



Republic of the Philippines
COMMISSION ON ELECTIONS
Manila

RULES AND REGULATIONS
IMPLEMENTING REPUBLIC
ACT NO. 9189, OTHERWISE
KNOWN AS "THE OVERSEAS
ABSENTEE VOTING ACT OF
2003."

P R E S E N T:

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Promulgated: 14 May 2003

RESOLUTION NO. 6117

The Commission on Elections, pursuant to the authority vested in it under Republic Act No. 9189, otherwise known as "The Overseas Absentee Voting Act of 2003", RESOLVED to promulgate, as it hereby promulgates, the following rules and regulations implementing The Overseas Absentee Voting Act of 2003.

RULE 1

GENERAL PROVISIONS

ARTICLE 1. *Title.* – These Rules shall be known and cited as "The Rules and Regulations Implementing the Overseas Absentee Voting Act of 2003."

ART. 2. *Declaration of policy.* – It is the prime duty of the State to provide a system of honest and orderly overseas absentee voting that upholds the secrecy and sanctity of the ballot. Towards this end, the State ensures equal opportunity to all qualified citizens of the Philippines abroad in the exercise of this fundamental right.

ART. 3. *Meaning of words.* – As used in these Rules:

a) *Application for Registration/Certification As Overseas Absentee Voter and Application To Vote In Absentia* refers to the form prescribed by the Commission to be used by an overseas absentee voter in applying either for: (1) registration as an overseas absentee voter and to vote *in absentia* if he is not yet a registered voter under Republic Act No. 8189, otherwise known as "The Voters Registration Act of 1996" (the

system of continuing registration); or (2) certification as overseas absentee voter and to vote *in absentia* if he already registered under the said Act;

b) *Certificate of Registration* refers to the document issued by the Election Registration Board through the Election Officer to all applicants whose applications for registration or for certification as overseas absentee voter have been approved;

c) *Certified List of Overseas Absentee Voters* refers to the list, as approved by the Commission in an En Banc resolution, of registered overseas absentee voters whose applications to vote *in absentia* have been approved and prepared by the Committee on Overseas Absentee Voting on a country by country basis;

d) *Commission* refers to the Commission on Elections;

e) *Committee on Overseas Absentee Voting* refers to the Committee created under Republic Act No. 9189, otherwise known as “The Overseas Absentee Voting Act of 2003”;

f) *Day of Election* refers to the actual date of the elections in the Philippines;

g) *Domicile* denotes a fixed permanent residence to which, when absent, one has the intention of returning;

h) *Election Officer* refers to the highest official or authorized representative of the Commission in a city or municipality in the Philippines;

i) *Election Registration Board* refers to the body constituted under Republic Act No. 8189, otherwise known as “*The Voters Registration Act of 1996*”, (system of continuing registration) to act on all applications for registration, and on all applications for registration or certification as overseas absentee voters under the Overseas Absentee Voting Act of 2003;

j) *Municipal/City/District Registry of Absentee Voters* refers to the consolidated list prepared, approved and maintained by the Commission, for every municipal/city/district, of overseas absentee voters whose applications for registration as such, including those registered voters under Republic Act No. 8189, otherwise known as “*The Voters Registration Act of 1996*”, (system of continuing registration) who applied for certification as overseas absentee voters, have been approved by the Election Registration Board;

k) *National Registry of Absentee Voters* refers to the consolidated list prepared, approved and maintained by the Commission, of overseas absentee voters whose applications for registration as absentee voters, including those registered voters under Republic Act No. 8189, otherwise known as “*The Voters Registration Act of 1996*”, (system of continuing registration) who applied for certification as overseas absentee voters, have been approved by the Election Registration Board;

l) *Overseas Absentee Voter* refers to a citizen of the Philippines who is qualified to register and vote under the Overseas Absentee Voting Act of 2003, not otherwise disqualified by law, who is abroad on the day of the elections;

m) *Overseas Absentee Voting* refers to the process by which qualified citizens of the Philippines abroad exercise their right to vote;

n) *Overseas Absentee Voting Book of Voters* refers to the compilation of all Overseas Absentee Voter Registration Records in a country or in a smaller unit in a given country;

o) *Overseas Absentee Voting Certificate of Canvass* refers to a document containing, among others, the number of voters qualified to vote *in absentia*, the number of voters who actually voted and the total votes obtained by each candidate in a country;

p) *Overseas Absentee Voting Election Returns* refers to a document showing the date of the election, the country in which it is held, the number of voters qualified to vote *in absentia*, the number of voters who actually voted and the votes obtained by each candidate in an Overseas Absentee Voting Precinct;

q) *Overseas Absentee Voting Precinct* refers to a country or a smaller territorial unit in a given country designated by the Commission taking into consideration the presence of consular offices and the number of overseas absentee voters under the jurisdiction of each consular office. For purposes of assignment of voters for the counting and printing of the Overseas Absentee Voting Election Returns, an Overseas Absentee Voting Precinct shall be composed of not more than 4,000 overseas absentee voters, in case of automated counting, or 500 overseas absentee voters, in case of manual counting.

r) *Overseas Absentee Voter Registration Record* refers to the document containing the approval of an overseas absentee voter's (1) application for registration as overseas absentee voter and application to vote *in absentia*, by the Election Registration Board and the Committee on Overseas Absentee Voting, respectively; or (2) application for certification as overseas absentee voter and application to vote *in absentia*, by the Election Registration Board and the Committee on Overseas Absentee Voting, respectively;

s) *Overseas Absentee Voting Statement of Votes by Precinct* refers to a document containing the number of voters qualified to vote *in absentia*, the number of voters who actually voted and the votes obtained by all candidates in each Overseas Absentee Voting Precinct in a particular country;

t) *Registered Overseas Absentee Voter* refers to one whose application for registration or for certification as absentee voter has been approved by the Election Registration Board under the Overseas Absentee Voting Act of 2003 and these Rules;

u) *Representative of the Commission* refers to the officials and employees of the foreign service corps, including the Filipino contractual employees that the embassies, consulates and other foreign service establishments may locally hire at the host country, deputized by the Commission pursuant to the Overseas Absentee Voting Act of 2003 and these Rules;

v) *Seafarers* refers to ship officers and ratings manning ships, including offshore workers, service providers and fishermen, as defined in the Revised Rules on the Issuance of Seafarer's Identification and Record Book of the Maritime Industry Authority;

w) *Special Ballot Reception and Custody Group* refers to the group deputized by the Commission to receive and take custody of all accountable and non-accountable election forms, supplies and paraphernalia sent by the Committee on Overseas Absentee Voting;

x) *Special Board of Canvassers* refers to the body deputized by the Commission to canvass the Overseas Absentee Voting Election Returns submitted to it by the Special Board of Election Inspectors;

y) *Special Board of Election Inspectors* refers to the body deputized by the Commission to conduct the voting and counting of votes;

z) *Supervisory teams* refer to officials and employees of the Commission designated by the Commission to control, supervise and ensure the implementation of the Overseas Absentee Voting Act of 2003 and these Rules. Such supervisory teams shall be headed by the Commissioners or career officers of the Commission; and

aa) *Voting period* refers to any time within thirty (30) days before the actual date of the elections in the Philippines, including the day of election. In case of seafarers, the voting period shall be at any time within sixty (60) days before the actual date of the elections in the Philippines, including the day of election.

ART. 4. Coverage. – All citizens of the Philippines abroad, not otherwise disqualified by law, at least eighteen (18) years of age on the day of the election, and a registered overseas absentee voter with an approved application to vote *in absentia*, may vote for President, Vice-President, Senators and Party-List Representatives.

ART. 5. Requirements to become an Overseas Absentee Voter - All qualified Filipino citizens who are not registered as a voter under Republic Act No. 8189, otherwise known as “*The Voters Registration Act of 1996*”, (the system of continuing registration) shall file an application for registration while those who are already registered as a voter under the said Act shall file an application for certification.

In both cases, only those whose applications for registration or certification have been approved are qualified to file an application to vote *in absentia*, and only those with approved applications to vote *in absentia* shall be allowed to vote for President, Vice-President, Senators and Party-List Representatives.

ART. 6. Publication and posting of notice of registration and election. – At least six (6) months before the start of the filing of applications for registration, the Commission shall, through the Philippine embassies, consulates and other foreign service establishments, publish once a month in a newspaper of general circulation, or in local Filipino newspapers of wide circulation, in countries with not less than 5,000 Filipinos, the date, place and time of the holding of a regular or special national elections and the requirements for the participation of qualified Filipino citizens abroad.

In addition, the Commission and the Department of Foreign Affairs (the “DFA”) shall post the said notice of registration and election in their respective websites.

For purposes of the May 10, 2004 elections, publication and posting of the notice of registration and election shall be made not later than June 15, 2003.

RULE 2

OVERSEAS ABSENTEE REGISTRATION

PART I- APPLICATION FOR REGISTRATION AS ABSENTEE VOTER

ART. 7. Who may apply. – All citizens of the Philippines abroad, at least eighteen (18) years of age on the day of the election, not otherwise disqualified under the immediately succeeding Article, and who are not registered as a voter under

Republic Act No. 8189, otherwise known as “*The Voters Registration Act of 1996*”, (system of continuing registration) may apply for registration as overseas absentee voter in the manner and procedure prescribed below.

ART. 8. *Who are disqualified.* – The following are disqualified from registering as overseas absentee voter:

a) Those who have lost their Philippine citizenship in accordance with Philippine laws;

b) Those who have expressly renounced their Philippine citizenship and who have pledged allegiance to a foreign country;

c) Those who have been convicted by final judgment of a court or tribunal of an offense punishable by imprisonment of not less than one year, unless such disability has been removed by plenary pardon or amnesty;

d) Those who have been found guilty by final judgment of Disloyalty as defined under Article 137 of the Revised Penal Code, unless such disability has been removed by plenary pardon or amnesty;

e) An immigrant or a permanent resident who is recognized as such in the host country, unless he/she executes upon filing of an application for registration as overseas absentee voter, an affidavit declaring that:

1) He/she shall resume actual physical permanent residence in the Philippines not later than three (3) years from approval of his/her registration; and

2) He/she has not applied for citizenship in another country;

(The name of an immigrant or a permanent resident who fails to return or makes a misrepresentation in his/her affidavit as to his/her application for citizenship in another country shall be removed from the National Registry of Absentee Voters and he/she shall be permanently disqualified to *vote in absentia*.)

f) Any citizen of the Philippines abroad previously declared insane or incompetent by competent authority in the Philippines or abroad, as verified by the Philippine embassy, consulate or foreign service establishment concerned, unless such competent authority subsequently certifies that such person is no longer insane or incompetent; and

(Persons disqualified under paragraphs (c) and (d) hereof who have not been granted plenary pardon or amnesty shall automatically acquire or reacquire the right to vote as an overseas absentee voter upon the expiration of five (5) years after service of sentence.)

ART. 9. *Manner of Registration.* – Application for registration as overseas absentee voter shall be filed personally by the applicant, as follows:

a) For qualified Filipinos already abroad, with the representative of the Commission at the Philippine embassy, consulate and other foreign service establishment having consular jurisdiction over the locality where he/she temporarily resides; in case of qualified seafarers, with the representative of the Commission at the Philippine embassy, consulate and other foreign service establishment having consular

jurisdiction over the locality where his/her vessel is docked during the registration period.

b) For qualified Filipinos who will be abroad on election day, with the Election Registration Board (the “ERB”) of the city/municipality/district where he/she is domiciled prior to his/her departure from the Philippines, or with the Committee on Overseas Absentee Voting (the “Committee”) in case of qualified seafarers.

ART 10. *Period to file application for registration.* – For purposes of the May 10, 2004 elections, all applications for registration as overseas absentee voters shall be filed from July 1, 2003 up to September 30, 2003.

For succeeding elections, the Commission shall provide for the period within which applications to register must be filed.

ART. 11. *Registration procedure.* – a) *For applications filed before the Philippine embassies, consulates and other foreign service establishments – An applicant for registration shall:*

- 1) personally appear before the representative of the Commission at the Philippine embassy, consulate and other foreign service establishment having consular jurisdiction over the locality where he/she temporarily resides;
- 2) present his/her valid Philippine passport;
- 3) accomplish the prescribed application form; and
- 4) submit the accomplished application form with a photocopy of his/her passport.

