



Republic of the Philippines
Commission on Elections
Manila

GENERAL INSTRUCTIONS ON THE CONDUCT OF COUNTING AND CANVASSING OF BALLOTS OF DETAINEE VOTERS WITH VOTES CAST IN FAVOR OF LOCAL CANDIDATES IN CONNECTION WITH THE MAY 9, 2016 NATIONAL AND LOCAL ELECTIONS.

BAUTISTA, J. Andres D.,	Chairman
LIM, Christian Robert S.,	Commissioner
PARREÑO, Al A.,	Commissioner
GUIA, Luie Tito F.,	Commissioner
LIM, Arthur D.,	Commissioner
GUANZON, Ma. Rowena Amelia V.,	Commissioner
ABAS, Sheriff M.,	Commissioner

Promulgated: May 3, 2016

RESOLUTION NO. 10113

WHEREAS, on March 6, 2012, the Commission on Elections promulgated COMELEC Resolution No. 9371 to serve as the rules and regulations on detainee registration and voting for the May 13, 2013 National and Local Elections and subsequent elections thereafter;

WHEREAS, the Supreme Court, on April 19, 2016, in the case of *Aguinaldo v. New Bilibid Prison (Bureau of Corrections) et. al.*, G.R. No. 221201, issued a Temporary Restraining Order (TRO) enjoining the Commission on Elections, among others, from applying the following provisions of COMELEC Resolution No. 9371 on the local level: (i) Rule 1, Section 1; (ii) Rule 1, Section 2(a) and (c); (iii) Rule 3, Section 1; and (iv) Rule 7, Section 1;

WHEREAS, the TRO is not applicable to the May 9, 2016 National and Local Elections **on the national level**; thus, detainees are still allowed to vote but only for candidates on the national level if they so choose;

WHEREAS, the Commission on Elections has directed in the General Instruction to the Board of Elections Inspectors (BEI) that ballots of detainee voters containing votes for local candidates will be elevated to the Commissions Main Office in Manila for counting, and eventually, canvassing, thus, necessitating rules on counting and canvassing for the purpose;

NOW, THEREFORE, pursuant to the powers vested in it by the Constitution, the Omnibus Election Code, Resolution No. 9371 and other pertinent election laws, the Commission on Elections has **RESOLVED**, as it hereby **RESOLVES**, to promulgate the following general instructions rules and regulations on the conduct of counting and canvassing of ballots of detainee voters with votes cast in favor of local candidates in connection with the May 9, 2016 National and Local Elections:

**RULE I
COUNTING AND CANVASSING**

SECTION 1. Special Boards of Election Inspectors for Counting (SBEI-C). – The Committee on Detainee Voting (CoDV) may constitute as many SBEI-Cs for detainee voting as may be deemed necessary, to count the ballots of detainee voters with votes cast in favour of local candidates. The members of the SBEI-C shall be appointed by the CoDV.

To determine the number of SBEI-Cs to be constituted, the CoDV shall use as basis the total number of detainees at a ratio of four hundred (400) ballots per SBEI-C. The order of numbering of SBEI-C shall be determined through a raffle. In case the CoDV constituted more SBEI-Cs than what is required, the SBEI-C last in the order of numbering may be deactivated.

For every twenty (20) SBEI-Cs, if applicable, the Chairman of the CoDV shall designate one (1) supervisor who shall supervise the counting, tabulation, preparation of Election Returns (ER) and other documents.

SECTION 2. Oath of Members of SBEI-C. – Before assuming their office, the chairperson and members of the SBEI-C shall take and sign an Oath (**CEF No. A5 & A5-A**) before any officer authorized to administer oaths. Copies of the oath shall immediately be submitted to the CoDV.

SECTION 3. Notice of Counting. – The CoDV shall give notice to all presidential, vice-presidential, senatorial candidates and party-list representatives, duly registered political parties or coalition of political parties which has nominated national candidates, sectors and organizations participating under the party list system, and accredited citizen's arm of the date, time and place of counting, not later than May 4, 2016.

