



COMISION ESTATAL DE ELECCIONES
ESTADO LIBRE ASOCIADO DE PUERTO RICO

COMPLAINT PROCEDURE TO THE ELECTION LAW RULES AND REGULATIONS

Please note the Spanish version is the official version; the English version is provided as a courtesy. If there are any discrepancies in meaning between the two versions, the Spanish version will prevail.

Approved: October 13, 2004

COMPLAINT PROCEDURES
ADOPTED OCTOBER 2004

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**ELECTIONS COMMISSION OF PUERTO RICO (CEE)
COMPLAINT PROCEDURE
RULES AND REGULATIONS**

TITLE I PRELIMINARY DISPOSITIONS

SECTION 1.1 AUTHORITY

This procedure is adopted and promulgated in accordance with the powers conferred upon the Commonwealth of Puerto Rico Elections Commission (Elections Commission) in articles 1005 sections (e) and (l), and 1007 of the law No.4 of December 20, 1977 as amended, also known as “Election Law of Puerto Rico”

SECTION 1.2 PURPOSES

The purpose of this procedure is to establish the administrative procedure to attend to, investigate and resolve all complaints submitted to the Elections Commission by any interested party and could constitute an infraction to the election law.

SECTION 1.3 DEFINITIONS

All definitions contained in article 1003 of the Election Law of Puerto Rico that are applicable to this procedure are incorporated here.

For the purposes of this procedure the following terms will be understood as expressed:

- 1.- EVALUATION COMMITTEE:** Group of evaluators appointed to represent the Elections Commission and the President to examine and investigate complaints.
- 2.- FILE:** All documents included in and related to the complaint.
- 3.- ELECTION LAW:** Includes Law No.4 of December 20, 1977 as amended, also known as Election Law of Puerto Rico, rules and regulations, approved resolutions by the Elections Commission, supplementary approved laws by the Legislative Assembly and the applicable federal laws.
- 4.- COMPLAINT:** Any allegation made in writing and under oath by a complainant denoting acts, conduct or omissions that could constitute an infraction of the applicable election law.
- 5.-COMPLAINANT:** Any voter, candidate, political party, natural or legal entity who alleges that an act, conduct or omission of acts that could constitute an infraction to the applicable election law is or has been committed.
- 6.- ACCUSED:** Any voter, candidate, political party, natural or legal entity who is denounced by means of a complaint in the commission of acts, conduct or omission of acts that could constitute an infraction of the applicable election law.

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SECTION 1.4 APPLICABILITY AND REACH

All dispositions of this procedure are applicable to voters, candidates, political parties and natural and legal entities.

TITLE II EVALUATION COMMITTEE

SECTION 2.1 APPOINTMENTS

In accordance with the dispositions of article 1005 section (e) of the Election Law, an Evaluation Committee is created and composed of one evaluator representing each Elections Commissioner and one representing the President, who will serve as the head of the Evaluation Committee.

SECTION 2.2 ROLES

The Evaluation Committee will be entrusted to examine the complaints presented, formulate assessments and submit the corresponding recommendations to the Elections Commission.

SECTION 2.3 EVALUATION COMMITTEE QUORUM AND RESOLUTIONS

The participation of at least two (2) Election Commissioner representatives and the representative of the President will constitute quorum for all work.

The Evaluation Committee recommendations must be adopted by unanimous vote of all representatives of the Election Commissioners present at the time of evaluation.

In all matters considered by the Evaluation Committee if the Evaluation Committee fails to reach a unanimous vote, the representative of the President, will decide, this being the only time or circumstance in which he/she may vote. This decision will be considered as the Committee's ruling.

Any member of the Committee who opposes the ruling to be submitted in the Recommendation Report can record a separate vote, which will be included as part of the file to be presented to the Elections Commission.

SECTION 2.4 TERM TO SUBMIT THE REPORT TO THE ELECTIONS COMMISSION

The Evaluation Committee after reviewing the complaint, and no later than fifteen (15) days after the Elections Commission Secretary received the file, must submit a report with all recommendations to the Elections Commission Secretariat to be considered in the next ordinary session of the Elections Commission. As Election Day nears, the maximum time for review by the Evaluation Committee will be shortened as directed by article 1007 section (b) of the Election Law of Puerto Rico.

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SECTION 2.5 REACH OF RECOMMENDATIONS

The recommendations in the report to the Elections Commission may include but are not limited to: (1) proceed to close the complaint without further need for action; (2) submit to the Puerto Rico Department of Justice or the appropriate Administrative body; (3) proceed according to the law against the accused; (4) submit a recommendation to the Elections Commission for remedy of a violation; (5) recommend to the Elections Commission that they further investigate the complaint. In the last case, the complaint will be pending resolution until the end of the evaluation recommended by the Elections Commission.

SECTION 2.6 FOUNDATIONS FOR RECOMMENDING THE ARCHIVING OF COMPLAINTS

At any stage of the procedure, the following will constitute valid reasons to recommend the closing of a complaint without further need for action:

- 1.- The complaint does not refer to facts that could constitute an infraction of law.
- 2.- Due to the nature of the alleged acts, omissions or conduct, the Elections Commission lacks jurisdiction in the matter.
- 3.- An anonymous complaint or a complaint filed using a pseudonym or when a complaint is filed under the name of a natural person without his/her knowledge and consent.
- 4.- When the written complaint includes foul language, insults, or obscenity.
- 5.- When the complainant refuses to appear before the Evaluation Committee or to cooperate by presenting necessary and/or required information.
- 6.-The complaint is considered finalized when it has been heard and resolved by the Elections Commission, or by the competent court or administrative body with legal right to resolve it.
- 7.- The substance of the complaint is in process before a competent court or administrative body with legal right to resolve it.

