

Proceedings Before the Tribunal

1. Institution of Electoral Contests

The Senate Electoral Tribunal has jurisdiction to entertain and resolve two types of electoral contests against a Member of the Senate: a) petition for *quo warranto*, and b) election protest. Mutually exclusive, a petition for *quo warranto* cannot include an election protest, nor can an election protest include a petition for *quo warranto*.

Any registered voter who seeks to disqualify a Member of the Senate on the ground of ineligibility or disloyalty to the Republic of the Philippines must file a petition for *quo warranto* within fifteen (15) days after assumption of office of the respondent. If, however, the ineligibility is based on citizenship, the petition may be filed any time during the respondent's tenure. If the ground is loss of the required qualifications, the petition may be filed at any time during the respondent's tenure, as soon as the required qualification is lost. The petitioner need not be a candidate, unlike in an election protest, which can be filed only by a candidate who duly filed a certificate of candidacy and had been voted for the office of Senator. The period for filing an election protest is thirty (30) days after assumption of office of the protestee.

Under the [2020 Rules of the Tribunal](#), joint election protests are not allowed, but for good and sufficient reasons, the Tribunal may order the consolidation of individual protests, hear, and decide them jointly.

2. Action of the Tribunal

Depending on the allegations, issues and arguments raised in the election protest or petition for *quo warranto*, the Tribunal may either give due course thereto or summarily dismiss the same. The grounds for summary dismissal are set forth in Rule 23 of the 2020 Rules of the Tribunal as follows:

- a. The protest or petition is filed beyond the period prescribed therefor;
- b. The protest or petition is insufficient in form or substance;
- c. The filing fee is not paid simultaneously with the filing of the protest or petition;
- d. In case of protests where a cash deposit is required, if such deposit, or the first Two Hundred Thousand Pesos (₱200,000.00) thereof, is not paid within ten (10) days after the filing of the protest; and
- e. The protest or petition or copies thereof, or the annexes, filed with the Tribunal are not legible.

Should the Tribunal determine that the election protest or petition for *quo warranto* is sufficient in form and substance, summons is issued to the protestee(s) who is/are required to file an answer within thirty (30) days, or to the respondent(s) who is/are required to file an answer within fifteen (15) days from receipt of the summons. In the answer, the respondent or protestee may set up all available grounds for dismissal, as well as special and affirmative defenses and counterclaims. A protestee may also include

a counter-protest as well as cross-protests against the other protestees, if any. Answers to counter-protest or cross-protest must be filed within fifteen (15) days from receipt of the counter-protest or cross-protest.

3. Preliminary Conference

After the filing of the last responsive pleading and the issues have been joined, the Tribunal shall call the parties to a preliminary conference. They are asked to consider the following matters to aid in the prompt disposition of the electoral contest:

- a. The simplification of issues;
- b. The possibility of obtaining stipulation or admission of facts and of documents to avoid unnecessary proof;
- c. The limitation of the number and identification of witnesses and the nature of their testimonies; and
- d. Such other matters as may aid in the prompt disposition of the petition, protest, counter-protest or cross-protest.

In an election protest, the following shall also be considered:

- e. The list of pilot precincts consisting of not more than twenty-five percent (25%) of the total number of contested clustered precincts, which the party deems as best exemplifying or demonstrating the electoral fraud or anomaly pleaded;
- f. The nature of the testimonies of the witnesses, as to whether they relate to evidence *aliunde* the ballots, or otherwise;
- g. The withdrawal of some contested, counter-protested, or cross-protested precincts (especially those where, among others, the ballots are unavailable due to the existence of protests concerning other positions, or are missing and cannot be located, or destroyed due to natural disasters or calamities); and
- h. The matter of reception of evidence to be done simultaneously with the revision of ballots, if the evidence is intended to prove such causes of action or defenses or issues which are unrelated to the ballots or election documents.

Matters not taken up during the preliminary conference shall be excluded from the evidentiary hearings.