SECTION 4. Proceedings of the SBEI-C. – The SBEI-C shall meet at the place designated by the CoDV at **1:00 o'clock in the afternoon of May 11, 2016** to count the votes cast by the detainee voters and shall not adjourn until the counting is completed. All proceedings of the SBEI-C shall be done in public. It shall act through its chairperson and all questions presented before it shall be decided without delay by a majority vote of the members. During its meetings, not more than one (1) member shall be absent at the same time, and in no case shall such absence be for more than twenty (20) minutes.

SECTION 5. Counting of votes to be public and without interruption. – The SBEI-C shall publicly count the votes cast and ascertain the results.

They shall not adjourn or postpone or delay the count until it has been fully completed or ordered otherwise by the Commission.

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Any violation of this Section, or its pertinent portion, shall constitute an election offense and shall be penalized in accordance with BP Blg. 881, as amended.

SECTION 6. Preliminaries to the counting of votes. - The following activities shall be undertaken by the SBEI-Cs before counting the ballots cast:

- (a) Unpack or remove the seal of the envelopes and take out all the ballots.
- (b) Examine the ballots to determine whether there are torn/unused ballots. Torn/unused ballots shall not be read during the counting of votes. The envelope containing the excess and marked ballots shall be signed and sealed by the members of the SBEI-C and shall be turned over to the CoDV's Reception and Custody Group.
- (c) Pile all valid ballots in bundles of four hundred (400) each.

SECTION 7. Appreciation of ballots. - In the appreciation of ballots, every ballot shall be presumed valid unless there is clear and good reason to justify its rejection. All entries in the ballot shall be presumed to have been filled-out by the voter unless there is clear and good reason to consider it otherwise.

Any question on the appreciation of ballots shall be decided by a majority of the members of the SBEI-C. A vote of two (2) members shall be considered the majority.

No watcher, candidate, or any other person inside the polling place shall be allowed to participate in the appreciation of ballots, except that any watcher may file a protest which shall be recorded in the Minutes.

The SBEI-C shall only appreciate and count the votes for national positions. These positions are limited to the following:

- (1) President;
- (2) Vice-President;
- (3) Senators; and
- (4) Party-List

The SBEI-C shall observe the following rules for the appreciation of ballots bearing in mind that the objective of the election is to obtain the expression of the voter's will:

- a) The intent of the voters is expressed by fully shading the oval beside the name of the candidate. This is consistent with the instruction provided on the face of the ballot on how to vote;
- b) If the candidates voted for exceed the number of those to be elected, the ballot is valid, but the votes shall not be counted for any of the candidates

for such position. This shall not, however, affect the validity of the votes in other positions;

- c) Marks encircling the ovals, showing that it is the intention of the voter to vote for the candidate corresponding to the oval shall be considered valid;
- d) Marks such as checks, crosses, etc., if such would clearly indicate that voter voted in that manner shall not invalidate the vote cast;
- e) Unnecessary marks outside of the oval such as but not limited to lines, circles, crossing-out of the names of the candidate, etc. that would give the impression that such were made in order to identify the ballot shall invalidate the ballot;
- f) When the oval beside the name of the candidate is not fully shaded, the SBEI-C shall consider the following points in appreciating the ballots:
 - i. Hesitation marks shall not be counted as a valid vote. This refers to a mark in the ballot where the shade of the oval fails to meet at least 20% of the area of the oval, which includes a point or other marks, and is unique for a particular oval. In determining hesitation marks, the SBEI-C shall consider the manner of shading of the voter in other positions. In case of doubt, the SBEI-C shall put the matter on a vote.
 - ii. Improper marks on the oval using a cross, line, circles, check or other marks apart from simply shading the entirety of the oval shall be considered as an expression of the will of the voter and shall be considered as a vote as long as the oval is sufficiently shaded.
- g) In case the voter marked an oval and then subsequently crossed-out such oval or used other marks on the oval to show desistance from voting the candidate, it shall be considered as a valid withdrawal of the vote;
- h) Unless it should clearly appear that they have been deliberately put by the voter to serve as identification marks, marks outside of the oval shall not invalidate the ballot.

