

# OBSERVING ELECTIONS

## A Guide for International Observers of the 2007 Philippines National Election

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## Preface

The Asia Foundation, the premier non-profit organization devoted since 1954 to Asia's development, is a non-profit, non-governmental organization committed to a peaceful, prosperous, just, and open Asia-Pacific region. Drawing on more than 50 years of experience in Asia, the Foundation collaborates with private and public partners to support leadership and institutional development, exchanges, and policy research.

For the May 14, 2007 elections The Asia Foundation, in coordination with the Asian Network for Free Elections (ANFREL), will deploy observers from six Asian countries (Sri Lanka, Pakistan, Bangladesh, Thailand, Malaysia, and Indonesia) throughout Mindanao until May 15. This manual is meant to help guide those observers.

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This handbook is based on procedures outlined in the COMELEC/DepED/PPCRV *Handbook for Members of the Board of Election Inspectors*, and we gratefully acknowledge their support for the project. Nevertheless, the opinions expressed herein, and any errors or omissions, are those of the author and do not necessarily reflect the views of COMELEC, DepED, PPCRV, or The Asia Foundation.

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# 1 INTRODUCTION

Thank you for coming to work as an international election observer. International observers help deter election malpractice, and act as witnesses to the process for their organization or government. Your participation in this effort is an important contribution to ensuring democracy in the Philippines.

This manual, and the associated forms, are intended to provide you with all of the information you will need to effectively observe and report on the voting and counting processes on election day. The manual also includes some suggestions for campaign monitoring that may be helpful for those assessing the overall electoral environment.

To be an effective observer, it is important that you understand how isolated events can affect the entire process, so please read the entire manual carefully prior to the commencement of polling on election day.

A Note on Security During the Election: Observation is exciting, but should never be dangerous. Maintaining your personal security should be your number one priority throughout your observation experience. If at any time, for any reason, you feel it is not safe to observe in a particular area, then **DO NOT GO THERE**. The only information required from such areas is that you felt it unsafe to observe. This information is important because it is a clear indication that the environment was not conducive to the conduct of free and fair elections. If there is a violent incident or threat of violence while you are observing the campaign, or at a polling station, remain calm, and leave the area as soon as possible. **DO NOT RETURN!** Emergency contact numbers and additional information on the security situation in different parts of the Philippines will be provided by your coordinator.

## **2 ELECTION OBSERVER'S CODE OF CONDUCT**

Observers have responsibilities as well as rights, and should adhere to the following guidelines.

- *Non-partisan and neutral* - Observers must maintain an independent, impartial attitude. Information must be gathered, organized, and reported in an accurate, systematic, and verifiable way.
- *Respecting legal regulations* - Observers must respect all relevant legal regulations.
- *Respecting the voter* – Observers must not speak to any voter, or attempt to influence in any way the choice of the voter while they are in the polling place;
- *Secrecy of the vote* - Observers must not undermine or violate the secrecy of the vote;
- *Objective* - Observers should strive for objectivity in their reporting
- *Cooperative* - Observers must not disturb in any way the process of casting or counting of votes
- *Transparent* - Observers must be open in implementing their monitoring duties and must be prepared to explain the methods, data, analysis, and conclusions related to their monitoring reports

## **3 POLL WATCHERS IN THE PHILIPPINES**

The laws governing elections in the Philippines allow access to the polling centers by both partisan and non-partisan observers, which in the Philippines are called poll watchers.

### **3.1 Political Party and Candidate Poll Watchers**

Each candidate, political party or coalition of political parties duly registered with the Commission and fielding candidates in the May 14, 2007 election can appoint two watchers for each polling place. The two watchers can take turns observing the election, but cannot both be in the polling place at the same time. However, candidates for Sangguniang Panlalawigan, Sangguniang Panlungsod or Sangguniang Bayan, belonging to the same ticket or slate, are collectively entitled to two watchers, to serve alternately, in every polling place.

