NATIONAL ADMINISTRATIVE REGISTER · JUNE 20, 2013

IN THE MATTER OF AMENDING RULES 2, 6, 8, 13 AND 15 OF COMELEC RESOLUTION NO. 8804 AS AMENDED BY COMELEC RESOLUTION NO. 9164

RESOLUTION NO. 9720, June 20, 2013

Read online (full-text search, related cases, audio case brief): https://batas.org/library/fe7ae7595335/

WHEREAS, it is the duty of the Commission on Elections to ensure the credibility of the election results, in order that it may faithfully reflect the true will of the electorate;

WHEREAS, the Constitution further mandates that this Commission provide procedural rules that will afford litigants in an Automated Election System (AES) an accessible, inexpensive and speedy remedy,

WHEREAS, in order to achieve the above mentioned constitutional mandate, there is a need to amend Resolution No. 8804 promulgated on March 22, 2010 as amended by Resolution No. 9164 promulgated on March 16, 2011;

NOW, THEREFORE, in view of the foregoing, the Commission RESOLVED, as it hereby RESOLVES, to amend Rules 2, 6, 8, 13 and 15 of Comelec Resolution No, 8804 as amended by Comelec Resolution No. 9164, as follows:

> SECTION 1. Section 1, Rule 2 is hereby amended to read as follows:
>
> "Rule 2
> Definition of Terms
>
> Section 1. Meaning of Words. -Whenever used in these Rules, the following words or terms shall mean:
>
> xxx xxx xxx
> c) Precinct shall refer to the unit or territory for the purpose of voting. For purposes of AES, it pertains to clustered precincts;
>
> xxx xxx xxx
> SECTION 2.Section 2, Rule 6 is hereby amended to read as follows:
> "Rule 6
> Election Protest
>
> Section 3. How Initiated- An election protest or petition for quo warranto shall be filed directly with the Commission within a non-extendible period of ten (10) days following the date of proclamation. The protest or petition shall be in two (2) original copies with annexes together with an electronic version thereof stored in compact disc, flash drive, or other portable storage device, with proof of service, of a copy upon the protestee. The electronic version of the protest or petition need not be signed and shall be in MS Word or other similar formats, while the annexes shall be in PDF format saved collectively as a single file.
> Each contest shall refer exclusively to one (1) office but contests for offices of the Sangguniang Pampook, Sangguniang Panlalawigan or Sangguniang Panglungsod may be consolidated in one (1) case."

SECTION 3. Section. 1, Rule 8 is hereby amended to read as follows:

"Rule 8

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

Answer and Counter-Protest

> Section 1.Verified Answer; Counter-protest- Within five (5) days from receipt of the summons, the protestee/s shall file an Answer in two (2) original copies with complete annexes together with an electronic version thereof stored in compact disc, flash drive or other portable storage device, with proof of service of a copy upon the protestant. The electronic version of the Answer need not be signed and shall be in MS Word format or other similar formats, while the annexes shall be in PDF format saved collectively as a single file.
>
> The answer shall be verified and may set forth admissions and denials, special and affirmative defenses and a compulsory counterclaim. The protestee may incorporate a counter-protest in the answer.
>
> The counter-protest shall specify the counter-protested precincts and any votes of the parties therein per the Statement of Votes, or if not so specified, an explanation why the votes are not specified, and a detailed specification of the acts or omissions complained of showing the electoral frauds, anomalies or irregularities in the counter-protested precincts."

SECTION 4.Sections 1, 4 and 5, Rule 13 are hereby amended to read as follows:

"Rule 13
Preliminary Conference

Section 1.Preliminary Conference; Mandatory- Within three (3) days after the filing of the last responsive pleading allowed by these rules, or expiration of the same period without any responsive pleading having been filed, the Commission shall conduct a mandatory preliminary conference among the parties to consider:

a)

The simplification of issues;

b)

The necessity or desirability of amendments to the pleadings;

c)

The possibility of obtaining stipulations or admission of facts and of documents to avoid unnecessary proof;

d)

The identification of the pilot protested and counter-protested precincts and the manifestation of the preferred mode of recount, unless the protestant or protestee opts ONLY for the reading/appreciation of rejected ballots in all protested or counter-protested precincts;

e)

The limitation of the number of witnesses;

f)

The nature of the testimonies of the witnesses and whether they relate to evidence aliunde, the ballots or otherwise;

g)

The withdrawal of certain protested or counter-protested precinct (especially those where the ballot boxes or ballots are unavailable or missing and cannot be located or destroyed due to natural disasters or calamities);

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

h)

The number of recount committees to be constituted;

i)

The procedure to be followed in case the election protest or counter-protest seeks, wholly or partially, the examination, verification or re-tabulation of election returns, and

j)

Such other matters as may aid in the prompt disposition of the case.

