



Republic of Liberia



NATIONAL ELECTIONS COMMISSION

**Regulations on Challenges and Complaints Arising before and
during Elections**

July 12, 2011
Monrovia, Liberia

Preamble

WHEREAS, Article 89 of the January 6, 1986 Constitution of the Republic of Liberia established the Elections Commission as an autonomous public Commission;

WHEREAS, Sections 2.9 (a) and (h) of the 1986 Elections Law empower the Commission to administer and enforce all laws relative to the conduct of elections and to formulate and enforce electoral guidelines, respectively;

WHEREAS, Section 2.9 (q) and (w) of The 1986 Elections Law empower the Commission to be a sole judge of all contests relating to the election results, and to to punish for contempt for any obstruction or disobedience of its orders;

WHEREAS, Section 2.24 of The 1986 Elections Law provides that the Commission shall have the original administrative jurisdiction to hear and determine all electoral offences, subject only to judicial review by the Supreme Court of Liberia;

WHEREAS, International elections standards provide that election contestants and citizens may complain and appeal violations of the election process;

WHEREAS, Article 65 of the January 6, 1986 Constitution of the Republic of Liberia provides for administrative consideration before a review by a court of competent jurisdiction;

NOW THEREFORE, National Elections Commission hereby promulgates the Regulation on Complaints and Challenges:

Citation and Application

Article 1:

1. This regulation may be cited as “Complaints Regulations”.
2. This regulation regulates challenges to candidates and complaints of offences against the Elections Law or violations of the guidelines, regulations or codes of conduct issued by the NEC during the presidential and legislative elections of 2011.
3. This Regulation does not apply to the process for Contested Elections under Article 83 of the Constitution of Liberia and Chapter 6 of the Elections Law.

Right of Challenge and Complaint

Article 2:

1. Any of the following may challenge the eligibility of a candidate or file a complaint related to an offence or violation referred to in Article 4 of this regulation:
 - a. a registered voter;
 - b. an agent of a political party or candidate;
 - c. a candidate;
 - d. a political party, coalition or alliance.
2. A challenge or complaint must not be based on hearsay and must be made by an individual who has personal knowledge of or was a witness to the matters that are the basis of the challenge or complaint.

Challenges to candidates, time limits

Article 3:

1. A candidate rejected by NEC during the candidate nomination period may appeal NEC’s decision to the Supreme Court within 72 hours after NEC’s determination.
2. A challenge to the eligibility of a candidate on the preliminary list of candidates must be in writing and signed by the challenger and presented to the NEC within 72 hours after publication of the provisional list of candidates, with all evidence available to support the challenge.
3. The NEC shall investigate and determine the challenges presented to it and if it decides that the candidate is not qualified, shall remove the candidate from the preliminary list of candidates.
4. A candidate removed by NEC may appeal the decision to the Supreme Court within 72 hours after it is issued.

Complaints of offences and violations

Article 4:

1. A complaint that an offence against the Elections Law or a violation of a guideline, regulation or a code of conduct approved by the NEC has occurred, must be in writing and signed by the challenger and presented to the NEC Hearing Officer or Magistrate Office within 48 hours after the offence or violation occurred, or to the polling place presiding officer during the polling and counting, with all evidence available to support the complaint.
2. The complaint must provide the name, address and contact information of the complainant, the date, time and location of the offence or violation, and information about accused and any other witnesses if available.
3. A complaint that does not comply with the requirements of this regulation or by a person who has no standing under Article 2 of this regulation may be dismissed.

Investigation initiated by NEC

Article 5:

1. The NEC may investigate and determine whether or not a candidate on the preliminary list is qualified, whether or not a challenge has been received.
2. The NEC may investigate and determine whether or not an offence against the Elections Law or a violation of the guidelines, regulations or codes of conduct issued by the NEC has occurred, whether or not a complaint has been received.

Hearings

Article 6:

1. The Chairman of NEC shall designate hearing officers who shall be independent in their duties as hearing officers under this regulation. Magistrates may hear cases under their jurisdiction or assist the hearing officer with the investigation of a complaint.
2. The NEC shall, if practicable, give a candidate who is challenged and an identified person who is alleged to have committed an offence or violation an opportunity to be heard.
3. A hearing officer may issue a citation for appearance, subpoena or any other procedural action, and shall make reasonable efforts to contact the challenged candidate or person accused to ensure transparency and a fair due process for all parties involved during the hearing.

4. The hearing officer shall make a determination on a matter which may be appealed to the Board of Commissioners.

5. In a case where an offence or violation will be determined in the first instance by a Magistrate, a hearing officer may make a recommendation to the Magistrate.

Sanctions

Article 7:

1. The NEC or a Magistrate may dismiss a challenge or complaint if the evidence is insufficient or not credible.

2. The NEC or a Magistrate may apply any sanction authorized by the Elections Law or Regulations issued by NEC and may, whether or not a sanction has been applied, the NEC may refer any matter to the state prosecutor if it believes a crime has been committed or that an offence should be punished by imprisonment.

3. If, after investigation, the NEC determines that there is credible evidence that a ballot box has been substantially corrupted by fraud, the Commission may order that the ballot box be excluded from the count of votes.

4. The Commission may order that a person employed by the Commission who has committed an offence or violation shall be dismissed from the Commission or otherwise disciplined.

5. NEC may apply any other remedy it deems reasonable and adequate to the offence violation, including, but not limited to re-count of the ballot box or repeat elections in a polling centre or a whole constituency.

Procedures

Article 8:

1. The hearing process, investigation and determination of challenges and complaints by the NEC shall be organized according to rules of procedures issued by the NEC.

2. A decision by the NEC or a Magistrate shall be published on the premises of NEC or the Magistrate's office respectively.

3. A Magistrate's decision can be appealed to NEC Board of Commissioners within 72 hours after determination by Magistrate.

4. Determination of Hearing officer shall be appealed to the Board of Commissioners no later than 48 hours after determination.

5. determination of NEC Board of Commissioners on the complaint can be appealed to the Supreme Court of Liberia no later than 48 hours after the determination is issued.

Assistance to the NEC

Article 9:

The officers and staff of any state organization must, if requested by NEC, assist the NEC or a Magistrate with the investigation of challenges and complaints.

Report

Article 10:

The NEC shall prepare and publish a report on its determination of challenges and complaints in an election after it has completed its work.

Entry into Force

Article 11:

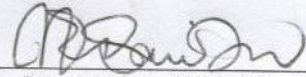
This regulation enters into force immediately upon publication.

**DONE UNDER OUR HANDS AND SEAL OF THE NATIONAL ELECTIONS
COMMISSION (NEC) THIS 12TH DAY OF JULY, A.D. 2011.**

Signed:



Cllr. Sarah Jegede-Toe
COMMISSIONER



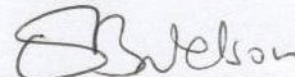
Cllr. Jeanette A. Ebba-Davidson
COMMISSIONER

Hon. Ansumana F. Kromah
COMMISSIONER

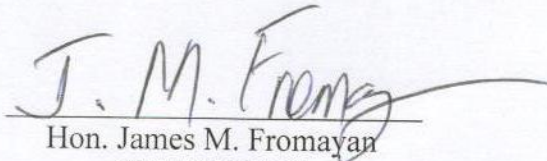


Hon. David S. Menyongai
COMMISSIONER

Hon. Jonathan K. Weedor
COMMISSIONER



Cllr. Elizabeth J. Nelson
CO-CHAIRMAN



Hon. James M. Fromayan
CHAIRMAN