(The application forms may be downloaded from the websites of the Commission and the DFA or secured from the Philippine embassies, consulates and other foreign service establishments.)

In case of a qualified seafarer, he/she may file his/her application with the representative of the Commission at the Philippine embassy, consulate and other foreign service establishment having consular jurisdiction over the locality where his/her vessel is docked during the registration period. In addition, a seafarer must also submit a photocopy of his/her Seaman’s Book or any other document that will prove that he/she is a seafarer, as defined in Article 3 (v) of these Rules.

The DFA shall, through its foreign service post, verify the validity and authenticity of the passport and the correctness of the photocopies of the pages thereof submitted by the applicant. Upon confirmation of the passport’s validity and authenticity, as well as the correctness of the photocopy, the representative of the Commission shall return the passport to the applicant and certify that the submitted photocopy is a true and correct copy of the original. The authenticated photocopy shall form part of the application for registration that the embassies, consulates and other foreign service establishments shall transmit to the Commission through the Committee.

The representative of the Commission shall not issue the required certification to any applicant using a passport under an “assumed name”.

If an applicant cannot present a valid passport for reasons other than its loss or temporary unavailability, the applicant shall present substitute documents that the

consular officer at the post shall require such as the applicant's expired passport, duly authenticated birth certificate from the National Statistics Office, residency card, employment card/permit and local Identification Card issued by the host country. If the consular officer at the post finds the substitute documents valid and sufficient, it shall issue a certification that it has reviewed the submitted documents and found them sufficient to warrant the issuance of a passport. The applicant, if he or she chooses, may opt to apply for a new passport on the basis of the submitted documents, paying the appropriate fees therefor.

In case of loss of or the applicant's temporary inability to produce his/her valid passport, the applicant shall execute and submit an authenticated affidavit sufficiently describing the lost or unavailable passport, attaching a photocopy of its relevant pages, if available; and stating the circumstances of the loss or the reason/s for the temporary inability to produce the passport. The consular officer at the post shall require the substitute documents mentioned in the immediately preceding paragraph to establish the applicant's citizenship, immigration status and identity. In case of loss, the applicant may choose to secure a new passport, paying the appropriate fees therefor.

In case an applicant fails to submit the documentary requirements of this Article on the same day that he or she submitted the application for registration, he or she must personally submit the supporting documents on the day specified by the embassy, consulate and other foreign service establishment concerned.

Once the applicant's citizenship, immigration status and identity have been established, the representative of the Commission shall:

- 1) encode the last name, first name and middle name of the applicant; and
- 2) digitally capture the applicant's photograph, signature, fingerprint and other demographic data, as may be required by the Commission;

The registration process is deemed complete upon submission of the applicant's duly accomplished application form, supporting documents, including the certifications that the DFA may need to issue, and after the digital capture of his/her biometrics.

The representative of the Commission shall then scan the accomplished application form, page of the passport containing the applicant's signature and photograph and, in the case of seafarers, the page of the seaman's book containing the applicant's signature and photograph.

Within five (5) days from completion of the registration process by an applicant, the embassy, consulate and other foreign service establishment concerned shall transmit electronically the applicant's scanned documents in digital form together with his/her captured biometrics to the Commission.

The Commission shall:

- 1) print an applicant's scanned documents in digital form;
- 2) encode the data contained in the applicant's scanned application form in the database containing the applicant's biometrics;
- 3) print one copy of the applicant's registration form containing his/her photograph, thumbprint, signature and other personal information;
- 4) forward the printed registration form within three (3) days from receipt to the city/municipal Election Officers concerned through the fastest means available.

b) For applications filed before the Election Registration Board. - An applicant for registration shall:

1) personally appear before the Election Officer of the city/municipality where he/she is domiciled prior to his/her departure from the Philippines; or in case of a qualified seafarer, he/she may personally appear before the Committee.

2) present his/her valid Philippine passport;

3) accomplish the prescribed application form; and

4) submit the accomplished application form with a photocopy of his/her passport; in case of a qualified seafarer, he/she must also submit a photocopy of his/her Seaman's book or any other document that will prove that he/she is a seafarer, as defined in Article 3 (v) of these Rules.

(The application forms may be downloaded from the websites of the Commission and the DFA or secured from the Commission or the Office of the Election Officer.)

The Election Officer shall:

1) encode in the database the data contained in the application form;

2) digitally capture the applicant's photograph, signature, fingerprint and other demographic data, as may be required by the Commission; and

3) print one copy of the applicant's registration form containing his/her photograph, thumbprint, signature and other personal information.

For applications filed before the Committee by qualified seafarers, the Committee shall:

1) encode in the database the data contained in the application form;

2) digitally capture the applicant's photograph, signature, fingerprint and other demographic data, as may be required by the Commission;

3) print one copy of the applicant's registration form containing his/her photograph, thumbprint, signature and other personal information; and

4) forward the printed registration form within three (3) days from filing to the city/municipal Election Officers concerned through the fastest means available.

c) In both cases. - The Election Officer shall, upon receipt of the applications, immediately:

1) Set the applications for hearing on a date, which shall be at least one (1) week from the date of posting of the notice of hearing;

2) Prepare the notice of hearing thereof;

3) Post the notice of hearing in a conspicuous place in the premises of the city or municipal and barangay building of the applicant's domicile as stated in the application form at least one (1) week before the date of the hearing;

4) Furnish copies of the applications to the designated representatives of political parties and accredited citizens' arms in the city or municipality. For this purpose, the heads of the six (6) major political parties as determined by the Commission in the immediately preceding national elections and each accredited citizens' arms shall submit to the Commission not later than May 31, 2003, the names of their respective representatives in each city or municipality;

5) Verify whether the applicant is actually a resident of the address as appearing in his/her application for registration; and

6) Prepare a written report on the result of the verification and submit the same to the ERB.

d) Objections to the applications. – Any interested party may file a verified objection to the application on or before the date set for the hearing of the said application.

If an objection is filed, the Election Officer shall immediately notify the applicant or his/her authorized representative of the said objection personally or by registered mail, together with copies of the objection and the documents submitted in support thereof, if any. The applicant or his/her authorized representative shall, within five (5) days from receipt of the copy of the objection, file by registered mail an answer that clearly states his/her defenses and is duly sworn before any officer authorized to administer oath.

For this purpose, the date postmarked in the envelope containing the answer shall be considered as the date of the filing.

Once the answer is filed, or upon the lapse of the period for filing an answer, the Election Officer shall immediately forward the application to the ERB for decision.

The Election Officer shall likewise immediately forward the application to the ERB for decision if no objection was filed on the date of the hearing.

e) Hearings. – For purposes of the Overseas Absentee Voting Act of 2003, the ERB shall hear the applications once a month, provided, that the notice of hearing is posted at least a one (1) week before the date of hearing.

In connection with the May 10, 2004 elections, the last hearing date shall not be later than October 24, 2003.

f) Period to approve or disapprove applications. - If no verified objection is filed and the applicant is qualified, the ERB shall approve the application. If no verified objection is filed but the applicant is not qualified, the ERB shall disapprove the application. In both cases, the ERB shall meet to approve or disapprove the applications within one (1) week from the date of the hearing.

If a verified objection is filed, the ERB shall approve or disapprove the application at any time during the subsequent meeting(s) of the ERB but not later than November 8, 2003. The ERB shall base its decision on the merits of the objection, the answer, if any, and all other documents submitted by the objecting party and the applicant.

g) Notice of approval or disapproval of application. - Within three (3) days from the approval or disapproval of the application, the Election Officer shall send a notice of approval/disapproval to the applicant or his/her authorized representative by personal delivery or by registered mail. In addition, the Election Officer shall, on the day

following the approval/disapproval of applications, post the list of the names of those whose applications have been approved/disapproved in a conspicuous place in the premises of the city or municipal and barangay building of the applicant's residence as stated in the application form. On the same day, the Election Officer shall also transmit the said list, together with the diskette containing the database thereof, to the Commission through electronic means.

After each meeting of the ERB for the approval/disapproval of applications for registration, the Election Officer shall also prepare a progress report for submission to the Registration Division of the Elections and Barangay Affairs Department (EBAD) of the Commission, which, in turn, shall provide the Commission with a regular update of the data received. The progress report shall indicate the number of approved/disapproved applications; the names of the applicants with approved/disapproved applications and such other data as may be required by the Commission in the prescribed form. In case of approval, the Election Officer shall issue a Certificate of Registration to the applicant.

PART II- APPLICATION FOR CERTIFICATION AS OVERSEAS ABSENTEE VOTER

ART. 12. *Who may apply.* - All citizens of the Philippines abroad, not otherwise disqualified, and who are registered voters under Republic Act No. 8189, otherwise known as "*The Voters Registration Act of 1996*", (system of continuing registration) may apply for certification as overseas absentee voter in the manner and procedure prescribed below.

ART. 13. *Who are disqualified to apply for certification as overseas absentee voters.* – Persons who are disqualified to register as absentee voters under Article 8 of these Rules are also disqualified from applying for certification as overseas absentee voter.

ART. 14. *Manner, period and procedure for the filing of applications for certification as overseas absentee voter.* – The manner, period and procedure for the filing of application for certification as overseas absentee voter shall be as follows:

a) For qualified Filipinos already abroad, with the representative of the Commission at the Philippine embassy, consulate and other foreign service establishments having consular jurisdiction over the locality where he/she temporarily resides; in case of qualified seafarers, with the representative of the Commission at the Philippine embassy, consulate and other foreign service establishment having consular jurisdiction over the locality where his/her vessel is docked during the registration period

b) For qualified Filipinos who will be abroad on election day, with the ERB of the city/municipality/district where he/she is domiciled prior to his/her departure from the Philippines, or with the Committee in case of qualified seafarers.

For purposes of the May 10, 2004 elections, all applications for certification shall be filed from July 1, 2003 up to September 30, 2003.

For succeeding elections, the Commission shall provide for the period within which applications for certification must be filed.

a) *For applications filed before the Philippine embassies, consulates and other foreign service establishments* – An applicant for certification as absentee voter shall:

- 1) personally appear before the representative of the Commission at the Philippine embassy, consulate and other foreign service establishment having consular jurisdiction over the locality where he/she temporarily resides;
- 2) present his/her valid Philippine passport;
- 3) accomplish the prescribed application form; and
- 4) submit the accomplished application form with a photocopy of his/her passport.

(The application forms may be downloaded from the websites of the Commission and the DFA or secured from the Philippine embassies, consulates and other foreign service establishments.)

In case of a qualified seafarer, he/she may file his/her application with the representative of the Commission at the Philippine embassy, consulate and other foreign service establishment having consular jurisdiction over the locality where his/her vessel is docked during the registration period. In addition, a seafarer must also submit a photocopy of his/her Seaman's Book or any other document that will prove that he/she is a seafarer, as defined in Article 3 (v) of these Rules.

The DFA shall, through its foreign service post, verify the validity and authenticity of the passport and the correctness of the photocopies of the pages thereof submitted by the applicant. Upon confirmation of the passport's validity and authenticity, as well as the correctness of the photocopy, the representative of the Commission shall return the passport to the applicant and certify that the submitted photocopy is a true and correct copy of the original. The authenticated photocopy shall form part of the application for certification that the embassies, consulates and other foreign service establishments shall transmit to the Commission through the Committee.

If an applicant cannot present a valid passport for reasons other than its loss or temporary unavailability, the applicant shall present substitute documents that the consular officer at the post shall require such as the applicant's expired passport, duly authenticated birth certificate from the National Statistics Office, residency card, employment card/permit and local Identification Card issued by the host country. If the consular officer at the post finds the substitute documents valid and sufficient, it shall issue a certification that it has reviewed the submitted documents and found them sufficient to warrant the issuance of a passport. The applicant, if he or she chooses, may opt to apply for a new passport on the basis of the submitted documents, paying the appropriate fees therefor.

The representative of the Commission shall not issue the required certification to any applicant using a passport under an "assumed name".

In case of loss of or the applicant's temporary inability to produce his/her valid passport, the applicant shall execute and submit an authenticated affidavit sufficiently describing the lost or unavailable passport, attaching a photocopy of its relevant pages, if available; and stating the circumstances of the loss or the reason/s for the temporary inability to produce the passport. The consular officer at the post shall require the substitute documents mentioned in the immediately preceding paragraph to establish the applicant's citizenship, immigration status and identity. In case of loss, the applicant may choose to secure a new passport, paying the appropriate fees therefor.