Section 4. Preliminary Conference Brief.- The parties shall file with the Commission and serve on the adverse party, in such manner as shall ensure their receipt at least one (1) day before the date of the preliminary conference, their respective briefs which shall contain the following.

a)

A summary of admitted facts and proposed stipulation of facts;

b)

The issues to be tried or resolved;

c)

The pre-marked documents or exhibits to be presented, stating their purpose;

d)

A manifestation of their having availed or their intention to avail themselves of discovery procedures or referral to commissioners;

e)

The list of pilot protested or counter-protested precincts, which shall be not more than twenty percent (20%) of the total number of precincts, but in no case exceeding two hundred (200) or be less than twenty (20) precincts that will best illustrate the merits of the protest which shall be the subject to the initial recount of paper ballots, reading/appreciation of the rejected ballots and decryption and recount of the ballot images, if applicable

The protestant may, however, waive the recount of the paper ballots and instead resort to either the decryption and recount of the ballot images and reading/appreciation of the rejected ballots of the pilot protested or counter-protested precincts, OR the reading/appreciation of the rejected ballots only of the entire protested or counter-protested precincts;

f)

The number and names of the witnesses, their addresses, and the substance of their respective testimonies. The testimonies of the witnesses shall be by affidavits in question and answer form as their direct testimonies, subject to oral cross examination;

g)

A manifestation of withdrawal of certain protested or counter-protested precincts, if such is the case;

h)

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

The proposed number of recount committees and names of their representative, and their alternates; and

i)

In case the election protest or counter-protest seeks the examination, verification or re-tabulation of election returns, the procedure to be followed.

Section 5. Failure to File Brief.- Failure to file the brief or to allege the required contents mentioned in the preceding section shall have the same effect as failure to appear at the preliminary conference."

SECTION 5.Sections 3 and 6, Rule 15 are hereby amended to read as follows:

"Rule 15
Recount of Ballots

Section 5.Compensation of the Members of the Recount Committee. - The Commission shall fix the compensation of the members of the Committee including the fees for supplies and materials, storage of election paraphernalia, honoraria of warehouse ballot box custodian, photocopying watchers and security details at Three Thousand Pesos (P3,000.00) per precinct and shall be distributed as follows:

a)

A summary of admitted facts and proposed stipulation of facts;

b)

The issues to be tried or resolved;

c)

The pre-marked documents or exhibits to be presented, stating their purpose;

d)

A manifestation of their having availed or their intention to avail themselves of discovery procedures or referral to commissioners;

e)

The list of pilot protested or counter-protested precincts, which shall be not more than twenty percent (20%) of the total number of precincts, but in no case exceeding two hundred (200) or be less than twenty (20) precincts that will best illustrate the merits of the protest which shall be the subject to the initial recount of paper ballots, reading/appreciation of the rejected ballots and decryption and recount of the ballot images, if applicable

The protestant may, however, waive the recount of the paper ballots and instead resort to either the decryption and recount of the ballot images and reading/appreciation of the rejected ballots of the pilot protested or counter-protested precincts, OR the reading/appreciation of the rejected ballots only of the entire protested or counter-protested precincts;

f)

The number and names of the witnesses, their addresses, and the substance of their respective testimonies. The testimonies of the witnesses shall be by affidavits in question and answer form as their direct testimonies, subject to oral cross examination;

g)

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

A manifestation of withdrawal of certain protested or counter-protested precincts, if such is the case;

h)

The proposed number of recount committees and names of their representative, and their alternates; and

i)

In case the election protest or counter-protest seeks the examination, verification or re-tabulation of election returns, the procedure to be followed.