### **3.2 Non-partisan Poll Watchers**

Every citizens' arm duly accredited by the COMELEC may appoint two watchers in every polling place. Civic, religious, professional, business, service, youth, and any other similar organizations may collectively be entitled to two watchers in each precinct, if duly authorized by the COMELEC. The two watchers can take turns observing the election, but cannot both be in the polling place at the same time. Foreign election observers and Filipino Media Watchers who are duly accredited by the COMELEC have the same rights and prohibitions in observing the elections as poll watchers.

### **3.3 Qualifications of Filipino Watchers**

No person shall be appointed a watcher, either non-partisan or party, unless he is a qualified voter of the city or municipality comprising the precinct where he is assigned; is of good reputation; has not been convicted by final judgment of any election offense or of any other crime; knows how to read and write Filipino, English or any of the prevailing local dialects; and is not a first cousin or closer relative of any member of the BEI in the polling place where he seeks appointment as watcher. No appointive or elective barangay official, including barangay tanod, may be appointed as a watcher.

### **3.4 Rights and Prohibitions for Watchers**

The watchers have the right to:

- Witness and inform themselves of the proceedings of the BEI;
- Take note of what they may see or hear;
- Take photographs of the proceedings and incidents, if any, during the counting of votes, as well as the election returns, tally board and ballot boxes;
- File a protest against any irregularity or violation of law which they believe may have been committed by the BEI or any of its members or by any person;
- Obtain from the BEI a note certifying that they have filed a protest and the resolution thereon;
- Read the ballot as it is being read by the Chairman
- Read the election returns without touching it after it has been completed and signed by the BEI
- Request a copy of the Certificate of Votes cast for the candidate, signed and thumb marked by the BEI

Watchers may not:

- Wear any candidate or party insignia or other identifying item or engage in any partisan activities during the performance of their duties;
- Speak to voters inside the polling place;
- Interfere in the polling or counting processes;
- File complaints with the intention of disrupting the polling or counting;
- Touch any polling materials or take part in any polling or counting operations;

## 4 MONITORING THE PRE-ELECTION ENVIRONMENT

The relative fairness of an election cannot be determined solely by considering what occurs on election day, as there are a number of other factors which can affect citizens and political parties’ ability to participate effectively in the democratic process. If possible, you should try to arrive in your province prior to the last day of the campaign period, so that you will have the opportunity to observe some of the campaigning and evaluate to some extent the pre-election environment.

Making an overall assessment of the pre-election environment is both complex and time-consuming (it is the primary responsibility of any long term observers), and it is impossible to describe that process in much detail in this short manual. Nevertheless, short-term observers such as yourselves can gain an increased understanding of the entire electoral process by considering the following questions related to the pre-election environment:

<b>Election Environment Assessment Checklist</b>		Yes	No
1	Are political parties and candidates free to organize and to recruit new members?		
2	Are parties and candidates free to assemble and conduct activities?		
3	Do ordinary citizens have freedom of association, speech, and movement?		
4	Do people have adequate access to information on the platforms and policies of the parties and candidates so that they can make an informed choice on election day?		
5	Do people have sufficient knowledge of the electoral processes (how and where to register, complain, and vote) to		

	<b>Election Environment Assessment Checklist</b>	Yes	No
	participate effectively in the election process?		
6	Are election-related complaints appropriately resolved?		
7	Are the local COMELEC officers well-trained and qualified to effectively fulfill their duties?		
8	Has the local election administration received the materials and support needed to conduct the elections?		
9	Are COMELEC officials perceived as neutral administrators of the electoral process?		
10	Was campaigning done in a fair and peaceful way?		
11	Is the security environment conducive to a free and fair election?		
12	Were government facilities or resources used by incumbents or others in their campaigns?		
13	Did any parties or candidates try to buy votes with money or gifts?		
14	Did any parties or candidates use threats or violence to influence voters' choices or to intimidate them from casting a vote on election day?		

