ELECTIONS HEARING PROCEDURES

May 6, 2016
Monrovia, Liberia
Preamble

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

Whereas, Section 9(g), Chapter 2 of the New Elections Law of 1986 further empowers the National Elections Commission to conduct all elections for elective public offices and all referendums and declare the results thereof;

Whereas, Section 9(h), Chapter 2 of the 1986 Elections Law empowers Elections Commission to formulate and enforce electoral guidelines;

Whereas, Section 9(w) Chapter 2 of the 1986 Elections Law empowers the National Elections Commission to issue citation for the appearance before it of any political party or its leaders, or other natural persons in connection with any complaint cognizable before it; and to issue subpoenas for the purpose of having witnesses to appear and testify or to produce documents or any other form of evidence in any hearing; and to punish for contempt for any obstruction or disobedience of its orders.

NOW THEREFORE, it is hereby promulgated as follows:
General Provisions

Article 1. Citation

1.1. These rules may be referred to as the “Hearing Procedures”.

Article 2. Application of the Procedure

2.1. These procedures shall govern all complaints Cognizable before the Commission as provided for by law, practice or procedures.

Jurisdiction

Article 3. Jurisdiction

3.1. Magistrate of Elections shall have power and jurisdiction of first Instance to adjudicate disputes, hear and determine:

a. All complaints referred to under Article 83(c) of the Constitution of Liberia, sections 3.11, 3.16 and 6.1 of the New Elections Law of 1986. Magistrate may investigate violations and claims, and order reinstatement of names in the Voter Registration Roll within his/her area of responsibility as determined by NEC.

b. All election offenses referred to under Chapter 10 of the New Elections Law of 1986, in which the penalty provided is not more than five hundred ($500.00) dollars.

c. All election irregularities and violations of the election procedure, NEC regulations or Elections Law by the representatives of Election Administration within the area of responsibility of the Magistrate.

3.2. Chief Dispute Hearing Officer shall have power and jurisdiction of first instance to adjudicate disputes, hear and determine:


b. All election offences referred to in Chapter 10 of the New Elections Law of 1986 in which the penalty provided for the violation exceeds five hundred ($500) dollars.
c. All intra-party disputes or disputes between/among political parties.
d. All complaints related to violation of the campaign finance regulations.
e. Complaints against the Election Magistrates, violations of the election procedure, NEC regulations or Elections Law by representatives of Election administration.

Complaint

Article 4. Filing and Service of Complaint

4.1. All complaints filed with the National Elections commission shall be in writing and signed by the complainant or his/her counsel, or his/her party representatives.

4.2. The complaint shall state clearly the particulars of the person complained of, the act complained of and the date and place of occurrence.

4.3. All complaints and other related papers filed with the Elections Commission shall be served on the defendant(s). Service shall be made by a representative of the National Elections Commission.

4.4. Service shall be made on the person, his/her attorney or any officer of the political party, coalition or alliance.

4.5. The complaint shall be addressed to the chairperson of the Commission or the Elections Magistrate if the act complained of is within the jurisdiction of a Magistrate.

4.6. The NEC Official complaint forms shall be available at the magisterial offices or at the NEC Head Office. Complaint may also be written on any ordinary sheet of paper.

Article 5. Time of filing complaint

5.1. A complaint against a candidate placed on the provisional or final list after a candidate nomination process must be filed with the Commission before the end of the period allowed for Objections and Appeals as contained in the candidate’s nomination procedures or any other relevant guidelines or regulations approved by the NEC.
5.2. A complaint that irregularities, violations of guidelines, regulations or code of conduct has occurred at a polling place shall be filed with the Presiding Officer on elections day or the Magistrate no later than seven days after the occurrence of the violation.

5.3. A challenge to an election result announced by the NEC shall be filed with the Commission not later than seven days after the announcement of the elections result.

5.4. A challenge against a person on the Provisional Voters Registration Roll shall be filed before the end of the period allowed for Claims and Objections.

5.5. In all other matters, a complaint may be filed when right accrues to a party/person in accordance with the law.

**Article 6. Commencement of action on Complainant(s)**

6.1. Hearing in all matters before the National Elections Commission commence after the Defendant has been served with the complaint, and/or appears either in person or through counsel before the Chief Dispute Hearing Officer or a Magistrate.

