, a party shall file a supplemental or rebuttal memorandum. (R62)

**INITIAL DETERMINATION
OF THE GROUNDS FOR PROTEST**

RULE 65. *Dismissal; when proper.* – The Tribunal may require the protestant or counter-protestant to indicate, within a fixed period, the province or provinces numbering not more than three, best exemplifying the frauds or irregularities alleged in his petition; and the revision of ballots and reception of evidence will begin with such provinces. If upon examination of such ballots and proof, and after making reasonable allowances, the Tribunal is convinced that, taking all circumstances into account, the protestant or counter-protestant will most probably fail to make out his case, the protest may forthwith be dismissed, without further consideration of the other provinces mentioned in the protest.

The preceding paragraph shall also apply when the election protest involves correction of manifest errors. (R63)

VOTING

RULE 66. *Votes required.* – In resolving all matters or questions submitted to the Tribunal, including the rendition of a decision and the adoption of resolutions, the concurrence of a majority of the Members present constituting a quorum, who actually took part in the deliberations on the issue of the case and voted therein, shall be necessary. (R64)

DECISION

RULE 67. *Procedure in deciding contests.* – In rendering its decision, the Tribunal shall follow the procedure prescribed for the Supreme Court in Sections 13 and 14, Article VIII of the Constitution. (R65)

RULE 68. *Promulgation of decision.* – After the judgment and dissenting opinions, if any, are signed, they shall be delivered for filing with the Clerk of the Tribunal who shall cause true copies to be served personally upon the parties or their counsel. (R66)

RULE 69. *Finality of decision.* – The decision shall become final ten days after receipt of a copy by the parties or their counsel if no motion for reconsideration is filed.

No motion shall be entertained for the reopening of a case; a motion for reconsideration of a decision may be allowed under the evidence of record. A party may file a motion for reconsideration within ten days from service of a copy of the decision. No party may file more than one motion for reconsideration, copy of which shall be served personally upon the adverse party who may answer the motion within five days after its receipt.

If the motion for reconsideration is denied, the decision shall become final and executory upon personal service on the parties of the resolution disposing of the motion for reconsideration. If the motion for reconsideration is granted, the party adversely affected may move to reconsider within ten days from receipt of the resolution granting the motion for reconsideration; otherwise, the decision as reconsidered shall become final and executory after the lapse of said period. (R67)

RULE 70. *Entry of judgment.* – The judgment shall be entered by the Clerk of the Tribunal immediately upon its finality. The recording of the judgment in the Book of Entries of Judgment shall constitute its entry. The record shall contain the dispositive part of the judgment and shall be signed by the Clerk of the Tribunal, with a certificate that such judgment has become final and executory. (R68)

RULE 71. *Procedure after finality of decision.* – As soon as a decision is entered, notice shall be sent to the Senate, the House of Representatives, the Commission on Elections and the Commission on Audit.

The originals of the decisions of the Tribunal shall be kept in bound form in the archives of the Tribunal. (R69)

COSTS

RULE 72. *When allowed.* – Costs shall be allowed to the prevailing party as a matter of course. The Tribunal shall have the

power, for special reasons, to apportion the costs, as may be equitable. (R70)

SUPPLEMENTARY RULES

RULE 73. *Applicability.* – The following shall be applicable by analogy or in suppletory character and effect in so far as they may be applicable and are not inconsistent with these Rules and with the decisions, resolutions and orders of the Tribunal, namely:

- (a) The Revised Rules of Court;
 - (b) Decisions of the Supreme Court; and
 - (c) Decisions of the Electoral Tribunal.
- (R71)

AMENDMENT

RULE 74. *Amendment.* – The Tribunal may, at any time, amend these Rules. (R72)

EFFECTIVITY

RULE 75. *Effectivity.* – These Rules shall take effect fifteen (15) days after publication in a newspaper of general circulation in the Philippines. (R73a)