SECTION 8. Manner of counting of detainee ballots. – The SBEI-C shall proceed with the counting as follows:

- a.) The Chairperson, the Poll Clerk and the Third Member shall position themselves in such a way as to give the watchers and the public an unimpeded view of the ballot being read by the Chairperson, as well as of the election returns and tally board being simultaneously accomplished by the Poll Clerk and the Third Member, respectively;
- b.) The watchers and the public shall not touch any of the said election documents. The table shall be cleared of all unnecessary writing paraphernalia. Any violation hereof shall constitute an election offense;

- c.) The Chairperson of the SBEI-C shall take the ballots of the first pile one by one and determine whether there is an OVERVOTE in any of the positions voted for.

If there is none, the Chairperson of the SBEI-C shall proceed with the reading of the names of the candidates voted for and the offices for which they were voted, as well as the name of the party, organization or coalition voted for under the party-list system, in the order in which they appear thereon.

If there is an OVERVOTE for a certain position/s, the same shall not be counted but shall not invalidate the ballot and the votes for the other positions.

- d.) The Poll Clerk and the Third Member shall record simultaneously in the election returns and in the tally board, respectively, each vote as it is read. Each vote shall be recorded by a vertical line, except every fifth vote which shall be recorded by a diagonal line crossing the previous four vertical lines;
- e.) The same procedure shall be followed with the succeeding piles of ballots, if any; and
- f.) The sub-total of votes in figures obtained by each candidate and party list candidate shall be recorded in the election returns and tally board after one hundred (100) ballots are read.

After all the ballots have been read:

- a.) Record, in words and in figures, the total number of votes obtained by each candidate and by each party, organization or coalition participating under the party-list system, both in the election returns and in the tally board;
- b.) Ensure that the entries on the first copy of the election returns are clearly impressed on the other copies; and
- c.) Close the entries by affixing their initials immediately after the last vote recorded or immediately after the name of the candidate and party-list candidates who did not receive any vote;
- d.) The Poll Clerk and the Third Member shall record in the election returns and in the tally board, respectively, the total number of votes obtained by each candidate and party-list candidate, in words and figures;

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- e.) Accomplish the certification portion of the election returns and tally board;
- f.) Require the watchers, if any, to affix their signatures and imprint their thumb marks on the right hand portion of the election returns and the tally board;
- g.) Deposit the tally board in the envelope provided for that purpose. The tally board, as accomplished and certified by the SBEI-C, shall not be changed or destroyed.

The proceedings of the SBEI-C shall be recorded in the Minutes of Counting of Votes (CEF No. A11) to be accomplished in two (2) copies which shall be placed in separate sealed envelopes to be distributed as follows:

- a. The first copy, to the Election Records and Statistics Department (ERSD), this Commission; and
- b. The second copy, to the CoDV.

SECTION 9. Post-counting procedures. – Upon termination of the counting of votes, the members of the SBEI-C shall:

- a. Place the counted official ballots in the envelope for counted ballots;
- b. Seal the envelope with paper seal and affix their signatures on the said paper seal;
- c. Deliver the envelope properly sealed and the eighth copy of the election returns to the CoDV's Reception and Custody Group for custody and safekeeping; and
- d. Distribute the election returns in accordance with Section 40 hereof.

SECTION 10. Election Returns. – The election returns shall be prepared in eight (8) copies to be distributed as follows:

- a. The first copy, to be delivered to the Detainee Board of Canvassers;
- b. The second copy, to the Congress directed to the President of the Senate;
- c. The third copy, to the Commission through the Election Records and Statistics Department (ERSD);

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- d. The fourth copy, to the dominant majority party as determined by the Commission;
- e. The fifth copy, to the dominant minority party as determined by the Commission;
- f. The sixth copy, to the accredited citizen's arm;
- g. The seventh copy, to be posted on a wall within the premises of the counting center;
- h. The eighth copy, to CoDV's Reception and Custody Group.

The copy of the election returns posted on the wall shall be open for public viewing at any time of the day for forty-eight (48) hours following its posting. Within the said period of time, any person may view or capture an image of the election returns.

After the prescribed period for posting, the Chairpersons of the SBEI-C shall collect the posted election returns and keep the same in their custody to be produced for image or data capturing as may be requested by any voter or for any lawful purpose as may be ordered by competent authority.