## **5 THE POLLING STATION**

### **5.1 The Board of Election Inspectors**

A Board of Elections Inspectors (BEI) is composed of three people: a chairman, a poll clerk, and a member, and is responsible for conducting the voting and counting of votes for a precinct at the polling station. In most cases the chairman and members of the BEI will be public school teachers, but if there are not enough qualified public school teachers, teachers in private schools, employees in the civil service, or citizens may be appointed as members of the BEI. Members of the BEI may vote in the polling place where they are assigned, but must be non-partisan in the performance of their duties, and:

- a. Must be of good moral character and irreproachable reputation.
- b. Must be registered voter of the city or municipality.
- c. Must have never been convicted of any election offense or of any other crime punishable by more than six months of imprisonment.
- d. Must have no pending information for any election offense against him.
- e. Must be able to speak and write English or the local dialect.

- f. Must not be a first cousin or closer relative to any other member of the BEI, or to any candidate or spouse of candidate to be voted for in the polling place.

*Observer Note: BEI meetings must be held in public and only in the polling place designated by the Election Commission. If you observe a BEI holding proceedings in private, or in an unauthorized location, record the circumstances on your report form.*

## **5.2 Security at the Polling Station**

Policemen or peace officers assigned to a polling center may stay outside the polling place within a radius of thirty (30) meters, but in no case shall the policemen or peace officers hold conversation with any voter or disturb, prevent or obstruct in any manner the free access of the voters to the polling place. Unless specifically called in by the BEI to remove someone disturbing the polling or counting process, it is unlawful for any member of the Armed Forces of the Philippines (AFP) or the Philippine National Police (PNP) or any peace officer or armed person belonging to any extra-legal police agency, special forces, reaction forces, strike forces, Civilian Armed Force Geographical Units (CAFGUs), barangay tanod, or other similar forces not specifically assigned to provide security for a polling center to enter any polling place or stay within a radius of fifty (50) meters thereof, except to vote, in which case they shall immediately leave the polling place after voting.

*Observer Note: If you witness unauthorized security personnel inside a precinct or polling center, or interfering with the voters outside the polling center, record the circumstances on your report form.*

## **5.3 Election Materials**

Each Polling place should be equipped with the following materials:

- One Ballot Box
- One voter list (EDCVL)
- Three padlocks and their keys (used to seal the ballot box)
- Official Ballots, which are distributed in pads

- 1 – Set National Election Returns (pre-printed with names of candidates).
- 1 – Set Local Election Returns.
- The Tally Boards
- The Minutes of Voting and Counting
- Certified List of Candidates
- 2 bottles of Indelible Ink
- Thumbprint/Fingerprint Takers (2)
- Self-locking Fixed-Length Seals (2)

## 6 OBSERVING THE ENVIRONMENT ON ELECTION DAY

### 6.1 Stationary vs. Mobile

On election day, most domestic observers will be *stationary observers*, meaning that they will stay in one polling station throughout the entire day, observing and reporting on the process from beginning to end. This is an important role, and the only way there can be any certainty about the process *inside* the station. But events can occur *outside* the station (either close to the station or far away) that the stationary observer cannot see, but which can directly affect the fairness of the process. Monitoring the environment outside the polling stations, and in the villages and towns between stations, is the responsibility of *mobile observers*. Most international observers will be mobile observers, and for that reason, *this manual and report forms have been developed specifically for mobile observers*.

### 6.2 Election Day Environment Concerns

Although observers on election day are usually focused on the voting and counting processes inside the polling center, events may occur outside the polling center or between centers that can inhibit access to the polling centers, or can contribute to an environment of insecurity and fear that convinces some voters that going out to cast their ballot is simply not worth the risk involved. Denial of access to stations can be accomplished through physical force, for example, by setting up a roadblock between a village and a polling station, or through more general intimidation and threats. Voters can also be prevented from casting their ballots through confiscation of identification documents or inking of fingers to prevent voting. Other environmental concerns that can

affect the fairness of the process outside the polling stations include election day vote-buying and illegal campaigning.