In case an applicant fails to submit the documentary requirements of this Article on the same day that he or she submitted the application for certification, he or she must personally submit the supporting documents on the day specified by the embassy, consulate and other foreign service establishment concerned.

Once the applicant's citizenship, immigration status and identity have been established, the representative of the Commission shall:

- 1) encode the last name, first name and middle name of the applicant; and
- 2) digitally capture the applicant's photograph, signature, fingerprint and other demographic data, as may be required by the Commission;

The registration process is deemed complete upon submission of the applicant's duly accomplished application form, supporting documents, including the certifications that the DFA may need to issue, and after the digital capture of his/her biometrics.

The representative of the Commission shall then scan the accomplished application form, page of the passport containing the applicant's signature and photograph and, in the case of seafarers, the page of the seaman's book containing the applicant's signature and photograph.

Within five (5) days from completion of the registration process by an applicant, the embassy, consulate and other foreign service establishment concerned shall transmit his/her scanned documents in digital form together with his/her captured biometrics, through the internet, to the Commission through the Committee.

The Committee shall:

- 1) print an applicant's scanned documents in digital form;
- 2) encode the data contained in the applicant's scanned application form in the database containing the applicant's biometrics;
- 3) print one copy of the applicant's registration form containing his/her photograph, thumbprint, signature and other personal information;
- 4) forward the printed registration form within three (3) days from receipt to the city/municipal Election Officers concerned through the fastest means available.

b) For applications filed before the Election Registration Board. - An applicant for certification shall:

1) personally appear before the Election Officer of the city/municipality where he/she is domiciled prior to his/her departure from the Philippines, or in case of a qualified seafarer, he/she may personally appear before the Committee;

2) present his/her valid Philippine passport; and

3) accomplish the prescribed application form; and

4) submit the accomplished application form with a photocopy of his/her passport; in case of a qualified seafarer, he/she must also submit a photocopy of his/her Seaman's book or any other document that will prove that he/she is a seafarer, as defined in Article 3 (v) of these Rules.

(The application forms may be downloaded from the websites of the Commission and the DFA or secured from the Commission or the Office of the Election Officer.)

The Election Officer shall:

- 1) encode the in the database the data contained in the application form;
- 2) digitally capture the applicant's photograph, signature, fingerprint and other demographic data, as may be required by the Commission;
- 3) print one copy of the applicant's registration form containing his/her photograph, thumbprint, signature and other personal information;

c) In both cases. - The Election Officer shall, upon receipt of the applications, immediately:

- 1) Furnish copies of the applications to the designated representatives of the six (6) major political parties as determined by the Commission in the immediately preceding national election and each accredited citizens' arms in the city or municipality;

- 2) Verify whether the applicant's name is included in the Computerized Voters' List (CVL) or whether his/her Voter Registration Record (VRR) is contained in the corresponding Book of Voters.

- 3) If the applicant is a registered voter, the ERB shall approve the application for certification. If not, the ERB shall disapprove the application.

- 4) On the day following the approval or disapproval of the applications for certification by the ERB, the Election Officer shall post the list of the names of those whose applications for certification have been approved or disapproved in a conspicuous place in the premises of the city or municipal and barangay building of the applicant's residence as stated in the application form. The Election Officer shall also transmit electronically the said list, followed by the diskette containing the database thereof, to the Commission through the Committee, as back-up. In addition, the Election Officer shall, within three (3) days from approval/disapproval of the application, send a notice of approval/disapproval to the applicant or to his/her authorized representative by registered mail or by any other faster means of communication.

- 5) In case of approval of the application, the Election Officer shall (i) make an annotation in the Computerized Voters' List (CVL) of the city/municipality and in the applicant's Voter Registration Record (VRR) that the said applicant has been registered as an Overseas Absentee Voter or will be voting as an Overseas Absentee Voter and (ii) issue a Certificate of Registration to the applicant.

After each meeting of the ERB for the approval/disapproval of applications for certification, the Election Officer shall also prepare a progress report for submission to the Registration Division of the Elections and Barangay Affairs Department (EBAD) of the Commission, which, in turn, shall provide the Commission with a regular update of such data. The progress report shall indicate the number of approved/disapproved applications; the names of the applicants with approved/disapproved applications and such other data as may be required by the Commission in the prescribed form.

For purposes of the May 10, 2004 elections, all applications for certification shall be acted upon by the ERB not later than October 31, 2003.

ART. 15. *Effect of filing an application for certification as overseas absentee voters on deactivated registration.* – The filing of an application for certification as overseas absentee voter shall be considered as filing of an application for reactivation of a deactivated registration under Section 28 of Republic Act No. 8189 otherwise known as “The Voters Registration Act of 1996”, and the approval of the application for certification shall be deemed as approval of reactivation. For this purpose, the Election Officer should verify and ensure that the ground for deactivation of the applicant’s registration no longer exists.

PART III – COMMON PROVISIONS TO PARTS I AND II

ART. 16. *Petition for exclusion.* - Any interested party may file a verified petition for the exclusion of a registered Overseas Absentee Voter from the Municipal/City/District Registry of Absentee Voters not later than one hundred seventy-five (175) calendar days before the day of the elections with the proper Municipal or Metropolitan Trial Court.

For purposes of the May 10, 2004 elections, petitions for exclusion may be filed up to November 17, 2003.

The court shall decide the petition within fifteen (15) days after its filing on the basis of the documents submitted in connection therewith.

Should the court fail to render a decision within the prescribed period, the ruling of the ERB shall be considered affirmed with finality.

ART. 17. *Petition for inclusion.* – If the application is disapproved, the applicant or his/her authorized representative may, within five (5) days from receipt of the notice of disapproval, file a verified petition for inclusion of his/her name in the Municipal/City/District Registry of Absentee Voters with the proper Municipal or Metropolitan Trial Court.

The court shall decide the petition within five (5) days after its filing on the basis of the documents submitted in connection therewith.

Should the court fail to render a decision within the prescribed period, the ruling of the ERB shall be considered affirmed with finality.

ART. 18. *Voters excluded from the National Registry of Absentee Voters through inadvertence or registered with an erroneous or misspelled name.* – Any registered overseas absentee voter or his/her authorized representative, whose name has been inadvertently omitted, or whose name has been misspelled or written erroneously in the National Registry of Absentee Voters, may file with the Commission through the Committee an application for reinstatement or correction of his/her name not later than one hundred fifty (150) days before the day of the elections.

For purposes of the May 10, 2004 elections, all application for reinstatement or correction of name shall be filed not later than December 12, 2003.

ART. 19. *Printing and distribution of Copies of the Overseas Absentee Voter Registration Record* - The Committee shall print and distribute the copies of the Overseas Absentee Voter Registration Record as follows:

- a) First copy to the Office of the Election Officer;
- b) Second copy to the Commission;
- c) Third copy to the Office of the Provincial Election Supervisor; and
- d) Fourth copy to the registered overseas absentee voter.

The second copies for the Commission of the approved applications for registration/certifications shall be in the custody of the Registration Division of the Elections and Barangay Affairs Department (EBAD) of the Commission.

ART. 20. *Preparation of the Municipal/City/District Registry of Absentee Voters.*
- The Committee shall:

- a) Prepare the list of all approved applications;
- b) Provide copies of the Municipal/City/District Registry of Absentee Voters to:
 - 1) the Office of the Election Officer;
 - 2) the Commission ;
 - 3) the Office of the Provincial Election Supervisor; and
 - 4) the six (6) major political parties as determined by the Commission in the immediately preceding national elections and each accredited citizens' arms.

ART. 21. *Preparation of the National Registry of Absentee Voters.* - The Committee shall prepare a National Registry of Absentee Voters by consolidating all the Municipal/City/District Registry of Absentee Voters not later than one hundred sixty-five (165) calendar days before the day of the elections.

The Commission shall, through the Committee, furnish copies of the National Registry of Absentee Voters to the designated representatives of the six (6) major political parties as determined by the Commission in the immediately preceding national elections and each accredited citizens' arms.

For purposes of the May 10, 2004 elections, the National Registry of Absentee Voters shall be prepared not later than November 27, 2003.

ART. 22. *Cancellation of entries or amendment of the National Registry of Absentee Voters.* - The entries in the National Registry of Absentee Voters and the annotations as Overseas Absentee Voters in the Computerized Voters' List (CVL) shall be permanent, and cannot be cancelled or amended except in any of the following cases:

- a) When the overseas absentee voter files a letter under oath addressed to the Commission that he/she wishes to be removed from the

National Registry of Absentee Voters, or that his/her name be transferred to the regular registry of voters;

b) When an overseas absentee voter's name was ordered removed by the Commission from the National Registry of Absentee Voters for his/her failure to exercise his/her right to vote under the Overseas Absentee Voting Act of 2003 for two (2) consecutive national elections; and

c) When an immigrant or a permanent resident fails to return or makes a misrepresentation in his/her affidavit as to his/her application for citizenship in another country.

In any case, the Commission shall issue an Order for the cancellation or removal of the name of the overseas absentee voter from the National Registry of Absentee Voters. Pursuant to the said Order, the Commission shall send a notice of cancellation or removal, attaching thereto a copy of the Order to the overseas absentee voter, copy furnished the ERB through the Election Officer. The Election Officer shall, on the basis of the said notice, remove the name of the overseas absentee voter from the Municipal/City/District Registry of Absentee Voters.

ART. 23. *Consular and diplomatic services rendered in connection with the Diplomatic Posts under the Overseas Absentee Voting Act of 2003.* - The consular and diplomatic services rendered pursuant to the Overseas Absentee Voting Act of 2003, specifically:

- a) the authentication of the photocopies of the valid passport;
- b) the issuance of certifications by the DFA if the applicant has no valid passport, or if the valid passport is lost or is otherwise not available;
- c) notarization of affidavit of loss or unavailability of a valid passport;
- d) notarization of immigrant's affidavit and of the application for registration form; and
- e) notarization of verified answer relating to objections, exclusions and inclusions from the voter's registry,;

shall be provided by the embassies, consulates and other foreign service establishments at no cost to the overseas voter.

All other diplomatic and consular services such as the issuance of a new passport and those for which fees may be charged as authorized by the Overseas Absentee Voting Act of 2003 and these Rules (such as photocopying of the Certified List of Overseas Absentee Voters and other records accessible to the public) shall be subject to the regular charges imposed by embassies, consulates and other foreign service establishments.

PART IV - APPLICATION TO VOTE IN ABSENTIA

ART. 24. *Manner, period and procedure for the filing of applications to vote in absentia.* -An application to vote *in absentia* shall be filed simultaneously with the application for registration/certification.

A registered overseas absentee voter may, within one hundred sixty (160) days before the day of the elections, file a letter under oath to the Commission through the Committee requesting that his/her place of voting be changed from that indicated in his/her application to vote *in absentia* to the voting place specified in his/her letter.

For purposes of the May 10, 2004 elections, a registered overseas absentee voter may file said letter-request not later than December 2, 2003.

The Committee, through its Validation Group, shall act on all applications not later than one hundred fifty (150) days before the day of the elections, observing the following procedure:

a) Check whether the name of the applicant appears in the National Registry of Absentee Voters.

b) Recommend to the Commission the approval of the application if, after verification, the applicant's name is included in the National Registry of Absentee Voters.

c) Recommend to the Commission the disapproval of the application if the name of the applicant does not appear in the National Registry of Absentee Voters.

In case of disapproval, the Commission through the Committee shall, within three (3) days from disapproval of the application, send a notice of disapproval to the applicant or to his/her authorized representative by registered mail or by any other faster means of communication.

For purposes of the May 10, 2004 elections, the Committee shall act on all applications to vote *in absentia* not later than December 12, 2003.

ART. 25. *Motion for reconsideration.* – Any person whose application to vote in *absentia* has been disapproved may file a motion for reconsideration with the Commission through the Committee within ten (10) days from receipt of the notice of disapproval.

Within five (5) days from receipt of the motion for reconsideration, the Commission through the Committee shall act on the motion and immediately notify the voter of its decision.

The decision of the Commission as recommended by the Committee shall be final and executory.

ART. 26. *Printing and distribution of copies of approved applications to vote in absentia.* – The Committee shall print and distribute the copies of the approved applications to vote *in absentia* as follows:

a) First copy to the embassy, consulate and other foreign service establishment concerned, specifically to the Special Ballot Reception and Custody Group referred to in Article 31 of these Rules;

b) Second copy to be retained by the Commission;

c) Third copy to the Office of the Election Officer; and

d) Fourth copy to the registered overseas absentee voter.