The Elections Commission's recommendations or determinations concerning complaints of alleged violations will be published.

SECTION 2.7 INTERVENTION BY THE ELECTIONS COMMISSION

The Elections Commission, after evaluating the Evaluation Committee report, may accept, modify, revoke, return for re-evaluation, propose or require a remedy, or release a lawful decision. When circumstances justify, the Elections Commission may ignore the investigation, proceedings and/or recommendation of the Evaluation Committee, when they decide a matter.

SECTION 2.8 TERM TO TAKE ACTION

Once the report is submitted to the Elections Commission, it must take action within fifteen (15) days. If the Elections Commission does not take any of the actions

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mentioned in section 2.7, within the prescribed term, it will be assumed that the Elections Commission has reviewed the report and agrees with the recommended decision. In this case, the decision will be considered as the Elections Commission's decision and must be enforced within the following five (5) days. As Election Day nears, the maximum time for review for Elections Commission action will be shortened as directed by article 1007 section (b) of the Election Law of Puerto Rico.

TITLE III COMPLAINTS

SECTION 3.1 FILING OF THE COMPLAINT AND NOTIFICATION

All complaints shall be presented to the Elections Commission's Secretariat in original with five (5) additional copies. The Secretary will open a file, assign it a number and notify both parties, complainant and accused, providing them with a copy of the complaint.

The Secretary will present the file to the President of the Evaluation Committee within twenty four (24) hours after receiving it. Once the President has received it, he/she shall call on the Evaluation Committee to meet within the following seventy two (72) hours, to initiate the evaluation process.

SECTION 3.2 COMPLAINT CONTENT

All complaints must be presented in writing and must include:

- 1.- Accused's name and address.
- 2.- Complainant's name, address and signature.
- 3.- A concise statement of facts that supposedly could constitute a violation of election law. All supporting documents that sustain the basis of the complaint should be included.
- 4.- Notarized statement under oath indicating that all facts are true and of personal knowledge.

SECTION 3.3 COMPLAINTS THAT DO NOT MEET THE REQUIREMENTS

For those complaints that do not meet the previous requirements, the Secretary will assign a file number and notify the complainant giving him/her ten (10) days to comply with the requirements, advising him/her that if he/she does not comply within the period, the complaint will be rejected. The Secretary will keep the file until the requirements are met or until the complaint is discarded for non-compliance.

TITLE IV APPEARANCE BEFORE EVALUATION COMMITTEE

SECTION 4.1 SUMMONS OF APPEARANCE

In order to investigate the complaint, the Evaluation Committee, through the Elections Commission, may require the appearance before the Evaluation Committee of any person, including the complainant. The summons of appearance may include the obligation to provide reports or related documents.

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SECTION 4.2 HEARING ON THE RECORD

At the request of any complainant, there shall be a hearing on the record.

TITLE V GENERAL DISPOSITIONS

SECTION 5.1 COMPLAINTS FROM THE ELECTORAL COMMISSIONERS

This procedure is not applicable to the members of the Elections Commission; any complaints they have should be discussed and resolved among the Elections Commission, as otherwise according to the law.

SECTION 5.2 CONFIDENTIALITY

Complaint files will be considered private documents from the time they are filed until a decision by the Elections Commission.

SECTION 5.3 PENALTIES

Any person that is found to have knowingly and fraudulently acted in violation of this procedure will be sanctioned according article 8005 of the Election Law of Puerto Rico, which establishes a maximum of three (3) months in jail or a maximum fine of three hundred US dollars (US\$300.00), or both at the Tribunal's discretion.

SECTION 5.4 TERM VARIATIONS

The terms established in this procedure not prescribed in the Election Law of Puerto Rico, could be modified by the Elections Commission in special cases and with justified reason.

SECTION 5.5 AMENDMENTS OF THE PROCEDURE

This procedure may be amended by the Elections Commission at any convenient time deemed beneficial for a better enforcement of the Election Law of Puerto Rico.

SECTION 5.6 INDEPENDENCE

If any title, article, section, part, paragraph or clause of this procedure were to be declared unconstitutional by a competent court, the judgment in that effect will not affect or invalidate the rest of its content.

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SECTION 5.7 VALIDITY

This procedure will be in effect once the requisites stated in Article 1005 section (1) are met that require prior notification of the Governor of Puerto Rico and the Legislative Assembly through publication to that effect for two (2) times in a period of two (2) weeks in two (2) newspapers of general circulation.

Signed in San Juan, Puerto Rico on October 13, 2004.

AURELIO GRACIA MORALES

President

GERARDO A. CRUZ MALDONADO

Electoral Commissioner PPD

THOMAS RIVERA SCHATZ

Electoral Commissioner PNP

JUAN DALMAU RAMIREZ

Alternate Electoral Commissioner PIP

CERTIFICATE:

This procedure was approved by the Commonwealth Elections Commission in ordinary session held on the 13 of October, 2004. I hereby certify in San Juan, Puerto Rico on October 20, 2004.

RAMON M. JIMENEZ FUENTES

Secretary