4. Collection of Contested Ballots, Election Documents and Other Paraphernalia

The ballot boxes and election documents from the contested areas are ordered transferred to the Tribunal premises if warranted by the allegations in the electoral protest, counter-protest, or cross-protest, or when in the judgment of the Tribunal, it is so demanded by the interest of justice.

First to be retrieved are the ballot boxes and election documents from the pilot precincts designated by the protestant. As much as possible, simultaneous collection from different

pilot areas is scheduled to ensure the continuous conduct of the revision proceedings. Included in the collection activities are the ballot boxes and the corresponding keys, the automated election system machines and electronic data storage devices, books of voters, lists of voters with voting records, election day computerized voters' lists, the statements of votes by the board of canvassers concerned, and other documents used in the election. All necessary and incidental expenses incurred in transporting the election materials to the Tribunal and in returning them to their places of origin are borne by the party requesting the revision and paid from the party's cash deposit.

The collection team is manned by regular employees of the Tribunal, which is usually composed of a team leader and one or two members depending on the number of ballot boxes to be collected. Prior to the actual performance of their mission, they are trained in the collection process and oriented on the geography as well as the customs and practices of the places of collection. The importance of honesty, prudence in the use of the parties' cash deposits, proper deportment and neutrality at all times in dealing with other agencies and the parties' representatives is stressed.

The team leader, who acts as a special disbursing officer during the collection trip, is properly bonded. In undertaking the collection activity, all factors that may impact on the safe, speedy and inexpensive completion of the task are taken into consideration. The team is provided with military or police escorts in the collection activity and is covered by accident insurance.

The collection schedules, itineraries of travel and estimates of expenses are carefully and meticulously prepared. They are submitted for approval of the party shouldering the collection costs. Canvass of and negotiations with trucking or shipping companies are done to secure not only the best price, but more importantly the safety and speed in the delivery of the election materials to the Tribunal. Prior coordination with the Commission on Elections Main Office as well as the concerned Regional Election Directors, Provincial Election Supervisors, Election Officers, the Municipal or City Treasurers, and the Regional Trial Courts in cases of ballot boxes also involved in local election protests, is done to achieve the smooth retrieval and transfer of the election materials.

The parties are properly notified of the collection schedule to enable them or their duly authorized representatives to witness the collection. However, once notified, their absence will not prevent the Tribunal from proceeding with the collection. A pre-collection conference among the parties and the Collection Team is held for proper coordination.

5. Revision of Contested Ballots and Election Documents

Revision of the ballots and election documents is undertaken as soon as there are sufficient number of ballot boxes in the custody of the Tribunal to ensure its continuous conduct. The Tribunal issues an order for its commencement, specifying the number of revision teams to be constituted and requiring the parties to submit their respective lists of revisors for accreditation by the Tribunal. The parties are also required to deposit their respective shares in the compensation of the Head Revisors and their alternates.

During revision, the physical count of the votes of the parties is determined. The parties, through their revisors, register their objections or claims to the ballots or votes. The grounds for the objections and claims are properly recorded in the revision forms and the objected or claimed ballots are marked as exhibits and segregated from the uncontested ballots. No appreciation of the ballots or votes is made during the revision proceeding.

Revision proceedings involving ballots cast under the automated election system is governed by the 2013 Rules and Procedures Governing Revisions of Ballots under the Automated Election System. The Rules were crafted to guarantee and achieve smooth and efficient conduct of the revision as well as to address, eliminate and frustrate dilatory tactics of the parties or their representatives.

The Rules regulate both substantive and procedural aspects of the revision proceedings. Among its salient provisions are the time allotted for the viewing and examination of ballots by the party revisors and the circumstances under which the forcible opening of ballot boxes by the head revisors may be done. The Rules include such administrative details as the official time and place of revision, break periods and effects of the tardiness of head and party revisors.