The second copies for the Commission of the approved applications to vote *in absentia* shall be in the custody of the Registration Division of the Elections and Barangay Affairs Department (EBAD) of the Commission.

ART. 27. *Preparation and posting of the certified list of overseas absentee voters.* - The Certified List of Overseas Absentee Voters, containing the names of overseas absentee voters whose applications to vote *in absentia* have been approved, shall be prepared by the Committee on a country-by-country basis, and shall be approved by the Commission En Banc before every elections but not later than one hundred twenty (120) days before the day of the elections.

Upon approval by the Commission En Banc of the Certified List of Overseas Absentee Voters, the Commission through the Committee shall, within the same 120-day period, furnish two (2) copies thereof to the appropriate embassies, consulates and other foreign service establishments which shall use one (1) copy during the voting period and post one (1) copy of the said list in their bulletin boards, websites, and in other conspicuous areas.

The Commission through the Committee shall also furnish copies of the Certified List of Overseas Absentee Voters to the designated representatives of the six (6) major political parties as determined by the Commission in the immediately preceding national elections and each accredited citizens' arms.

Interested parties may obtain copies of the Certified List of Overseas Absentee Voters subject to reasonable regulations and the payment of prescribed fees.

For purposes of the May 10, 2004 elections, the Certified List of Overseas Absentee Voters shall be approved by the Commission En Banc not later than January 11, 2004.

ART. 28. *List of Overseas Absentee Voters with Voting Records.* - In case of personal voting, the Committee shall prepare a List of Overseas Absentee Voters with Voting Records, containing the names of Overseas Absentee Voters with their digital photos and thumbprint and appropriate spaces for ballot serial number, thumb mark, signature of the voter and signature of the Chairman of the Special Board of Election Inspectors.

RULE 3

PRINTING, TRANSMITTAL AND DISPOSITION OF BALLOTS, VOTING INSTRUCTIONS, ELECTION FORMS AND PARAPHERNALIA

ART. 29. *Printing of ballots and other election forms.* - The Commission shall, through the Committee on Printing of the Commission, cause the printing of ballots for the overseas absentee voters, voting instructions, and election forms. Security markings shall be used in the printing of ballots and the quantity of the ballots to be printed shall be based on the total number of approved applications to vote *in absentia*.

ART. 30. *Transmittal of ballots and other election forms.* - The Commission through the Committee shall, not later than eighty-five (85) days before election day,

present to the authorized representatives of the DFA and the accredited major political parties the exact number of ballots for overseas absentee voters corresponding to the number of approved applications to vote in absentia, voting instructions, election forms and other election paraphernalia for scrutiny and inspection, and, within the same period, transmit them by special pouch, through the DFA, to the embassies, consulates and other foreign service establishments concerned.

The accredited major political parties, citizens' arms and accredited Overseas Filipino Workers (OFW) organizations shall be entitled to one representative/watcher at any given time in all phases of printing, transmittal and casting of ballots abroad.

ART. 31. *Special Ballot Reception and Custody Group.* – A Special Ballot Reception and Custody Group (the “SBRCG”) is hereby created in every Philippine embassy, consulate or foreign service establishment.

The SBRCG shall be composed of three (3) members from among the staff of the embassies, consulates and foreign service establishments concerned, including their attached agencies, and citizens of the Philippines abroad who will be deputized by the Commission to receive and take custody of all accountable and non-accountable election forms, supplies and paraphernalia sent by it through the Committee.

The members of the SBRCG or their spouses shall not be related within the fourth civil degree of consanguinity or affinity to any member of the same SBRCG or to any of the candidates for President, Vice-President and Senator or their spouses, and to any of the nominees for the party-list system of representation or their spouses.

Upon receipt of the ballots, forms, supplies and paraphernalia, the SBRCG shall:

- a) Verify the received quantity and serial numbers of the ballots, other accountable forms to be used for personal voting and the quantity of non-accountable forms, supplies and paraphernalia; and
- b) Keep a complete record of the ballots and other accountable forms, subject to Article 104 of these Rules.

For the May 10, 2004 elections, the Commission shall constitute the SBRCG not later than January 31, 2004.

RULE 4

CAMPAIGNING ABROAD

ART. 32. *Regulation on Campaigning Abroad.* – The use of campaign materials, as well as the limits on campaign spending shall be governed by the laws and regulations applicable in the Philippines.

Personal campaigning of candidates shall be subject to the laws of the host country.

ART. 33. *Specific rules on campaigning.* - The following rules shall apply during the campaign period, including the day of the election:

a) The “port courtesies” that embassies, consulates and other foreign service establishments may extend to candidates shall not go beyond welcoming them at the airport and providing them with briefing materials about the host country, and shall at all times be subject to the availability of the personnel and funding for these activities.

b) The embassies, consulates and other foreign service establishments shall continue to assist candidates engaged in official Philippine government activities at the host country and in making representations with the host government.

c) Members of the foreign service corps may attend public social/civil/religious affairs where candidates may also be present, provided, that these officers and employees do not take part in the solicitation of votes and do not express public support for candidates.

d) While nothing in the Overseas Absentee Voting Act of 2003 shall be deemed to prohibit free discussion regarding politics or candidates for public office, members of the foreign service corps cannot publicly endorse any candidate or political party, nor take part in activities involving such public endorsement.

e) No partisan political activity shall be allowed within the premises of the embassy, consulate and other foreign service establishment.

f) Government-sponsored or permitted information dissemination activities shall be strictly non-partisan and cannot be conducted where a candidate is present.

g) A member of the foreign service corps cannot be asked to directly organize any meeting in behalf of a party or candidate, or assist in organizing or act as liaison in organizing any such meeting. The prohibition shall apply to all meetings – social, civic, religious meetings – where a candidate will be present.

RULE 5

CASTING AND SUBMISSION OF BALLOTS

ART. 34. *Period for casting of votes.* - Qualified overseas absentee voters shall cast their votes at any time within thirty (30) days, except qualified seafarers who shall cast their votes at anytime within sixty (60) days, before the actual date of the election in the Philippines, including the day of election,

The period for casting of votes shall end at the close of voting hours on election day, synchronized with Philippine time.

For purposes of the May 10, 2004 elections, the 30-day and the 60-day voting period shall start on April 11, 2004 and March 12, 2004, respectively, local time at the host country. The period for casting of votes shall end at 3:00 P.M. of May 10, 2004, Philippine time.

ART. 35. *Manner of casting of votes.* - Qualified overseas absentee voters shall cast their votes either personally, or by mail in countries where the same has been authorized by the Commission.

ART. 36. *Place of voting.* – In case of personal voting, casting of votes shall be done in the designated voting area within the premises of the embassy, consulates, and

other foreign service establishments, and other voting areas as may be determined by the Commission.

ART. 37. *Special Board of Election Inspectors.* - A Special Board of Election Inspectors (the "SBEI") is hereby created in every Philippine embassy, consulate or foreign service establishment.

The SBEI shall be composed of a Chairman and two (2) members, one of whom shall be designated as Poll Clerk. The Ambassador or Consul-General or any career public officer posted abroad designated by the Commission shall act as the Chairman. In the absence of any government officer, the two (2) other members shall be citizens of the Philippines, who are qualified to vote under the Overseas Absentee Voting Act of 2003 and deputized by the Commission not later than sixty (60) days before the day of the elections.

The Chairman and the members of the SBEI or their spouses shall not be related within the fourth civil degree of consanguinity or affinity to any member of the same SBEI or to any of the candidates for President, Vice-President and Senator or to their spouses, and to any of the nominees for the party-list system of representation or to their spouses.

The members of the SBEI shall, before assuming their office, take and sign an oath in the form prescribed by the Commission before an officer authorized to administer oaths or, in the absence thereof, before any other member of the SBEI present or, in case no other member is present, before any overseas absentee voter. The oaths of the members of the SBEI shall be sent immediately to the SBRCG.

For the May 10, 2004 elections, the Commission shall constitute the SBEIs not later than March 1, 2004.

The SBEI shall conduct the voting and counting of votes in personal voting and the counting of votes in voting by mail in countries where the same has been authorized by the Commission.

The SBEI shall decide all issues brought before it during the conduct of its proceedings by a majority vote. However, all resolutions of the SBEI shall carry the attestation of the Chairman.

The Commission may constitute as many SBEIs as it may deem necessary to conduct the voting and counting of votes.

The Commission may adopt a flexible schedule for the operation of the various SBEIs within a Post to take into account the availability of voters and the primary responsibilities and functions of the members of the SBEIs.

ART. 38. *Minutes of Voting.* – The SBEI shall accomplish in two (2) copies the Minutes of Voting and record the act or data required therein as they occur or become available during voting. Copies of the minutes shall be sealed in separate envelopes to be distributed as follows:

- a) First copy to the Commission; and
- b) Second copy to be deposited inside the ballot box.

The first copies for the Commission shall be in the custody of the Committee while the ballot boxes containing the second copies shall be in the custody of the Election Records and Statistics Department (ERSD) of the Commission.

ART. 39. *Voting procedure for personal voting.* – The following procedure shall be observed for personal voting:

A. Preliminaries to the Voting

Before the issuance of the election forms, supplies and paraphernalia to the SBEI, the SBCRG shall record the quantity and serial numbers of the ballots and other accountable forms.

On the first day of the voting period, the SBEI shall:

1) Secure from the SBRCG the following election forms, supplies and documents:

- a) Official Ballots and envelopes;
 - b) Minutes of Voting;
 - c) Receipt of official ballots and other accountable forms;
 - d) Voting instructions;
 - e) Certified list of official candidates;
 - f) Ballot secrecy folder;
 - g) Marking pen;
 - h) Thumbprint takers;
 - i) Certified List of Overseas Absentee Voters (2 copies);
 - j) List of Overseas Absentee Voters with Voting Records;
 - k) Overseas Absentee Voting Book of Voters;
 - l) Ballot box;
 - m) Other forms and supplies as may be prescribed by the Commission;
- and

2) Post one (1) copy of the Certified List of Overseas Absentee Voters and the certified list of official candidates in a conspicuous place within the designated voting area in the premises of the embassy, consulate and other foreign service establishment.

On the first voting day, the SBEI shall secure from the SBRCG the Minutes of Voting, such number of ballots and envelopes as may be necessary and the ballot box. In addition, before the voting begins on the first day, the Chairman of the SBEI shall open the ballot box, exhibit to all those present that it is empty, and lock each interior cover with three (3) padlocks. The members of the SBEI shall retain the respective keys to the padlocks during the voting. After the voting, the SBEI endorses the same election paraphernalia to the SBRCG while keeping their respective keys in a secured place guarded by the party watchers.

B. Voting Proper

1) The voter shall approach the Poll Clerk of the SBEI and shall give his/her name and address together with other data concerning his/her person.

2) The Poll Clerk shall verify from the Certified List of Overseas Absentee Voters if the name of the voter is included therein. A voter whose name does not appear in the Certified List of Overseas Absentee Voters shall not be allowed to vote.

If the name of the voter is included in the Certified List of Overseas Absentee Voters, the Poll Clerk shall ascertain the identity of said voter by requiring him/her to

present a copy of his/her Overseas Absentee Voter Registration Record and comparing the photo, thumbprint and signature appearing therein with that of the photo, thumbprint and signature of said voter appearing in the Overseas Absentee Voter Registration Record contained in the Overseas Absentee Voting Book of Voters. In the absence of the Overseas Absentee Voter Registration Record, the voter may present either his/her valid passport or the identification card provided by the Comelec which the Poll Clerk shall use for comparison.

3) If the identity of the voter has been ascertained and such voter has not been challenged, or having been challenged, the question has been decided in his/her favor, the Poll Clerk shall issue to the voter a Ballot Issuance Stub (the "BIS"), which shall be presented by the voter to the Chairman, of the SBEI for issuance of the official ballot.

4) Before issuing the official ballot, the Chairman shall:

a) Require the voter to surrender the BIS;

b) Authenticate the ballot by affixing his/her signature in the appropriate space provided in the ballot;

c) Enter in the List of Overseas Absentee Voters with Voting Record, opposite the name of the voter, the serial number of the official ballot to be issued to the voter;

d) Require the voter to affix his/her signature opposite his/her name in the List of Overseas Absentee Voters with Voting Record; and

e) Place the official ballot inside a ballot secrecy folder in such a manner that the contents of the ballot are hidden and only the portion where the serial number of the ballot coupon appears.