6.2. A party once served with a citation, the party shall appear before the Chief Dispute Hearing Officer or the Magistrate at place and time stipulated in the citation for the hearing of the complaint.

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**Hearing Process**

**Article 7. Trial Procedures**

7.1. The hearing of complaints shall be done in an expeditious manner.

7.2. Any person who files a complaint may represent him/herself before the Hearing Officer/Magistrate or may choose to be represented by a counsel.

7.3. All proceedings before the National Elections Commission shall be documented. The Clerk of the Hearing Office/Magistrate shall keep records of all cases tried and the dates of judgment. Legal technicalities obtaining in courts of law shall not strictly apply except as to matters which tend to prejudice the right of a party.
7.4. Hearing Officer/Magistrate may consolidate two or more complaints into one if they contain substantially similar allegations against the same defendant or they are submitted by the same person or entity.

7.5. The Defendant may be served simultaneously with the complaint along with the notice of assignment for the hearing of the complaint.

7.6. The defendant may choose to file a formal resistance or may have same recorded on the records of hearing after representation of parties have been noted at the first day sitting.

7.7. At the call of a case for hearing, the parties shall announce representation and the plaintiff shall take the stand to produce evidence. Plaintiff’s witnesses shall be qualified and placed under the jurisdiction of the Hearing Officer and shall appear at the hearing daily until the Plaintiff rests with the production of evidence.

7.8. Upon the completion of plaintiff’s production of evidence, the defendant shall take the stand to present his/her evidence. All of the defendant’s witnesses shall be qualified and placed under the jurisdiction of the hearing and shall appear at the Hearing daily until the defendant rests with the production of evidence.

7.9. The parties may examine and cross-examine witnesses, which examination shall be controlled by the Chief Dispute Hearing Officer/Magistrate and shall be void of attempt by any party to delay or waste time. After the close of oral evidence, parties may next offer materials or documentary evidence.

7.10. All documentary and material evidence testified to by witnesses shall be marked by the Chief Dispute Hearing Officer/Magistrate upon the request of any party. Similarly, documentary and material evidence shall be confirmed or reconfirmed upon the requested by any party. At the close of oral evidence, material and documentary evidence marked by the Chief Dispute Hearing Officer/Magistrate shall be submitted for admission into evidence upon the request of any party.

7.11. The parties shall make closing statements or oral arguments when deemed necessary by the Chief Dispute Hearing Officer/Magistrate; thereafter; the Chief Dispute Hearing officer/Magistrate may enter judgment or may defer judgment.
Article 8: Production of Evidence

8.1. Evidence shall be given only under oath and the standard shall be by preponderance of evidence. Objections to the competency of a witness shall be made before the oath is administered, except in cases where his/her incompetency is not discovered until after he/she has been sworn.

8.2. The Chief Dispute Hearing Officer/Magistrate may issue a subpoena, requiring person(s) to appear and testify at a time and place named therein, and upon the direction of the Chief Dispute Hearing Officer/Magistrate, from day to day until the examination of such person(s) shall be completed.

8.3. The subpoena may also contain a direction that a person brings with him/her to the examination any book, election papers, documents or tangible things named in the writ and where necessary, the clerk may issue any further orders in reference to the examination. The service of subpoena mentioned herein may be made as contained in Article 4.3 of these procedures.

Article 9. Motions:

9.1. An application or request to the Hearing Officer or the Magistrate for an order shall be made by a motion.

9.2. Motions shall be entertained and disposed of as prescribed in the Civil Procedure Law.

9.3. The time for filing motions and time to file responses as well as the time for their determination shall be at the discretion of the Chief Dispute Hearing Officer/Magistrate or the Board of Commissioners.

Article 10. Dismissal of Complaints

10.1. A complaint shall be dismissed by the Chief Dispute Hearing Officer/Magistrate if:

a. The complaint does not point to a violation of the Elections Law, regulations, rules, decisions or orders of the National Elections Commission or the Supreme Court;

b. If it was filed beyond the time allowed by the Elections Law, Regulations, guidelines, or procedures for the filing of complaint.

c. A complaint shall be dismissed or a judgment by default may be rendered where it is clear on the records that a party has failed to
appear after a second notice of assignment has been served on said party and returns served.