*Observer Note: Near the polling center look for groups of men, armed or not, who might be intimidating voters. Talk to people outside the polling center and try to determine if local officials or party representatives are loitering near the station. Look for people recording names or passing money or pre-marked ballots, or other objects to voters. When traveling between centers stop and talk to people and ask them about the election process, if there are any problems, and if they feel free to participate. Look for groups of men who might be preventing voters from leaving a particular area, confiscating voter cards, or campaigning illegally.*

## **7 THE POLLING PROCESS**

### **7.1 Before Polling Begins**

The BEI should arrive with the polling materials at the polling place at least one hour before the commencement of polling. When you arrive at the polling place the first thing you should do is greet the Chairman and show him or her your accreditation card. It is likely that in some cases, either before or during polling, international observers will be asked to comply with the same registration procedure required for local poll watchers. In that case, the Chairman or Poll Clerk will record your name in the Minutes of Voting and Counting of Votes, and you will then be asked to sign next to your name in the minutes. *If requested, you should comply with this requirement.*

If because of limited space, all watchers cannot be accommodated in the polling place, either in the morning or at any time during the day, preference shall be given to the watchers of the six (6) accredited major political parties as determined by the COMELEC, and to the watcher of the citizens' arm, with the latter being given preferential position closest to the BEI.

*Observer Note: You should arrive at your first polling center by 6:30 AM on Election Day, so that you can observe preparations and the opening of the poll. Make sure you bring your accreditation card, and if you have an organization hat or t-shirt you may want to wear that as well. You should also remember to bring this manual and a pen.*

*Record the number and location of the polling center on your observer form. Check to make sure that all of the required polling materials are present in the center. The most important are the voters list, the ballot papers, and the indelible ink. Ensure the ballot box is empty before the BEI locks it, and that it is placed so that the slot in the top of the box is clearly visible. Before polling begins you can check inside the ballot secrecy folders (voting screens) to ensure that no campaign literature has been placed inside, and confirm that the polling place has been set up so that no one can see voters mark their ballots.*

## **7.2 Opening the Poll and Identifying Voters**

The polling place should open promptly at 7:00 AM, and remain open continuously until 3:00 PM. BEI members, watchers and observers qualified to vote at the precinct may vote first. Voters should then be allowed into the polling place one by one, and should inform the Chairman of their name and address, who will then look up their name in the Election Day Computerized Voter List.

If any member of the BEI doubts the identity of the voter, the BEI shall require the voter to present any authentic document which may establish his identity (a barangay certificate or community tax certificate is not acceptable). If the BEI is satisfied with his identity, the chairman shall distinctly announce the voter's name in a tone loud enough to be plainly heard throughout the polling place. If such voter has not been challenged, or having been challenged, the question has been decided in his favor, the voter shall be given a ballot.

*Observer Note: Position yourself so that you have a clear view of the entire polling place, including the ballot box. When a voter presents their ID card, the Chair should announce the voter's name clearly.*

### **7.3 Checking for Ink and Issuing the Ballot**

Next the Chairman shall inspect the right index finger of the voter to confirm it is not stained with an indelible ink. If it is, the Chairman shall not give him a ballot, and the person will be required to leave the polling place. If no ink is detected, the Chairman will issue a ballot, and record the serial number of the ballot on the EDCVL. The voter is then required to sign next to their name on the EDCVL, or if illiterate or disabled, provide a thumbprint. The Chairman will authenticate the ballot by signing the back, then fold the ballot in such a manner that its face will be covered but the detachable coupon bearing the serial number is visible, then direct the voter to an empty desk.

*Observer Note: Confirm that voter's fingers are being checked for signs of ink, and that every ballot is authenticated with the Chairman's signature. If a ballot has not been signed it will be ruled invalid during the counting process. Note if any of the precinct staff or pollwatchers are trying to influence voters.*

### **7.4 Marking the Ballot**

The voter, upon receiving his folded ballot, will go to an empty desk. Only one voter is allowed at a desk at one time. Voters may not:

- use carbon paper, paraffin paper or other means for making a copy of the contents of the ballot;
- intentionally tear or deface or make any mark or sign on a ballot that could be used to identify the voter or his vote;
- mark the ballot outside the polling place or in any other place not designated for the purpose;
- show the contents of the ballot to any person;

### **7.5 Returning a Marked Ballot**

After filling up the ballot, the voter re-folds the ballot and returns it to the Chairman. The Chairman confirms the serial number on the ballot is the same as that recorded for the voter, then requires the voter to press their right thumb into the inkpads, and then put a thumbprint on the detachable stub and on the corresponding space on the EDCVL. The Chairman will then sign in the appropriate space on the EDCVL.