3) Upon receipt of the ballot secrecy folder containing the official ballot, the voter shall, using the appropriate marking or writing device, personally accomplish the ballot in secret, without leaving the designated voting area in the embassy, consulate or foreign service establishment concerned.

4) After accomplishing his/her ballot, the voter shall place the same inside the ballot secrecy folder in the same manner as he received it, and exhibit the ballot coupon to the Member-Secretary of the SBEI who shall, within the view of the voter and the Chairman and without seeing its contents, verify its serial number against the number previously entered in the List of Overseas Absentee Voters with Voting Record.

If the serial number of the ballot exhibited by the voter is the same as that previously issued to him/her, the voter shall, in the presence of the Chairman of the SBEI, affix his/her right thumbmark in the corresponding space in the ballot coupon and opposite his/her name in the List of Overseas Absentee Voters with Voting Records. If the serial number of the ballot is not the same as that previously issued, the ballot shall be marked as "spoiled".

In case the serial number of the ballot exhibited by the voter is the same as that previously issued to him/her, the Member-Secretary shall then, in the presence of the voter and the Chairman, detach the ballot coupon, deposit it in the ballot box compartment intended for the purpose, and give the voter an envelope for his/her ballot. The voter shall then place the ballot inside the envelope, seal the same and deposit it inside the ballot box compartment for valid ballots.

The voter after having cast his/her vote shall immediately depart.

C. Post Voting Procedure

At the end of every voting day, the following procedure shall be observed:

1) The Member-Secretary shall prepare two (2) copies of the Minutes of Voting by recording therein the date of voting, number of voters who actually voted and the serial numbers of used, unused and spoiled ballots. The first copy shall be placed inside an envelope provided for the purpose and shall be submitted unsealed to the SBRCG. The second copy of the Minutes of Voting shall be placed inside an envelope provided for the purpose, which shall be sealed with a paper seal and thereafter deposited inside the ballot box.

2) The SBEI shall submit to the SBRCG the unsealed envelope containing the first copy of the Minutes of Voting and the ballot box containing the accomplished ballots and the sealed envelope containing the second copy of the Minutes of Voting.

3) The SBRCG shall keep the ballot boxes in a secured place designated by the Commission.

Every Monday during the voting period, the SBRCG shall, using the first copy of the Minutes of Voting, prepare a progress report on the number of voters who actually voted, the number of used and unused ballots and such other data as the Commission may require in the prescribed form, and submit the same to the Election Records and Statistics Division (ERSD) of the Commission, by facsimile or electronic mail which shall, in turn, provide the Commission with regular updates on the data received.

The SBRCG shall return the first copy of the Minutes of Voting in the envelope provided for the purpose, seal the envelope with a paper seal and keep the same in a secured place designated by the Commission.

ART. 40. *Prohibitions on personal voting.* - The voter shall not:

a) Be accompanied by anybody in accomplishing his/her ballot, except in the case of an illiterate or disabled voter;

b) Speak with anyone while accomplishing his/her ballot, other than as herein provided;

c) Intentionally tear, deface, or erase any printing on the ballot or put thereon any distinguishing mark;

d) Use carbon paper, paraffin paper or other means for making a copy of the ballot, or make use of any other means to identify his/her vote;

e) Prepare the ballot without the use of a ballot secrecy folder, or exhibit its contents to any person; or

f) Bring the ballot outside the designated voting area within the premises of the embassy, consulate or foreign service establishment.

ART. 41. *Watchers.* – Each candidate, political party, and parties, associations or organizations participating in the party-list system of elections, accredited citizens' arms and accredited OFW organizations shall be entitled to one (1) watcher during the voting

and counting of votes. However, if there is no sufficient space for all watchers to be accommodated, preference shall be given to the watchers of the dominant majority and dominant minority parties as determined by the Commission, one (1) common watcher for the independent candidates, one (1) common watcher for the accredited citizens' arms and one (1) common watcher for accredited OFW organizations.

The watchers shall be entitled to all the rights and privileges accorded them under election laws.

ART. 42. Challenge of illegal voters. - Any voter or watcher may challenge a voter for:

- a) Not being a registered overseas absentee voter;
- b) Using the name of another; or
- c) Suffering from an existing disqualification.

In such case, the SBEI shall satisfy itself as to whether or not the ground for the challenge is true by requiring proof of registration, identity or qualification.

ART. 43. Challenge based on certain illegal acts. - Any voter or watcher may challenge any voter on the ground that:

- a) The challenged person has received or expects to receive money or anything of value as consideration for his/her vote, has paid, offered or promised to pay, has contributed, offered or promised to contribute money or anything of value as consideration for the vote of another;
- b) The challenged person has made or received a promise to influence the giving or withholding of any such vote; or
- c) The challenged person has 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 SBEI 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 challenger shall be sustained and the voter shall not be allowed to vote.

ART. 44. Record of challenges and oaths. - The Member-Secretary of the SBEI shall record in the Minutes of Voting all challenges and oaths taken in connection therewith and the decision of the SBEI in each case.

ART. 45. Rules to be observed during the voting. - During the voting, the SBEI shall ensure that:

- a) No watcher is allowed to enter the designated voting area for the voters and the area designated for the SBEI, or to mingle and talk with the voters;
- b) No ballot is brought outside the designated voting area in the embassy, consulate or foreign service establishment;

c) No person carrying any firearm or any deadly weapon, except those expressly authorized by the Commission, enters the premises of the embassy, consulate or foreign service establishment;

d) The voters vote in the order of their arrival in the premises of the embassy, consulate or foreign service establishment; and

e) There is no crowding of voters and disorderly behavior inside the designated voting area.

ART. 46. *Prohibition of premature announcement of voting.* – No member of the SBEI shall, before the termination of the voting, make any announcement as to whether a certain registered voter has already voted or not, as to how many have already voted or how many so far have failed to vote, or any other fact tending to show or showing the state of the polls, nor shall he/she make any statement at any time, except as witness before a court or body as to how any person voted.

ART. 47. *Preparation of ballots for illiterate and disabled voters.*- a) No voter shall be allowed to vote as illiterate or physically disabled unless such fact is so indicated in his/her Overseas Absentee Voter Registration Record.

b) A voter who is illiterate or physically unable to prepare the ballot by himself/herself may be assisted in the preparation of his/her ballot by a relative within the fourth civil degree of consanguinity or affinity, or, if he/she has none, by any person of his/her confidence who belongs to the same household, or by any member of the SBEI.

c) No person may assist an illiterate or disabled voter more than three (3) times except the members of the SBEI. The Member-Secretary shall enter in the Minutes of Voting the names of the persons each member assisted. At the end of each voting day, the Member–Secretary shall indicate in the Minutes of Voting the total number of times each member of the SBEI assisted an illiterate or disabled voter.

d) The assistant shall accomplish the ballot for the illiterate or disabled voter using a ballot secrecy folder in the presence of the latter; and

e) The person shall bind himself in writing and under oath to accomplish the ballot strictly in accordance with the instructions of the voter and not to reveal the contents of the ballot, by affixing his/her signature in the appropriate space in the Minutes of Voting.

ART. 48. *Spoiled ballots.* - A ballot is considered spoiled in the following instances:

a) When the ballot is accidentally defaced by the voter in such a way that it can no longer be lawfully used.

In such case, the voter shall surrender the ballot to the Chairman who shall note in the corresponding space in the List of Overseas Absentee Voters with Voting Record that said ballot is spoiled. The Chairman shall enter the serial number of the spoiled ballot in the space provided for in the Minutes of Voting.

b) When the ballot coupon was detached not in the presence of any member of the SBEI; and

c) When the serial number of the ballot returned by the voter is different from the serial number of the ballot given earlier to the said voter.

In all cases, the voter shall not be issued another ballot.

d) In case of voting by mail, when the serial number of the ballot coupon returned by the voter is different from the serial number of the ballot as recorded in the Certified List of Overseas Absentee Voters.

Each spoiled ballot shall be so marked by writing the word “spoiled” diagonally across the face of the ballot, signed by any member of the SBEI, and placed inside the compartment for spoiled ballots.

ART 49. *Closing the polls; Disposition of unused ballots during the last day of the voting period.* – After the close of voting hours during the last day of voting period, the Member-Secretary shall enter in the Minutes of Voting the total number of voters who actually voted and the quantity and serial numbers of unused ballots.

All unused ballots after the voting period shall be torn in half lengthwise in the presence of the members of the SBEI and the watchers, if available. One half shall be placed and sealed inside an envelope and submitted to the SBRCG for safekeeping. It shall remain sealed unless the Commission orders otherwise. The other half shall be placed in the corresponding envelope and deposited inside the ballot box. Such fact shall be entered in the Minutes of Voting by the Member-Secretary.

ART. 50. *Procedure for voting by mail.* – In countries where voting by mail has been authorized by the Commission, the following procedure shall be adopted:

A. Preliminaries

1) The Committee through its Reception, Verification and Encoding Group shall:

a) Record the serial number of the ballot assigned to the voter opposite his/her name in the Certified List of Overseas Absentee Voters before shipping the ballots, inner and outer envelopes, paper seals, voting instructions and certified list of official candidates, other election forms and supplies to the embassies, consulates and foreign service establishments concerned;

b) Place the ballot inside an envelope together with the special inner and outer envelopes, paper seals, voting instructions, and certified list of candidates; and

c) Send by special pouch, through the DFA, not later than eighty-five (85) days before the day of the election, the Certified List of Overseas Absentee Voters, all envelopes containing the ballots, special inner and outer envelopes, paper seals, voting instructions, and certified list of official candidates to the embassy, consulate or other foreign service establishment concerned.

2) The embassy, consulate or foreign service establishment concerned, through the SBRCG, shall:

a) Receive and take custody of the envelopes containing the ballots, The Certified List of Overseas Absentee Voters, voting instructions, paper seals, inner and outer envelopes and certified list of official candidates transmitted by the Commission;

b) Verify whether the voters in the Certified List of Overseas Absentee Voters have corresponding envelopes with their names and addresses; and

c) Mail the envelopes to the voters concerned and keep a complete record of the quantity of envelopes mailed indicating the names and addresses of the voters to whom the envelopes were sent including proof of receipt thereof.

3) The voter shall:

a) Accomplish the ballot;

b) Affix his/her right thumbmark on the ballot coupon, detach the same from the ballot and place the detached coupon inside the outer envelope;

c) Place the accomplished ballot inside the envelope marked "Inner Envelope";

d) Seal the Inner Envelope with the paper seal provided for the purpose and place the same inside the envelope marked "Outer Envelope" together with the ballot coupon in such a manner that the ballot contained in the Inner Envelope shall not be folded or crumpled;

e) Affix his/her signature in the proper space provided in the outer envelope;

f) Seal the outer envelope with the paper seal provided for the purpose; and

g) Mail the envelope to the embassy, consulate or foreign service establishment concerned.

3) The embassy, consulate or foreign service establishment concerned, through the SBRCG, shall:

a) Receive the accomplished ballots from the voters and enter the date and time of receipt of mailed envelopes opposite the name of the voter in the Certified List of Overseas Absentee Voters availing of voting by mail.

b) Verify whether:

(i) The signature of the voter appearing in the outer envelope is identical with his/her signature in his/her Overseas Absentee Voter Registration Record;

(ii) The mailed ballot is contained in the special envelope furnished for the purpose; and

(iii) The mailed ballot is received before the close of voting on the day of elections.

If so, said envelopes containing the ballot shall be placed unopened, inside a ballot box, marked "Valid Ballots", which shall be kept in a secured place designated by the Commission inside the premises of the embassy, consulate or foreign service establishment.

If the mailed ballot is not contained in the special envelope furnished for the purpose or is not received before the close of voting on the day of elections, the envelopes shall be placed in a separate ballot box, marked "Invalid Ballots", which shall be kept in a secured place designated by the Commission inside the premises of the embassy, consulate or foreign service establishment. All ballots in the said container shall not be counted.