A revision team is composed of a Head Revisor designated by the Tribunal and one (1) revisor for each of the parties, designated by them. The Head Revisor is the official representative of the Tribunal in the revision proceedings. For this reason, high qualifications are required of head revisors. They must be college graduates and must meet the requirements of absolute loyalty to the Tribunal and strict sense of confidentiality and integrity. Needless to say, they must not be related to any of the parties or affiliated with any political party.

Applicants for the position of head revisor undergo written examinations, a series of interviews and psychological tests. Those selected for the position are oriented on their crucial role as representatives of the Tribunal in the revision proceedings as well as the purpose and mechanics thereof prior to the actual performance of duties. Mock revisions are held as part of the orientation and training to accord the would-be head revisors hands-on experience in the revision process. Thereafter, their performance as head revisors is evaluated regularly.

Only duly accredited party revisors and alternate party revisors are allowed to participate in the revision proceedings, and only accredited party counsel, representatives or supervisors are allowed inside the revision room. Thus, at least five (5) days prior to the start of the revision, the parties are required to submit the names, addresses and 1" x 1" ID pictures of their respective revisors, counsel, representatives and supervisors for accreditation by the Tribunal.

The revision team prepares a report for every ballot box, the contents of which it has examined, on a form provided by the Tribunal. These forms are submitted to the revision appraisers, composed of Tribunal personnel, who scrutinize the revision reports to ensure completeness.

6. Photocopying of Revision Reports and Contested Ballots

A day after the start of the revision proceedings, photocopying of the revision reports are immediately undertaken. These photocopies are used in the preliminary appreciation proceedings which is usually commenced a week from the start of the revision proceedings. Due to the number of revision reports to be reproduced as well as the need for accuracy, an otherwise ordinary, routinary task had become a major activity of the Tribunal. A number of personnel had to be assigned full-time to oversee the activity, check the completeness, and collate the duplicate copies. At times, copiers had to be rented when required by the volume of work.

Full-time assignment of personnel is also required when parties request photocopies of the contested ballots and other election documents. Due to the sensitive nature of the activity, strict measures are taken to prevent the loss, destruction or impairment of the integrity of the documents being photocopied.

7. Technical Examination of Ballots and Election Documents

Technical examination of ballots and election documents may be allowed upon motion of a party timely filed. The Tribunal designates independent experts to examine the ballots and other election documents under such conditions as it may impose. The technical examination is conducted at the expense of the party requesting the same, in the offices of the Tribunal or such other place as the Tribunal may designate and under the supervision of the Secretary of the Tribunal or a duly authorized representative.

The parties are informed of the schedule, duration and venue of the technical examination at least five (5) days before the start of the examination to enable them to witness the same, either personally or through their respective representatives. The parties may designate their own experts who may observe, but not interfere with the examination conducted by the Tribunal's experts. A party's absence will not prevent the technical examination from proceeding as scheduled.

8. Evidentiary Hearing

The hearing and reception of the parties' evidence is usually delegated by the Tribunal to a Hearing Commissioner, who must be a member of the Philippine Bar and an employee of the Tribunal in any capacity.

The hearing and reception of the parties' evidence may be done either simultaneously with or after the revision of the ballots. Presentation of witnesses who will testify on matters or issues *aliunde* the ballots or other election documents, such as vote-buying, fraud, terrorism or violence, can be done simultaneously with the revision. However, if the evidence relate to matters or issues incident to or interwoven with the ballots and related election documents, its presentation is done after the revision of all, or substantially all of the ballots or election documents to which they relate.

An election protest being a time-bound proceedings, the 2020 Rules of the Tribunal gives each party a maximum period of thirty (30) working days to complete the presentation of evidence.

During the hearings, the Hearing Commissioner may ask clarificatory questions from the witnesses and counsel. All objections shall be noted by the Hearing Commissioner and referred to the Tribunal for disposition. The objections or motions shall not suspend the hearing. The evidence taken shall be subject to the Tribunal's ruling on the objections and motions.