The third member of the BEI will then apply a drop of indelible stain ink at the base and extending to the cuticle of the right index fingernail of the voter. The Chairman will then detach the coupon and put it in the compartment for spoiled ballots, and return the ballot to the voter, who will put the ballot in the compartment for valid ballots. The voter departs immediately.

*Observer Note: Make sure that voters only place one ballot in the ballot box and that after voting their finger is marked with ink to prevent multiple voting. Stay in your first polling center at least twenty minutes after the opening of the poll, so that you will have a sense of how the process is going, before moving to another polling center.*

*Assessing Pollworker Training and Voter Education - If there are concerns that training for pollworkers or voter education may have been inconsistent, for example better in urban than rural areas, you can get a relative assessment of the efficiency of the process (and thereby quality of training or level of local capacity, or effectiveness of voter education) by counting the number of voters who finish the process per minute (count for five minutes then divide by five), then comparing the results with those you obtain from other polling centers, or from your colleagues in other regions. This count should be carried out between 8:00 and 9:00 am, when voters are waiting and the precinct is running at full capacity. Record the result in the comment section of your report form.*

## **7.6 Spoiled ballots.**

If a voter accidentally spoils or defaces a ballot in such a way that it can no longer be lawfully used, he can return it folded to the chairman who will write the word "spoiled" in the corresponding space above the ballot serial number in the EDCVL. The voter will then be given another ballot authenticated by the chairman after announcing the serial number of the second ballot and recording the serial number above the word "spoiled". If the second ballot is again spoiled or defaced in such a way that it can no longer be lawfully used, the voter may not have another ballot.

## **7.7 Assisting Illiterate and Disabled Voters**

An illiterate or physically disabled voter is entitled to assistance with marking their ballot if their disability or illiteracy is recorded in the PCVL; or the disability is apparent from physical condition. Such a person may be assisted in marking the ballot by a relative who is a first cousin or closer. If no close relative is available, the ballot can be marked by any person who has the voter's confidence and belongs to the same household, or by any member of the BEI. No person may assist an illiterate or disabled voter more than three (3) times, except the members of the BEI. In all cases where assistance is provided, the poll clerk shall first verify from the illiterate or disabled voter whether the voter has authorized the assistor to prepare the ballot for him.

Before marking the ballot the assistor shall bind himself in writing and under oath to fill the ballot strictly in accordance with the instructions of the voter and not to reveal the contents of the ballot by affixing his signature in the appropriate space in Part G of the Minutes of Voting and Counting of Votes. The assistor shall then prepare the ballot for the illiterate or disabled voter using the ballot secrecy folder in the presence of the voter, and together they will return the ballot to the Chairman. Following normal procedure, the thumbprint of the voter (not the assistor) will be affixed on the stub of the ballot and on the EDCVL, and then ink applied on the fingernail of the voter.

## **7.8 Challenging Voters**

When the Chairman calls out the name of a voter the qualification to vote of that person may be challenged by any watcher or voter on the grounds of impersonation. In this case, the BEI will require the voter to prove his identity. Acceptable methods of identification are:

- any authentic document which will establish his identity;
- comparison with his photograph on his VRR;
- comparison of his signature with that appearing on his application for registration or his voters affidavit;
- an oath by a member of the BEI affirming his identity

If the challenged person is unable to prove his identity, he will not receive a ballot, and will be required to leave the polling place.

A voter or watcher may also challenge any potential voter on the grounds that the challenged person has:

- received or expects to receive money or anything of value as consideration for his vote or for the vote of another;
- paid or contributed, or promised to pay or contribute money or anything of value as consideration for his vote or for the vote of another;
- made or received a promise to influence the giving or withholding of any such vote;
- made a bet or is interested directly or indirectly in a bet which depends upon the results of the election.