If the signature of the voter appearing in the outer envelope is not identical with his/her signature in his/her Overseas Absentee Voter Registration Record, the envelope, attaching therewith the voter's Overseas Absentee Voter Registration Record shall be placed in a separate ballot box, marked "Questionable Envelopes", which shall be kept in a secured place designated by the Commission inside the premises of the embassy, consulate or foreign service establishment.

c) Prepare a progress report on the number of mailed envelopes, the number of received accomplished ballots and such other data as the Commission may require in the prescribed form, and submit the same to the Election Records and Statistics Division (ERSD) of the Commission every Monday during the voting period by facsimile or electronic mail, which, in turn, shall provide the Commission a regular update of such data.

RULE 6

COUNTING OF VOTES

ART. 51. *Manner of counting.* - As a general policy, the counting of votes shall be automated. However, in countries where there are two hundred (200) or less overseas voters voting *in absentia*, the Commission may order that the counting of votes be done manually.

PART I – COMMON PROVISIONS

FOR AUTOMATED AND MANUAL COUNTING

ART. 52. *Counting site.* – The counting of votes shall be conducted in the country where the votes were actually cast within the premises of the corresponding embassy, consulates and other foreign service establishments, or such other counting centers as may be designated by the Commission.

ART. 53. *Counting of votes to be public and without interruption.* – After the termination of voting, the SBEI shall publicly count in the designated counting centers the votes cast and ascertain the results. Unless otherwise ordered by the Commission, the SBEI shall not adjourn or postpone or delay the counting until it has been fully completed.

ART. 54. *Minutes of Counting of Votes.* – The SBEI shall accomplish in two (2) copies the Minutes of Counting of Votes and record the act or data required therein as they occur or become available during counting.

Copies of the Minutes must be signed, sealed in separate envelopes and distributed as follows:

- a) First copy to the Commission; and
- b) Second copy to be deposited inside the ballot box.

The first copies for the Commission shall be in the custody of the Committee while the ballot boxes containing the second copies shall be in the custody of the Election Records and Statistics Department (ERSD) of the Commission.

ART. 55. Preliminaries to the counting of votes. – The following procedure shall be observed before the counting of votes:

A. For ballots cast personally

The SBRCG shall transmit to the SBEI the ballot boxes with the envelopes containing the accomplished ballots personally cast by overseas absentee voters and the Minutes of Voting.

Upon receipt of the ballot boxes, the SBEI shall:

- 1) Open the ballot box one at a time;
- 2) Take out the envelopes containing the accomplished ballots;
- 3) Take out the ballots from the envelopes; and
- 4) Examine the ballots, whether there are:
 - a) Excess ballots, by counting the ballots and comparing the number of ballots with the number of voters who actually voted as indicated in the Minutes of Voting.

If there are excess ballots, all of the ballots shall be placed in a ballot box and thoroughly mixed therein. The Poll Clerk, without seeing the ballots and with his/her back to the ballot box, shall publicly draw out as many ballots as may be equal to the excess and place them in the envelope for excess/marked/spoiled/half of torn unused ballots.

b) Ballots with undetached coupons. In case ballots with undetached coupons are found, the coupons shall be removed and placed in the compartment provided for the purpose. The ballots shall be included in the pile of valid ballots.

c) Ballots with the word “spoiled”. If ballots with the word “spoiled” should be found in the bundle, they shall be placed in the envelope for spoiled ballots. The envelope shall be signed by the members of the SBEI, sealed and submitted to the SBRCG.

All ballots marked with the word “spoiled” shall not be counted.

B. For accomplished ballots sent through the mail

The SBRCG shall transmit to the SBEI the ballot box marked “Valid Ballots” which contain the envelopes containing the ballots sent through the mail, including the ballot box marked “Questionable Envelopes”.

Upon receipt of the ballot box(es), the SBEI shall:

- 1) Open the ballot box marked "Questionable Envelopes";
- 2) Take out the envelopes contained therein;
- 3) Re-examine the signatures of the voter and determine whether the signature of the voter affixed in the envelope is identical or not to that appearing in the voter's *Overseas Absentee Voter Registration Record*;
- 4) If the signatures are identical, include the envelope in the pile of valid envelopes for counting.
- 5) If the signatures are not identical, return the envelope inside the ballot box marked "Questionable Envelopes". The ballots contained in such envelopes shall not be counted;
- 6) Open the ballot box marked "Valid Ballots" one at a time;
- 7) Take out the envelopes containing the accomplished ballots;
- 8) Open the outer envelope and determine if they contain the ballot stub and the inner envelope containing the ballot;
- 9) If the outer envelope does not contain the ballot stub and/or inner envelope, enter such fact in the Minutes of Counting;
- 10) If the outer envelope contains the ballot stub and/or inner envelope, compare the serial number appearing in the ballot coupon as against the serial number recorded in the Certified List of Overseas Absentee Voters;
- 11) If the serial numbers are not the same, the ballot shall be considered spoiled and marked as such;
- 12) If the serial numbers are similar, open the inner envelope and examine the ballots to determine whether there are:
 - a) Excess ballots, by counting the ballots and comparing the number of ballots with the number of envelopes mailed by the SBRCG as indicated in its record of mailing.

If there are excess ballots, all of the ballots shall be placed in a ballot box and thoroughly mixed therein. The Poll Clerk, without seeing the ballots and with his/her back to the ballot box, shall publicly draw out as many ballots as may be equal to the excess and, place them in the envelope for excess/marked/spoiled/half of torn unused ballots.
 - b) Ballots with undetached coupons. In case ballots with undetached coupons are found, the coupons shall be removed and placed in the outer envelope. The ballots shall be included in the pile of valid ballots.
 - c) Spoiled Ballots. The SBEI shall compare the serial number contained in the ballot stub of a voter as against the serial number of the ballot sent to him/her as recorded in the Certified List of

Overseas Absentee Voting. If the serial number is not the same, said ballot shall be considered spoiled and the Chairman shall write the word "spoiled" diagonally across the face of the ballot. The same shall then be placed in the envelope for spoiled ballots. The envelope shall be signed by the members of the SBEI, sealed and submitted to the SBRCG.

All ballots marked "spoiled" shall not be counted.

C. The Commission may adopt such procedures in the transmittal by the SBRCG as may be warranted to ensure the practical application of this Article.

PART II – COUNTING PROCEDURE FOR AUTOMATED SYSTEM

ART. 56. Examination and Testing of Machines. - The Commission shall, on May 7, 2004, and in the morning of the last day of voting period, examine and test the counting machine(s) to ascertain that the same operate properly and accurately.

In both instances, political parties, candidates and parties, organizations or coalitions participating in the party list system, and accredited citizens' arm, upon notice, shall be allowed to observe the proceedings.

The examination and testing procedure which shall be adopted by the Commission in the May 10, 2004 elections in the Philippines shall be followed.

ART. 57. Post-counting procedure. – a) After the ballots have been counted by the counting machine, the SBEI shall place the counted ballots inside the envelope, marked "Counted Official Ballots", seal the same with paper seal, and place the envelope in the ballot box.

b) The Poll Clerk shall print seven (7) copies of the Overseas Absentee Voting Election Returns for the Overseas Absentee Voting Precinct. The members of the SBEI shall affix their signatures and right thumbmarks on the copies of the Overseas Absentee Voting Election Returns.

c) The Chairman shall orally and publicly announce the total number of votes received by each candidate stating their corresponding offices, as well as the total number of votes received by a party, sectoral organization or coalition participating under the party-list system of representation.

d) The SBEI shall fold each copy of the Overseas Absentee Voting Election Return, seal the same with a serially numbered paper seal, place each one in its corresponding envelope, and seal the envelope for distribution under Article 62 hereof.

e) The SBEI shall follow the above procedure for the succeeding Overseas Absentee Voting Precincts.

PART III – COUNTING PROCEDURE FOR MANUAL SYSTEM

ART. 58. Manner of Counting. – After performing the preliminaries to the counting of votes under Article 55 of these Rules, the following procedure shall be observed in the counting of ballots:

a) The tables to be used for counting shall be cleared of all unnecessary writing paraphernalia.

b) The SBEI shall unfold the ballots and form separate piles of one hundred (100) ballots each, held together by rubber bands.

c) The Chairman of the SBEI 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 thereon.

d) During the counting, the Chairman, the Poll Clerk and the Member-Secretary shall position themselves in such a way as to give the watchers and the public an unimpeded view of the ballot being read by the Chairman, as well as of the Overseas Absentee Voting Election Returns and tally board being simultaneously accomplished by the Poll Clerk and the Member-Secretary, respectively. The watchers and the public shall not touch any of the said election documents.

Any violation of the above shall constitute an election offense.

e) The Poll Clerk and the Member-Secretary shall record in the Overseas Absentee Voting Election Returns and in the tally board, respectively, each vote as it is read. Each vote shall be recorded by a vertical line, except every fifth vote, which shall be recorded by a diagonal line crossing the previous four vertical lines.

f) After finishing the first pile of ballots, the SBEI shall determine the total number of votes recorded for each candidate, the sum being noted on the tally board or sheet and on the Overseas Absentee Voting Election Returns. In case of discrepancy a recount shall be made. The ballots shall again be grouped together as before.

g) The same procedure shall be followed with the succeeding piles of ballots.

h) After all the ballots have been read, the SBEI shall affix their initials after the last vote recorded or immediately after the name of the candidates/party, sectoral organization or coalition participating in the party-list system who did not receive any votes.

i) Thereafter, the SBEI shall record, in words and in figures, the total number of votes obtained by each candidate and by each party, organization or coalition, participating under the party-list system, both in the Overseas Absentee Voting Election Returns and in the tally board.

j) The counted ballots shall be placed in the envelope for the purpose. The envelope shall be closed, signed, sealed and submitted to the SBRCG. The tally board as accomplished and certified by the SBEI shall not be changed or destroyed but shall likewise be submitted to the SBRCG.

ART. 59. Rules for the appreciation of ballots. – In the reading and appreciation of ballots, every ballot shall be presumed to be valid unless there is clear and good reason to justify its rejection. The SBEI shall observe the following rules, bearing in mind that the object of the election is to obtain the expression of the voter's will:

a) Where only the first name of a candidate or only his/her surname is written the vote for such candidate is valid, if there is no other candidate with the same first name or surname for the same office.

Where the name of a party-list participant is incompletely written or not in the proper order as appearing in the certified list of parties, the vote for such party, if identifiable, is valid if there is no other party using the same.

b) Where only the first name of a candidate is written on the ballot which when read, has sound similar to the surname of another candidate, the vote shall be counted in favor of the candidate with such surname. If there are two or more candidates with the same full name, first name or surname and one of them is the incumbent, and on the ballot is written only such full name, first name or surname, the votes shall be counted in favor of the incumbent.

c) In case the candidate is a woman who uses her maiden or married surname or both and there is another candidate with the same surname, a ballot bearing only such surname shall be counted in favor of the candidate who is an incumbent.

d) When two or more words are written on the same line on the ballot, all of which are the surnames of two or more candidates, the same shall not be counted for any of them, unless one is surname of an incumbent who has served for at least one year in which case it shall be counted in favor of the latter.

When two or more words are written on different lines on the ballot all of which are the surnames of two or more candidates bearing the same surname for an office for which the law authorizes the election of more than one and there are the same number of such surnames written as there are candidates with that surname, the votes shall be counted in favor of all the candidates bearing the surname.

e) When on the ballot is written a single word which is the first name of a candidate and which is at the same time the surname of his/her opponent, the vote shall be counted in favor of the latter.

f) When two words are written on the ballot, one of which is the first name of a candidate and the other is the surname of his/her opponent, the vote shall not be counted for either.

g) A name or surname incorrectly written which, when read, has a sound similar to the name or surname of a candidate when correctly written shall be counted in his/her favor.

A name incorrectly written which, when read, has a sound similar to the name of a party-list participant, when correctly written shall be counted in its favor.

h) When a name of a candidate appears in a space of the ballot for an office for which he is a candidate and in another space for which he is not a candidate, it shall be counted in his/her favor for the office for which he is a candidate and the vote for the office for which he is not a candidate shall be considered as stray, except when it is used as a means to identify the voter, in which case, the whole ballot shall be void.

When the name of a party appears in a space of the ballot for an office other than for the party list, it shall be considered stray but is shall not invalidate the whole ballot except when it is used as a means to identify the voter, in which case, the whole ballot shall be void.