The over-all Supervisor shall also receive an honorarium of P100 for every ballot box opened and recounted, but in no case shall he receive less than the highest honorarium that maybe received by any of the committee chairmen. Warehouse ballot box custodians shall be allotted an honorarium of P50 for every ballot box they will handle which amount shall be shared among all of them.

A portion of the said cash deposit shall be allotted and set for the honoraria of the following support staff for each ballot box as follows:

a.

ECAD Security Personnel

4 x P35 = P140.00

b.

COMELEC Drivers

2xF35 = P70.00

c.

Organic Security Personnel

2 x P35 = P70.00

d.

PNP Personnel

2 x P35 = P70.00

e.

Xerox Machine Watchers

1 x P35 = P35.00

The cost of decryption of the ballot images shall be Five Hundred Pesos (P500.00) per compact flash (CF) card. Said amount shall be allocated as follows: One Hundred Pesos (F100.00) for electricity; Fifty Pesos (P50.00) for the use computers and printers; and Three Hundred Fifty Pesos (P350.00) for the honoraria of the Election Records and Statistics Department (ERSD) representative/s.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

All consumables for the decryption, generation and printing of ballot images, such as toner and coupon bonds shall be provided by the parties.

Section 6. Conduct of the Recount. - The recount of the votes on the ballots shall be done manually and visually and according to the procedures hereunder:

(a) At the preliminary conference, the date, place, the mode of the recount of votes on the ballots from each of the protested
precincts and the number of the recount committees shall be set.

(b) The recount of the ballots in the remaining contested precincts shall not commence until the Division concerned shall have made a determination on the merit of the protest .based on the results of the recount of the votes on the ballots from the pilot protested precincts and the review of other documentary exhibits which the protestant may submit. The documentary exhibits may be submitted by the protestant within a non-extendible period of ten (10) days from the completion of the recount of the pilot protested precincts.

Based on the above determination, the Division may dismiss the protest, without further proceedings, if no reasonable recovery could be established from the pilot protested precincts. Otherwise, the recount of the ballots in the remaining protested precincts shall proceed. The recount of the pilot counter-protested precincts, if any, and of the remaining counter-protested precincts if substantial recovery is likewise established by the counter protestant, shall then follow. For this purpose, there is substantial recovery when the protestant or counter protestant is able to recover at least 20% of the overall vote lead of the protestee or counter protestee.

However, the above-mentioned procedure shall not be applicable in case the protestant avails the option of reading/appreciation of the rejected ballots only pertaining to the entire protested or counter-protested precincts under Section 4(e) of Rule 13.

xxx xxx xxx

(I) In the event the protestant waives the recount of the paper ballots and resorts to the decryption and recount of the ballot images and reading/appreciation of the rejected ballots under Section 4(e) of Rule 13, or whenever the Division concerned determines that the integrity of the ballots has been violated or has not been preserved, or are wet and otherwise in such a condition that it cannot be recounted, the Clerk of the Division concerned shall request from the Election Records and Statistics Department (ERSD), the printing of the images of the baliots of the subject precinct stored in the CF card used in the May 13, 2013 elections in the presence of the parties. Printing of the ballot images shall proceed only upon prior authentication and certification by a duly authorized personnel of the Election Records and Statistics Department (ERSD) that the data or the images to be printed are genuine and are not tampered.

xxx xxx xxx"

These amendments shall take effect within seven (7) days from publication in two (2) newspapers of general circulation.

The Clerk of the Commission is likewise directed to incorporate all alTiendments introduced by Comelec Resolution Nos. 9104, 9164 and herein Resolution, to Comelec Resolution No. 8804 otherwise known as "The Comelec Rules of Procedure on Disputes in an Automated Elections" and publish the same to the COMELEC website for the information of the general public.

Let the Education and Information Department (EID), Clerk of the Commission and the Election Contests

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

Adjudication Department (ECAD) implement this Resolution.

SO ORDERED.

(Sgd.) Sixto S. Brillantes, Jr.
Chairman

(Sgd.) Lucenito N. Tagle
Commissioner

(Sgd.) Elias R. Yusoph
Commissioner

ON OFFICIAL BUSINESS
(Sgd.) Christian Robert S. Lim
Commissioner

(Sgd.) Maria Gracia Cielo M. Padaca
Commissioner

(Sgd.)Al A. Parreno
Commissioner

(Sgd.) Luie F. Guia
Commissioner

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.