The challenged person shall take an oath before the BEI that he has not committed any of the acts alleged in the challenge. Upon taking such oath, the challenge shall be dismissed and the voter shall be allowed to vote. In case the voter refuses to take such oath, the challenge shall be sustained and the voter shall not be allowed to vote.

*Observer Note: Ask at each polling center if there have been any challenged voters, and if there have been, record the number and circumstances.*

## **7.9 Closing of the Poll**

The polling place will remain open until three o'clock in the afternoon of election day. If at three o'clock there are still voters waiting to vote, their names will be recorded by the poll clerk and they will be allowed to vote. No one who arrives after 3:00 PM will be allowed to vote. When all remaining voters have cast their ballots the polling place will close. The Chairman will first record the quantity of unused ballots and their serial numbers, and will then, in the presence of the members of the BEI and watchers, tear the unused ballots in half lengthwise without removing the stubs and detachable coupons.

## **7.10 Prohibitions at the Polling Station**

- No person shall interfere or attempt to interfere with a voter who is marking a ballot, nor induce a voter to display a marked ballot.
- No person shall attempt to obtain any information at a polling place about which candidate a voter has voted for, is voting for, or is about to vote for.
- No person shall prevent or attempt to prevent a person from exercising the right to vote.

- No person shall communicate any information obtained at a Polling Station regarding which candidate a voter has voted for, is voting for, or is about to vote for.
- No person shall enter the voting area or stand in a position to view the marking of the ballot by a voter. The only exception is for voter assistance, and a person assisting is obligated to uphold the voter's right to secrecy at all times.

## **8 COUNTING**

### **8.1 Observation**

Counting of votes will be conducted in public and without interruption. Appointed watchers for political parties and candidates and accredited non-partisan observers have the right to observe all aspects of the counting process, including setting up for the count, the reading of ballots, and the marking of votes on the tally board and polling returns. Watchers can read the votes in the ballots but not touch any election document.

*Observer Note: Please plan to arrive at a polling center before 3:00 pm so you can observe the entire closing process. If your observation route is a loop, you may consider returning to the precinct you opened in the morning to observe the closing and the beginning of the count.*

### **8.2 Transfer of Counting in Extraordinary Circumstances**

The counting must be done at the polling place except if there is imminent danger of violence, terrorism, disorder or similar causes. (In several provinces in the ARMM it has already been decided that ballot boxes will be moved to a central counting center. Instructions for monitoring this process will be detailed in a separate circular.) The BEI may by unanimous vote, and with the concurrence of the majority of the watchers present, transfer counting to a public building within the city/municipality. All the members of the BEI, and those watchers who agree with the move, will record their agreement in the minutes by signing the minutes. Any watchers who disagree will be asked to record their objection.

*Observer Note: If counting is moved, record the circumstances on your report form. If possible, accompany the ballot box to the new location and continue monitoring the count.*

### **8.3 The Reconciliation Process**

First, the Poll Clerk will determine how many votes were cast by counting the number of voters crossed off the EDCVL. Next, the BEI will unlock the ballot box and remove the ballots and, without unfolding the ballots or exposing their contents, the board will count the number of ballots. The total number of ballots in the box should equal the number of voters crossed off the EDCVL. This check is called *reconciliation*. Another reconciliation process will be conducted by adding the total number of used ballots to the totals of unused ballots and spoiled ballots, and this sum should equal the number of ballots received.

If the number of ballots is greater than the number of voters who actually voted, the board shall return all the ballots to the compartment for valid ballots, mix it thoroughly and the poll clerk with his back to the ballot box shall draw out as many ballots as may be equal to the excess and without unfolding them, place them in the envelope for excess ballots, deposit this envelope in the compartment for valid ballots.

*Observer Note: If there are two or three extra ballots in the ballot box, but the votes cast plus spoiled ballots plus unused ballots equals the ballots received, then the BEI probably forgot to cross some valid voters off the voter list. If there are more than two or three extra votes and the total number of used, unused and spoiled ballots is greater than the number of ballots received, this is an indication that attempts have been made to cheat, and the circumstances should be recorded in your report form.*

### **8.4 Counting the Votes**

The BEI will next unfold the ballots and arrange them in piles of 100, except the last pile which might be less than 100, then wrap each pile with a rubber band. The Chairman of the BEI shall take the ballots of the first pile one by one and read 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. As each level of election is read, the Chairman will make a determination if the vote is valid. Rules for determining the validity of a vote are described in the next section.