SECTION 11. Honorarium of the SBEI-C. – The members of SBEI-C shall each receive honorarium of Three Thousand Pesos (Php 3,000.00) and transportation allowance amounting to Five Hundred Pesos (Php 500.00).

SECTION 12. Detainee Board of Canvassers (DBOC). – A Detainee Board of Canvassers (DBOC) shall be constituted to be composed of ranking lawyers of the Commission and whose appointment shall be issued by the Chairperson of the CoDV not later than May 4, 2016.

SECTION 13. Honorarium of the DBOC. – The members of DBOC shall receive honorarium of Ten Thousand Pesos (Php 10,000.00) each. The tabulators and the members of the Reception and Custody Group shall receive honorarium of Five Thousand Pesos (Php 5,000.00) each.

SECTION 14. Notice of Canvass. – For the May 9, 2016 National and Local Elections, the Chairperson of the DBOC shall give notice to its members, all presidential, vice-presidential, senatorial candidates, duly registered political party or coalition of political parties which has nominated national candidates, sectors and organizations participating under the party list system, and accredited citizen's arm of the date, time and place of canvass, at least five (5) days before the day of the election.

SECTION 15. Tabulation Group. – The DBOC shall constitute a Tabulation Group, composed of two (2) members, which shall be under its direct supervision and control.

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The Tabulation Group shall compute the sub-total of the Statement of Votes prepared by the DBOC. The name of each tabulator and the serial number of the Statement of Votes assigned to them for tabulation shall be properly recorded in the minutes of the proceedings.

The tabulators shall affix their signatures above their printed names and imprint their thumb marks on the certification portion of the Statement of Votes.

SECTION 16. Convening of DBOC. – The DBOC shall convene at **1:00 o'clock in the afternoon of May 12, 2016** in a place designated by the Chairman of the CoDV and proceed with the canvass of the election returns submitted to it by the SBEI-Cs. It shall not adjourn until the canvass is completed.

SECTION 17. Certificate of Canvass of Votes (COCV). – The DBOC shall prepare the Certificate of Canvass of Votes (COCV) in eight (8) copies for distribution as follows:

1. The first copy with attached copy of the Statement of Votes by Precinct (SOVP)/Summary Statement of Votes (SSOV), to the Congress directed to the President of the Senate for use in the canvass of election results for President and Vice-President;
2. The second copy, with attached copy of the SOVP/SSOV to the Commission en banc sitting as the National Board of Canvasses for use in the canvass of election results for Senators and Party-list representatives;
3. The third copy, to be posted on a wall within the premises of the canvassing center;
4. The fourth copy, with attached copy of the SOVP/SSOV to the Chairperson of the Detainee Board of Canvassers;
5. The fifth copy, to the accredited citizen's arm; and
6. The sixth and seventh copies, to the representatives of two (2) of the six (6) major political parties in accordance with the voluntary agreement of the parties. If no such agreement is reached, the Commission shall decide which parties shall receive the copies of the Certificate of Canvass on the basis of the criteria provided in Sec. 26 of RA 7166. The parties receiving the certificate shall have the obligation to furnish the other parties with authentic copies thereof with the least possible delay.
7. The eighth copy, to CoDV's Reception and Custody Group.

The copy of the COCV posted on the wall shall be open for public viewing at any time of the day for forty-eight (48) hours following its posting. Any person may view or capture an image of the COCV. After the prescribed period of posting, the Chairperson of the DBOC shall collect the posted COCV and keep the same in custody to be produced for image or data capturing as may be requested by any voter or for any lawful purpose as may be ordered by competent authority.

SECTION 18. Watchers. – During the counting and canvassing, each national candidate, duly registered political party or coalition of political parties which has nominated national candidates, sectors and organizations participating under the party list system, and accredited citizen’s arm, shall be entitled to appoint, in writing, two (2) watchers serving alternately.

Civic, religious, professional, business, youth and any other similar organizations with prior authority from the Commission, shall collectively be entitled to appoint two (2) common watchers serving alternately.