If the word or words written on the appropriate blank on the ballot is the identical name or surname or full name, as the case may be, of two or more candidates for the same office none of whom is an incumbent, the vote shall be counted in favor of that

candidate to whose ticket belong all the other candidates voted for in the same ballot for the same constituency.

i) When in a space in the ballot there appears a name of a candidate or party that is erased and another clearly written, the vote is valid for the latter.

j) The erroneous initial of the first name which accompanies the correct surname of a candidate, the erroneous initial of the surname accompanying the correct first name of a candidate, or the erroneous middle initial of the candidates shall not annul the vote in favor of the latter.

k) The fact that there exists another person who is not a candidate with the first name or surname of a candidate shall not prevent the adjudication of the vote of the latter.

l) Ballots which contain prefixes such as "Sr.", "Mr.", "Datu", "Ginoo", "Hon.", "Gob.", or suffixes like "Hijo", "Jr.", "Segundo", are valid.

m) The use of the nicknames and appellations of affection and friendship, if accompanied by the first name or surname of the candidate, does not annul such vote, except when they were used as a means to identify the voter, in which case the whole ballot is invalid: Provided, That if the nickname used is unaccompanied by the name or surname of a candidate and it is the one by which he is generally or popularly known in the locality, the name shall be counted in favor of said candidate if there is no other candidate for the same office with the same nickname.

n) Any vote containing initials only or which is illegible or which does not sufficiently identify the candidate for whom it is intended shall be considered as a stray vote but shall not invalidate the whole ballot.

The initials of a party-list participant shall be considered valid, provided, that they are the same initials as appearing in the certified list of party-list participants.

o) If on the ballot is correctly written the first name of a candidate but with a different surname, or the surname of the candidate is correctly written but with a different first name, the vote shall not be counted in favor of any candidate having such first name and/or surname but the ballot shall be considered valid for other candidates.

p) Any ballot written with crayon, lead pencil, or in ink, wholly or in part, shall be valid.

q) Where there are two or more candidates/parties voted for in an office for which the law authorizes the election of only one, the vote shall not be counted in favor of any of them, but this shall not affect the validity of the other votes therein.

r) If the candidates voted for exceed the number of those to be elected, the ballot is valid, but the votes shall be counted only in favor of the candidates whose names were firstly written by the voter within the space provided for said office in the ballot until the authorized number is covered.

s) Any vote in favor of a person who has not filed a certificate of candidacy or in favor of a candidate for an office for which he did not present himself shall be considered as a stray vote but it shall not invalidate the whole ballot.

A vote cast for a party-list participant not entitled to be voted for shall not be counted.

t) Ballots containing the name of a candidate or party-list participant printed and pasted on a blank space of the ballot or affixed thereto through any mechanical process are totally null and void.

u) Circles, crosses or lines put on the spaces on which the voter has not voted shall be considered as signs to indicate his/her desistance from voting and shall not invalidate the ballot.

v) Unless it should clearly appear that they have been deliberately put by the voter to serve as identification marks, commas, dots, lines, or hyphens between the first name and surname of a candidate, or in other parts of the ballot, traces of the letter "T", "J" and other similar ones, the first letters or syllables or names which the voter does not continue, the use of two or more kinds of writing and unintentional or accidental flourishes, strokes or strains, shall not invalidate the ballot.

w) Any ballot which clearly appears to have been filled by two distinct persons before it was deposited in the ballot box during the voting is totally null and void.

x) Any vote cast in favor of a candidate or party who has been disqualified by final judgment shall be considered as stray and shall not be counted but it shall not invalidate the ballot.

y) Ballots wholly written in Arabic in localities where it is of general use are valid. To read them, the SBEI may employ an interpreter who shall take an oath that he shall read the votes correctly.

z) The accidental tearing or perforation of a ballot does not annul it.

aa) Failure to remove the detachable coupon from a ballot does not annul such ballot.

ART. 60. *Preparation of Overseas Absentee Voting Election Returns and tally board.* – The SBEIs shall prepare in their own handwriting the Overseas Absentee Voting Election Returns and tally board simultaneously with the counting of the votes in their respective polling places. The Overseas Absentee Voting Election Returns shall be prepared in seven (7) copies.

Before the actual counting of votes, the Chairman shall strictly ensure that all the following data are entered in the elections returns:

a) Name of country/ies where the embassy, consulate or foreign service establishment have consular jurisdiction;

b) Total number of:

- 1) Registered voters in the country/countries;
- 2) Voters included by order of the court;
- 3) Voters excluded by order of the court;
- 4) Voters who actually voted;
- 5) Number of ballots received;
- 6) Ballots found in the ballot box;
- 7) Spoiled ballots; and
- 8) Excess ballots;

As the Chairman reads the ballots, the Poll Clerk and the Member-Secretary shall record simultaneously in the Overseas Absentee Voting Election Returns and in the tally board, respectively, the following:

- a) Votes obtained by each candidate and party-list candidates recorded by a vertical line, except for every fifth vote which shall be recorded by a diagonal line crossing the previous four vertical lines; and
- b) Sub-total of votes obtained by each candidate and party-list candidates after each pile of 100 ballots read;

The following procedure shall be observed after all the ballots have been read:

- a) The members of the SBEI shall close the entries by affixing their initials immediately after the last vote recorded or immediately after the name of the candidate and party-list candidates who did not receive any vote;
- b) The Poll Clerk and the Member-Secretary shall record the total number of votes obtained by each candidate and party-list candidates, in words and figures;
- c) The members of the SBEI shall accomplish the certification portion of the Overseas Absentee Voting Election Returns and tally board;
- d) The watchers if any, shall affix their signatures and imprint their right thumbmarks on the right hand portion of the Overseas Absentee Voting Election Returns and the tally board; and
- e) The SBEI shall ensure that the entries on the first copy of the Overseas Absentee Voting Election Returns are clearly impressed on the other copies.
- f) The Chairman shall orally and publicly announce the total number of votes received by each candidate stating their corresponding offices, as well as the total number of votes received by a party, sectoral organization or coalition participating under the party-list system of representation.
- g) Thereafter, the SBEI shall fold each copy of the elections returns, sealed with a serially numbered paper seal, placed in its corresponding envelope, seal the same for distribution under Article 62 hereof.

ART. 61. *Alteration and correction in the Overseas Absentee Voting Election Returns.* – Before the announcement of the results of the election, the SBEI may, on its own, make any correction or alteration in the Overseas Absentee Voting Election Returns, provided, that all the members thereof duly initial the corrections or alterations.

After announcement of the results of the election in the polling place, the SBEI shall not make any alteration or amendment in any of the copies of the Overseas Absentee Voting Election Returns.

PART IV - POST COUNTING PROCEDURE

ART. 62. *Transmittal of results of the election.* - Immediately upon completion of the counting and announcement of results by the Chairman, the SBEI shall transmit via facsimile, and/or electronic mail the results of the election in each precinct to the

Commission in Manila and the accredited major political parties at their respective addresses as supplied by the Commission.

ART. 63. *Distribution of Overseas Absentee Voting Election Returns.* – After the announcement of results, each copy of the Overseas Absentee Voting Election Returns shall be folded, sealed with a serially numbered paper seal and placed in its corresponding envelope, seal the same and distributed as follows:

- a) First copy to the Special Board of Canvassers;
- b) Second copy to the Congress of the Philippines;
- c) Third copy to the Commission;
- d) Fourth copy to the dominant majority party as determined by the Commission;
- e) Fifth copy to the dominant minority party as determined by the Commission;
- f) Sixth copy to the citizens' arm authorized by the Commission to conduct an unofficial count; and
- g) Seventh copy to be deposited in a ballot box in the custody of the SBRCG.

The Chairman of the SBEI shall submit personally the first, second and third copies of the Overseas Absentee Voting Election Returns to the Chairman of the Special Board Of Canvassers who will in turn submit personally the second copies to the Congress of the Philippines and the third copies to the Commission.

The third copies for the Commission of the Overseas Absentee Voting Election Returns shall be in the custody of the Election Records and Statistics Department (ERSD) of the Commission.

ART. 64. *Certificate of votes.* – After the announcement of the results of the election, the SBEI shall, as a matter of policy, issue a Certificate of Votes to interested parties. All the members of the SBEI shall sign the Certificate of Votes, which is a replica of the Overseas Absentee Voting Election Returns.

ART. 65. *Disposition of ballots and other documents.* - Upon the termination of the counting of votes and the printing of Overseas Absentee Voting Election Returns for the precinct, the SBEI shall:

- a) Place the following documents in a ballot box/container:
 - 1) Envelope containing the Overseas Absentee Voting Election Returns, copy for the ballot box;
 - 2) Envelope containing used official ballots;
 - 3) Envelope containing excess/marked/spoiled/torn half of unused official ballots;
 - 4) Envelope containing rejected ballots (for automated system);
 - 5) Envelope containing one copy of the Minutes of Voting;
 - 6) Envelope containing one copy of the Minutes of Counting of Votes;
 - 7) Stubs of used official ballots; and
 - 8) Inner and Outer Envelopes (for voting by mail)

- b) Seal the ballot box/container; and
- c) Transmit the same to the SBRCG together with the following election forms, supplies and documents:
 - 1) Certified List of Overseas Absentee Voters;
 - 2) List of Overseas Absentee Voters with Voting Records
 - 3) Overseas Absentee Voting Book of Voters;
 - 4) Envelope containing the Minutes of Voting copy for the Commission;
 - 5) Envelope containing the Minutes of Counting;
 - 6) Envelope containing the other half of the torn unused ballots; and
 - 7) Thumbprint takers whether used or unused.

The SBRCG shall:

- a) Receive from the SBEI all counted ballots for safekeeping until further instructions from the Commission;
- b) Submit via facsimile or electronic mail, a formal report to the Commission through the Committee on the number of ballots cast, the number of invalid and unused/unclaimed ballots, spoiled ballots, and other pertinent data as may be required by the Commission, immediately after the completion of the canvass; and
- c) Transmit to the Commission, by the least costly method, within six (6) months from the day of the elections, all used and unused forms, supplies and paraphernalia as submitted by the SBEI after completion of the counting of votes.

The formal report submitted by the SBRCG to the Commission through the Committee shall be in the custody of the Registration Division of the Elections Barangay and Affairs Department (EBAD) of the Commission.

RULE 7

CANVASSING OF OVERSEAS ABSENTEE VOTING ELECTION RETURNS

ART. 66. *Manner of canvassing.* - As a general policy, the canvass of votes shall be automated. However, in areas where the manual system of counting is adopted, the canvassing of votes shall also be manual.

PART I – COMMON PROVISIONS

FOR AUTOMATED AND MANUAL CANVASSING

ART. 67. *Special Board of Canvassers.* – There shall be a Special Board of Canvassers (the “SBOC”) in each country where the votes are actually cast, to canvass the Overseas Absentee Voting Election Returns and prepare the Overseas Absentee Voting Certificate of Canvass.

The SBOC shall be composed of a lawyer preferably from the Commission, retired members of the Judiciary or lawyers from the private sector, or a lawyer of any of the Philippine government agencies maintaining a post abroad, as Chairman, a senior career officer of any of the Philippine government agencies maintaining a post abroad, and in the absence of another government officer, a citizen of the Philippines qualified

to vote under the Overseas Absentee Voting Act of 2003, as Vice-Chairman and Member-Secretary, respectively, to be appointed by the Commission. The Chairman of the Committee may appoint them given the time constraint subject to the confirmation of the Commission.

The Chairman and the members of the SBOC shall not be related within the fourth civil degree of consanguinity or affinity to any member of the same SBOC or to any of the candidates for President, Vice-President and Senator, and to any of the nominees for the party-list system of representation.

For this purpose, the Committee shall submit a list of the officials for appointment as Chairman and members of the SBOC. Likewise, the Ambassador or the highest Philippine foreign service official and the highest official of any of the Philippine government agencies maintaining a post in the host country shall, not later than January 31, 2004, submit to the Commission through the Committee a list of the officials for appointment as Chairman and members of the SBOC.

In case of the non-availability, absence, disqualification due to relationship or incapacity for any cause of the member of the Philippine Bar appointed/to be appointed as Chairman of the SBOC, the Commission, through the Chairman of the Committee, may appoint from the ranks of officers above-mentioned.

For the May 10, 2004 elections, the SBOC shall be constituted not later than April 25, 2004.

A majority vote of all the members of the SBOC shall be necessary to render a decision. All resolutions of the SBOC on issues brought before it must bear the attestation of its Chairman.

ART. 68. *Contested composition or proceedings of the SBOC.* – Questions affecting the composition or proceedings of the SBOC may be initiated in the SBOC or directly with the Commission.