As each vote is read out, it will be recorded on the election returns and the tally board. After finishing the first pile of ballots the total for each candidate will be written on the election returns and tally sheet after the last tally mark. The same procedure shall be observed for the second and third pile until all the votes are counted.

*Observer Note: Watch carefully as the validity of ballots is being determined to ensure that the same evaluation criteria are used for each candidate and party. Note if a blank piece of paper or a counterfeit ballot is found in a box, as that would be evidence that vote telegraphing has occurred.*

*Poll Watchers should be able to clearly see the ballots as they are counted and displayed, and to see the BEI members marking the party and candidate on the election returns and the tally board. Ensure that the party and candidate announced by the Chair is the same as that which is marked on the ballot, and that the BEI member marking the election returns and the tally board are actually marking the vote for the candidate or party announced.*

## **8.5 Guidelines for Appreciation of Ballots**

Determining if a vote is valid can be very tricky. This section aims to help in ascertaining how and when a vote may or may not be counted. As a rule, every ballot shall be presumed valid unless there is a clear and good reason to justify its rejection.

### **8.5.1 Frequently Raised Objections**

1. **Neighborhood or Proximity Rule**  
– Generally, votes should be written on the space provided for. However, if it is not written on the space provided for but is near and there is no vote written on the space provided for, the vote shall be considered valid for said candidate

whose name is written proximate to the space provided for. This is sometimes referred to as the “intent rule.”

2. *Idem sonans* – “of the same sound.” A name which is misspelled or incorrectly written but which

when read has a sound similar to that of a candidate for that office is valid for such candidate.

Mario Santos

<b>BALLOT</b>
<u>Mario Santus</u>

the same office and only that name is written on the ballot, the vote shall be counted in favor of the candidate who has that name as his surname.

Benjamin Garcia  
Rogelio Benjamin

<b>BALLOT</b>
<u>Benjamin</u>

3. Equity of the Incumbent – If two or more candidates have the same name or surname and one of them is incumbent and on the ballot is written that name or surname only, it shall be counted for the incumbent.

If only the name “Benjamin” appears on the ballot, it shall be counted in favor of Rogelio Benjamin.

Mayor Greg Hechanova  
Ben Hechanova

<b>BALLOT</b>
<u>Hechanova</u>

4. A nickname by which a candidate is popularly known in the locality is valid for the candidate having such nickname.

Gabriel “Gabby” Amihan

<b>BALLOT</b>
<u>Gabby</u>

5. Correct surname followed by the wrong first name, correct first name followed by the wrong surname is a stray vote.

Gabriel Amihan  
Gabriel Titulo

<b>BALLOT</b>
<u>Patrick Amihan</u>

6. Predominance of Surnames – If the surname of a candidate is the first name of another candidate for

### 8.5.2 Valid Ballots

Votes are still VALID for counting in the following instances –

- Candidate's first name or surname, as long as there is no other candidate with same name or surname
- Party's name is incomplete or not appearing in the order contained in the Certified List of Parties as long as there is no other such party with the same name
- Surname alone is used
- Candidate with surname that sounds similar when read to the first name of a candidate written in the ballot
- When two candidates have the same full name, first name or surname and one of them is incumbent, the vote shall be counted in favor of the incumbent
- When a candidate is a woman who uses her maiden or married surname or both and there is another candidate with same surname, a ballot bearing only such surname will be counted in favor of the candidate who is an incumbent
- When two surnames are written, only the surname of the incumbent, who has served for at least one year, will be counted
- A name or surname or name of a party incorrectly written which, when read, has a sound similar to the name or surname of a candidate when correctly written
- When a candidate's name appears twice in a ballot, only the vote for the position which he is running for will be counted
- Identical surnames repeatedly appearing on different lines or for multiple positions can be counted when two or more positions are open. Examples as in positions for Senator, Sangguniang Panlalawigan, Sangguniang Panglungsod, and Sangguniang Bayan.
- Name of candidate or party written beside another name that has been erased
- Wrong initial of the first name but correct surname
- Wrong initial of the surname but correct first name