RULE II FORMS, DOCUMENTS AND SUPPLIES

SECTION 1. Forms, documents and supplies. - The following forms, documents and supplies shall be provided for use on counting and canvassing:

ALLOCATION OF FORMS AND SUPPLIES FOR DETAINEE VOTING

May 9, 2016 National Elections

CEF NO.	Forms and Supplies	Rate of Distribution	
Election Forms			
A3	Poster Indicating Precinct Number	1	piece
A5 & A5-A	Appointment of Chairman/Poll Clerk/Member of BEI and Support Staff	9	pieces
9	Election Returns	1	sets of 8 copies by 8 pages
10	Tally Board	1	set of 13 pages
A11	Minutes of Voting and Counting	1	set of 2 pieces
A12	Paper Seals	32	pieces
	<i>for A15, A16, A16-A, and A16-B</i>	4	<i>pieces</i>
	<i>for A18 and A18-A</i>	2	<i>pieces</i>
	<i>for Expandable Envelopes for Official Ballots (from precincts with Detainee Voters)</i>	2	<i>pieces</i>
	<i>Envelope for CEF 21, 20-A, and 20-A-2</i>	8	<i>pieces</i>
	<i>for election returns</i>	8	<i>copies</i>

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	<i>for envelope of election returns</i>	8	<i>pieces</i>
A13	Certificates of Votes - SBEI Counting	20	<i>pieces</i>
A14	Certificate of Receipt of Official Ballots, Other Forms and Supplies for SBEI - Voting	2	pieces per Clustered Precinct with Detainee Voter
A27	Official Receipt of Election Returns	10	<i>pieces</i>
SPECIAL ENVELOPES			
17, 17-A, 17-B, 17-C, 17-D, 17-E, 17-F, 17-G	Envelope for election returns	1	set of 8 copies
A18 & 18-A	For Minutes of Voting and Counting of Votes	1	set of 2 pieces
	Expandable Envelopes for Official Ballots (from precincts with Detainee Voters)		
	Expandable Envelopes for Counted Ballots	4	pieces per SBEI - Counting
CANVASSING FORMS			
A13-A	Cert of Votes Received by Candidates for Board of Canvassers	58	<i>pieces / BOC</i>
21	Certificate of Canvass for Canvassers Detainee Voting	1	set of 4 pages by 8 copies
20-A	Statement of Votes by Precinct	5	sets of 6 pages by 6 copies
20-A-2	Summary Statement of Votes	1	sets of 6 pages by 6 copies
	Envelope for CEF 21, 20-A, and 20-A-2	1	set of 8 copies
SUPPLIES FOR SBEI			
	Bond Paper (Long)	30	sheets
	Ballpen	6	pieces
	Packaging Tape	1	piece
BALLOT BOXES	Marking Pen - counting (RED)	5	Pieces
	METAL BALLOT BOXES	20	Pieces
	Padlocks	40	Pieces
	Fixed Length Seals	60	Pieces

RULE III MISCELLANEOUS

SECTION 1. Applicability of Other Comelec Rules. – Rules and regulations promulgated by the Commission in connection with the May 9, 2016 National and Local Elections are, as far as applicable, hereby adopted, incorporated and made integral parts of this resolution.

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SECTION 2. Effectivity. – This Resolution shall take effect immediately after its publication in two (2) daily newspapers of general circulation in the Philippines.

SECTION 3. Publication and Dissemination. – Let the Education and Information Department (EID), this Commission, cause the publication of this Resolution in two (2) daily newspapers of general circulation in the Philippines.

The CoDV shall immediately furnish copies hereof to the Department of Education, Commission on Human Rights, Bureau of Jail Management and Penology, Armed Forces of the Philippines, Philippine National Police, Bureau of Corrections and all departments and agencies or instrumentalities of the national government, and all Regional Election Directors, Provincial Election Supervisors of the Commission, who shall in turn furnish copies thereof to their respective Election Officers.

SO ORDERED.

*Should comply with
existing laws and
jurisprudence*

J. ANDRES D. BAUTISTA
Chairman

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CHRISTIAN ROBERT S. LIM
Commissioner


AL A. PARRENO
Commissioner


LUIS TITO F. GUIA
Commissioner


ARTHUR D. LIM
Commissioner


MA. ROWENA AMELIA V. GUANZON
Commissioner


SHERIFF M. ABAS
Commissioner