**Article 11: Pre-Hearing Conference**

11.1. The Chief Dispute Hearing Officer/Magistrate may direct that the parties appear for conference.

11.2. The purpose of a pre-hearing conference is to narrow the issues to be taken to trial. At the pre-hearing conference, parties shall clarify claims and responses, identify the number of witnesses and examine pleadings. Where applicable, the pre-hearing conference shall end with an order which shall be binding on the parties.

**Appeals**

**Article 12. Appeals**

12.1. A party not satisfied with the decision of the Magistrate shall have the right to appeal to the Board of Commissioners no later than 48 hours after the decision is rendered. A Bill of Exceptions approved by the Magistrate shall be filed with the Board of Commissioners before the end of the 48 hours period. Similarly, a party not satisfied with the decision of the Chief Dispute Hearing Officer shall have the right to appeal to the Board of Commissioners not later than 48 hours after the decision is rendered. The party shall file with the Clerk of Hearing a Bill of Exception approved by the Chief Dispute Hearing Officer before the end of the 48 hours period. The party appealing shall serve the approved Bill of Exception on the opposing party/parties.

12.2. Upon the signing of the Bill of Exceptions, the Magistrate shall forward all records in the case to the Board of Commissioners. Also after the approval of the Bill of Exception by the Chief Dispute Hearing Officer, the Clerk shall forward all records in the case to the Board of Commissioners.

12.3. Appeal by an applicant against rejection by a Registrar during a voter registration process shall be heard by the Magistrate of Elections and appeal therefrom shall lie before the Board of Commissioners.

12.4. A party not satisfied with the decision of the Board of Commissioners shall have the right to appeal to the Supreme Court not later than seven days after the decision is rendered. The appealing party shall file a Bill of Exception
which shall conform to sections 6.4, 6.5, 6.6, and 6.7 of the New Elections Law of 1986.

12.5. The Commission shall within seven days of receipt of the notice of appeal forward all records in the case to the Supreme Court. The approved Bill of Exception shall be served on the opposing party.

12.6. The party appealing the Board of Commissioner’s decision to Supreme Court shall enter into a recognizance for the payment of cost incurred on appeal in the following amounts:

a. With respect to the elections of a President or Vice President; the Liberian Dollars Equivalent of five Thousand United States Dollars (US$5,000.00);

b. With respect to the elections of a Senator; the Liberian Dollars equivalent of Three Thousand United States Dollars (US$3,000.00);

c. With respect to the Elections of a member of the House of Representatives; the Liberia Dollars equivalent of Two Thousand United States Dollars (US$2,000.00);

d. With respect to any other elective public office; the amount shall be Determined by the Commission and shall not exceed the Liberian Dollars equivalent of Two Hundred United States Dollars (US$200.00).

12.7. The party entering the recognizance shall deposit the amount as stated herein Section 12.8 in a NEC designated account. Information regarding the account number and the bank shall be obtained from the Budget and Finance Office of the NEC. After the deposit is made and validated by the Budget and Finance Office, the party will then proceed to the Clerk of Writ, obtain and fill out a recognizance form.
Board of Commissioners

Article 13:

13.1 The Board of Commissioners shall exercise appellate jurisdiction over cases emanating from the Chief Dispute Hearing Officer or Magistrate.

13.2 At the close of arguments, the Board may rule on a matter or may reserve its ruling.

Amendment and Revision

Article 14:

These Election Hearing Procedures may be amended or revised at any time and published by the Commission. All amendments and revisions shall become effective upon publication.

Entry into force

Article 15

15.1 These procedures shall come into effect upon publication.


Signed.

Hon. Boakai A. Dukuly
Commissioner

Hon. Jeanette Ebba-Davidson
Commissioner

Hon. Jonathan K. Weedor
Commissioner

Hon. Davidetta Brown Lansanah
Commissioner

Hon. Samuel Z. Joe
Commissioner

Cllr. Sarah Jegede Toe
Co-Chairman

Cllr. Jerome G. Korkoya
Chairman