9. Appreciation of the Contested Ballots and Election Documents

Preliminary Appreciation (P.A.) Committees are organized to conduct preliminary appreciation of the contested ballots and other election documents. The purpose of preliminary appreciation is to validate the physical count of the votes of the parties as determined in the revision proceedings and to resolve preliminarily the objections and claims of the parties to particular ballots or votes therein.

Each committee is composed of three (3) members, namely, a Chairperson, an Assistant, and a Recorder. All members of the P.A. Committees are employees of the Tribunal with proven sense of loyalty to the Tribunal, independence and integrity. All are college graduates who undergo the same rigid screening and training given to head revisors.

The P.A. Committee adheres strictly to the following rules and procedure in the preliminary appreciation of the ballots:

- a. The Chairperson, Assistant and Recorder are voting members.
- b. Each member examines the vote/ballot being objected to or claimed by the parties.
- c. Each member votes on whether to admit or reject the vote/ballot under consideration in accordance with law and the rules on appreciation.
- d. The vote must be unanimous.
- e. If the members do not agree, the vote/ballot is referred to the P.A. Supervisor.
- f. If the P.A. Supervisor could not decide on the vote/ballot, it is referred to the Committee on Referred Ballots, which is composed of Tribunal lawyers.
- g. If the Committee on Referred Ballots could not decide, the vote/ballot is referred to the Tribunal.

The Tribunal validates the rulings of the P.A. Committees and rules on the referred ballots. The Tribunal may, at its option, adopt the findings of the preliminary appreciation, conduct its own appreciation or randomly appreciate ballots and election documents to test the veracity of the preliminary appreciation results. When required by the number of ballots to be appreciated, the Tribunal organizes itself into three (3) divisions for the purpose of appreciating, and ruling on the claims and objections to the ballots. Assignment of contested areas is done through raffle.

10. Ballot Validation

Depending on the allegations contained in the protest, the Tribunal may order the decryption and authentication of the Secure Digital (SD) cards of the contested precincts and the printing of the picture images of the ballots. These picture images are used in validating the votes obtained by the parties as reflected in the original paper ballots. This process involves two phases: a) Barcode Matching, and b) Vote Matching. The Barcode Matching verifies whether the images saved in the SD cards are the scanned images of the actual ballots that were fed into the automated election machine. The Vote Matching phase verifies whether the votes on the actual ballot match those which have been scanned and counted by the automated election machine.

11. Final Tally of the Parties' Votes

While revision and appreciation proceedings are ongoing, the votes of the parties in the different election documents are verified for accuracy. After the conduct of the ballot validation, if so ordered, and the Tribunal had ruled on the claims and objections to the ballots or votes, the final tally of votes of the parties are prepared. This is then compared with the votes of the parties as gathered from the election documents, and this may result in vote adjustments, i.e., increase or decrease in the votes of the parties.

12. Preparation and Promulgation of Decision or Resolution

A decision or resolution is prepared showing the results of the initial revision and appreciation proceedings in the pilot areas as well as the evaluation of the various election documents and pieces of evidence admitted by the Tribunal. If the Tribunal determines that the officially proclaimed results of the contested election will not be affected, the Tribunal dismisses the protest, counter-protest or cross-protest without further proceedings.

However, should the initial revision show that the protest, counter-protest or cross-protest has merit, the Tribunal may order the proceedings to continue with respect to the remaining seventy-five percent (75%) of the contested areas. The processes of collection, revision, appreciation, reception of the parties' evidence and tallying of votes are then repeated until final resolution of the election protest.

The concurrence of at least five (5) Tribunal members is necessary for the rendition of a decision and the adoption of formal resolutions. A decision of the Tribunal becomes final ten (10) days after receipt of a copy thereof by the counsel, if no motion for reconsideration is filed. The Tribunal does not entertain motions for reopening of the case and no party is allowed to file more than one motion for reconsideration. Decisions and resolutions of the Tribunal may be questioned before the Supreme Court via a petition for certiorari.