- Wrong middle initial of the candidate
- First name or surname of candidate which is the same with another person who is not a candidate
- Votes with prefixes such as “Sr.,” “Mr.,” “Datu,” “Don,” “Ginoo,” “Hon.,” “Gob.,” or suffixes such as “Segundo”
- Nicknames and appellations of affection accompanied by the first name or surname
- Initials of a party as long as they are the same initials appearing in the Certified List of Parties
- Written with crayon, lead pencil, or in ink
- When the number of names exceeds the number required for the positions, names will be counted from those that were written first down to the last allowable slot.
- Commas, dots, lines, or hyphens between the first name and surname of a candidate, or in other parts of the ballot
- Traces or extensions of the letter “T,” “J” and other similar letters
- The first letters or syllables of names which the voter does not continue
- Two or more kinds of writing and unintentional or accidental flourishes, strokes, or stains
- Circles, crosses or lines signifying the voter is abstaining from voting for certain positions
- Written in Arabic in localities where it is generally used. To read them, the BEI may employ an interpreter who shall take an oath that he shall read the votes correctly
- Accidental tearing or perforation of a ballot does not annul it
- Intact detachable coupon

*Sec. 45, GI*

### 8.5.3 Invalid Ballots

Votes are INVALID in the following cases –

- Combining the first name and surname of two different candidates
- Initials or illegible writing which does not sufficiently identify the candidate
- Vote for a candidate for a position he is not running for
- Vote for a party for a position they are not running for
- Two or more names of candidates or parties in one single space
- Name of person or party not running for office
- Pre-printed stickers or typed entries
- Any ballot which clearly appears to have been filled by two distinct persons
- Vote for a disqualified candidate or party

*Sec. 45, GI*

### 8.6 After Counting

After all the ballots have been read and counted the BEI will write in words and figures the total votes obtained by each candidate by each party, organization or coalition participating under the party-list system, in the designated space on the Election Returns and in the Tally Board. The Chairman will then announce the number of votes received by each candidate and the corresponding office.

At this point the Poll Clerk should take the Election Return to the Tally Board and invite you to confirm that the results recorded on the Tally Board are the same as those recorded on the Election Return. The BEI members will then sign and thumbprint the forms, and the watchers of the six principal political parties will also be asked to sign and thumb mark the returns. The BEI will then give copies the Election Returns to the representative of the dominant

majority party, the dominant minority party, and of the COMELEC citizen's arm.

A recent amendment of the election law requires that the second copy of the election return to be posted by the Poll Clerk on a well-lit wall within the polling place (normally on the wall outside the precinct) in full view of the public for 48 hours following the count. During that period, any citizen or party representative may view and photograph the return. After the posting period the Chairman of the precinct will collect the return and maintain it in his or her possession, but make it available for inspection or photographing by any voter, or for any other lawful purpose ordered by competent authority.

The counted ballots are then placed in the envelope provided, and the envelope is sealed, signed and deposited in the compartment of the ballot box for valid ballots. The Tally Board, after being signed and thumb printed by the BEI, is folded, and then also placed in the compartment for valid ballots. Then, in full view of the public, the ballot box will be sealed and locked for delivery to the Returning Officer.

*Observer Note: Make sure the totals on the returns match those on the tally sheet. Confirm that party pollwatchers or observers are provided a Certificate of Votes, if requested (failure to issue COV on request is an election offense). Each certificate issued shall be signed and thumb marked by all three BEI members. Confirm that the second copy of the Election Return is posted in an area accessible to the public and that those who wish to photograph the return are allowed to do so. If you wish, you can accompany the ballot box to the Returning Officer, and observe the canvassing process, but you should deliver your report to your supervisor as soon as possible.*

*Thank you!*







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