When the composition or proceedings of the SBOC are contested, the SBOC shall, within twenty-four (24) hours, make a ruling thereon with notice to the contestant.

Parties adversely affected by a ruling of the SBOC on questions affecting the composition or proceedings of the SBOC may appeal the matter to the Commission within three (3) days from the date of the ruling.

ART. 69. *Powers of the SBOC.* – The SBOC shall have full authority to keep order within the canvassing room or hall including its premises and enforce obedience to its lawful orders. If any person refuses to obey any lawful order of the SBOC or shall conduct himself in a disorderly manner as to disturb or interrupt its proceedings, the SBOC may order in writing any Philippine law enforcement officer to take such person into custody until adjournment of the meeting. In the absence of any such law enforcement officer, any other competent and able Filipino citizen deputized by the SBOC in writing may execute such order.

ART. 70. *Supervision and control over the special board of canvassers.* – The Commission shall have direct control and supervision over the SBOCs.

Any member of the SBOC may, at any time, be relieved for cause and substituted *motu proprio* by the Commission, through the recommendation of the Chairman of the Committee.

ART. 71. *Prohibition against leaving official station.* – Beginning five (5) days before the day of the election until the completion of the canvass, the Chairman, Vice-Chairman and Member-Secretary of the SBOC or their substitutes, shall not be transferred, assigned or detailed outside of their official station, or leave their official station, without prior authority of the Commission.

ART. 72. *Feigned illness.* – Any member of the SBOC feigning illness in order to be substituted shall be guilty of an election offense.

ART. 73. *Absence of a regular member.* – In case a regular member of the SBOC is absent, the member(s) present shall first verify whether notice has been served on the absent member. In case no such notice was sent, one shall be immediately served on the absent member. If the latter cannot be located or his/her whereabouts are unknown, he shall be substituted. These facts shall be recorded in the Minutes of the SBOC. As soon as the absent member appears, the substitute member shall relinquish his/her seat in favor of the regular member.

ART. 74. *Incapacity of regular member.* - In case of sickness or serious injury of a regular member of the SBOC, a medical certificate shall be required attesting to the incapacity of said member. Upon submission of the medical certificate, a substitute shall be appointed. Said medical certificate shall be recorded in and form part of the Minutes of the SBOC.

ART. 75. *Place of canvassing.* – The votes shall be canvassed within the premises of the embassies, consulates and other foreign service establishments, or in such other places designated by the Commission.

ART. 76. *Manner of canvass.* – The canvass shall be conducted in public and without interruption in the canvassing place designated by the Commission.

ART. 77. *Notice of canvass.* – The Chairman of the SBOC shall, not later than five (5) days before the day of the election, notify his/her Vice-Chairman and Member-Secretary of the date, time and place of the canvass.

The Commission through the Committee shall, within the same 5-day period, give notice to the candidates, political parties and parties, associations or organizations participating in the party-list system of elections and the accredited citizens' arms of the date, time and place of canvass, for and in behalf of the Chairman of each SBOC.

ART. 78. *Convening of the Special Board of Canvassers.* – The SBOC shall convene at 6:00 o'clock in the afternoon, Philippine time, of the day of the election in the designated place to receive the Overseas Absentee Voting Election Returns, and immediately canvass the same in the order of their receipt.

If at the time of the convening of the SBOC, there is no Overseas Absentee Voting Election Return to be canvassed, the SBOC shall adjourn to await the availability of the Overseas Absentee Voting Election Returns.

ART. 79. *Minutes of the Special Board of Canvassers.* - The SBOC shall prepare two (2) copies of its Minutes and enter therein all the data required and all acts as they occur, for distribution as follows:

- a) First copy to the Commission; and
- b) Second copy to be retained by the SBOC.

The first copies of the Minutes of Canvassing for the Commission shall be in the custody of the Law Department of the Commission.

ART. 80. *Objections.* – All objections raised during the canvassing shall be duly noted in the Minutes of the SBOC.

ART 81. *Submission of the minutes of the proceedings of the SBOC.* – Within forty-eight (48) hours from the termination of canvass, the Member-Secretary of the SBOC shall submit to the Commission through the Committee the Minutes of the Canvass by facsimile or electronic mail, to be followed by a certified copy thereof. Within the same period, the SBOC shall send a coded request to the Commission through the Committee a verification of its receipt.

ART. 82. *Right to be present and to counsel during the canvass.* – Every registered political party and party-list group and every candidate has the right to be present and to counsel during the canvass. However, only one counsel may argue for each party or candidate. They shall have the right to examine the Overseas Absentee Voting Election Returns being canvassed without touching it, make observations thereon, and manifest their objections in the manner prescribed herein. The SBOC shall not allow any dilatory action.

ART. 83. *Watchers.* – Each candidate, political party, and parties, associations or organizations participating in the party-list system of elections, accredited citizens' arms, and accredited OFW organizations shall be entitled to one (1) watcher during the canvassing proceedings. However, if there is no sufficient space for all watchers to be accommodated, preference shall be given to the watchers of the dominant majority and dominant minority parties as determined by the Commission, one (1) common watcher for the independent candidates, one (1) common watcher for the accredited citizens' arms and one (1) common watcher for accredited OFW organizations.

ART. 84. *The SBOC having consular jurisdiction over several countries.* - The SBOC of a country having consular jurisdiction over several countries shall canvass the results of the election separately per country and prepare the corresponding Overseas Absentee Voting Certificate of Canvass supported by an Overseas Absentee Voting Statement of Votes by Precinct.

ART. 85. *The SBOC of one country having several smaller territorial units.* - The SBOC of one country having several smaller territorial units shall canvass the

results of the election of each territorial unit and prepare one (1) Overseas Absentee Voting Certificate of Canvass supported by an Overseas Absentee Voting Statement of Votes by Precinct.

ART. 86. *Distribution of certificate of canvass.* – The Overseas Absentee Voting Certificate of Canvass supported by an Overseas Absentee Voting Statement of Votes by Precinct shall be distributed as follows:

- a) First copy to the Congress of the Philippines, directed to the President of the Senate, for use in the canvass of the election results for President and Vice-President;
- b) Second copy to the Commission sitting *En Banc* as the National Board of Canvassers, for use in canvass of the votes for Senators and Party-List;
- c) Third copy to be kept by the Chairman of the SBOC;
- d) Fourth copy to the accredited citizens' arm designated by the Commission. It shall be the duty of the citizens' arm to furnish independent candidates of a copy of the Overseas Absentee Voting Certificate of Canvass at the expense of the requesting party;
- e) Fifth copy to the Dominant Majority Party; and
- f) Sixth copy to the Dominant Minority Party.

The Chairman of the SBOC shall personally deliver the first copies to the Congress of the Philippines and the second copies to the Commission.

ART. 87. *Manner of distribution.* - Immediately upon completion of the canvass, the Chairman of the SBOC shall, using the facilities of the embassy or consular office, transmit with adequate security codes via facsimile or electronic mail, the Overseas Absentee Voting Certificate of Canvass supported by an Overseas Absentee Voting Statement of Votes by Precinct to the bodies and parties enumerated in the immediately preceding article.

The Overseas Absentee Voting Certificate of Canvass supported by an Overseas Absentee Voting Statement of Votes by Precinct, as transmitted via facsimile or electronic mail, may be used in the canvass, provided, that its authenticity and due execution have been ascertained, and the printed copies thereof have not yet been received by the canvassing bodies concerned.

In addition, the printed copies of the Overseas Absentee Voting Certificate of Canvass supported by an Overseas Absentee Voting Statement of Votes by Precinct shall be placed inside the appropriate envelopes, duly sealed with a serially numbered paper seal, and shall be distributed in accordance with the preceding Article.

ART. 88. *Pre-proclamation cases not allowed in elections for President, Vice-President, Senators and Party-List Representatives.* – For purposes of the elections for President, Vice-President, Senators and Party-List Representatives, no pre-proclamation cases shall be allowed on matters relating to the preparation, transmission, receipt, custody and appreciation of Overseas Absentee Voting Election Returns.

Any objection in the Overseas Absentee Voting Election Returns before the SBOC shall be specifically noted in the Minutes of the SBOC.

PART II – CANVASSING PROCEDURE FOR AUTOMATED SYSTEM

ART. 89. *Canvassing procedure.* – The SBOC shall receive the Overseas Absentee Voting Election Returns and follow the canvassing procedure to be adopted by the Commission in the national and local elections in the Philippines.

ART. 90. *Preparation of Overseas Absentee Voting Certificate of Canvass.* - The Member-Secretary shall print in six (6) copies the Overseas Absentee Voting Certificate of Canvass supported by an Overseas Absentee Voting Statement of Votes by Precinct. The members of the SBOC shall affix their thumbmarks and signatures over their printed names in each page and copy of the Overseas Absentee Voting Certificate of Canvass, including the supporting Overseas Absentee Voting Statement of Votes by Precinct.

PART III – CANVASSING PROCEDURE FOR MANUAL SYSTEM

ART. 91. *Creation of Sub-Canvassing Committees.* - a) To facilitate the canvass, the Commission may constitute as many sub-canvassing committees as necessary to enable the SBOC to complete the canvass within reasonable time.

Each sub-canvassing committee shall be composed of a Chairman, preferably a career officer from any of the government agencies maintaining a post abroad, and two (2) citizens of the Philippines qualified to vote under the Overseas Absentee Voting Act of 2003 deputized by the Commission, as Vice-Chairman and Member-Secretary, respectively.

All the candidates, including parties, organizations or associations participating under the party-list system of elections shall be notified in writing of the number of sub-canvassing committees constituted.

The sub-canvassing committees shall be under the direct supervision and control of the SBOC. The names of the members of each sub-canvassing committee, and the Overseas Absentee Voting Election Returns assigned to them for tabulation shall be properly recorded in the Minutes.

b) *Support units.* – To assist the SBOC and the sub-canvassing committees, the Commission shall constitute one (1) Reception and Custody Group, composed of three (3) members, and one (1) Tabulation Group (TG), composed of two (2) members, for each SBOC.

The members of the Reception and Custody Group and the Tabulation Group shall be appointed from among the career officers of any of the government agencies maintaining a post abroad. In case of insufficiency of career officers, citizens of the Philippines qualified to vote under the Overseas Absentee Voting Act of 2003 may be appointed as members of the said groups.

ART. 92. *Functions of the Reception and Custody Group and the Tabulation Group.* - a) The Reception and Custody Group shall:

1) be responsible for the reception and safekeeping of the Overseas Absentee Voting Election Returns submitted to the SBOC. For this purpose, the SBRCG shall provide the Reception and Custody Group with data on the number of Overseas Absentee Voting Election Returns to be canvassed, their corresponding serial numbers and places of origin of the said Overseas Absentee Voting Election Returns;

2) determine which of the Overseas Absentee Voting Election Returns have already been submitted, or which are yet to be submitted by the SBEI to the end that every Overseas Absentee Voting Election Return is canvassed only once;

3) maintain a record showing the:

- (i) Time and date of receipt of the Overseas Absentee Voting Election Returns;
- (ii) Serial number and place of origin of the Overseas Absentee Voting Election Returns;
- (iii) Serial number of the envelope containing the Overseas Absentee Voting Election Returns and its paper seal; and
- (iv) Condition of the envelope and paper seal.

4) submit to the SBOC a list of the Overseas Absentee Voting Election Returns which have not yet been submitted.

b) The Tabulation Group shall compute the sub-total of the Overseas Absentee Voting Statement of Votes by Precinct prepared by the SBOC and/or the sub-canvassing committee, if any. The name of each tabulator from the Tabulation Group and the Overseas Absentee Voting Statement of Votes by Precinct assigned to them for tabulation shall be properly recorded in the Minutes.

ART. 93. Procedure. - The following procedure shall be observed in the canvassing:

a) The SBOC shall receive, through its Reception and Custody Group, the Overseas Absentee Voting Election Returns and maintain a log of all Overseas Absentee Voting Election Returns received and canvassed.

b) The Reception and Custody Group shall, after recording all the data required herein, place all envelopes containing the Overseas Absentee Voting Election Returns received by it inside an empty ballot box.

c) When the ballot box is already full or when there are no more Overseas Absentee Voting Election Returns to be received, the Reception and Custody Group shall close the ballot box and lock the same with padlock and a serially numbered self-locking seal. Thereafter, the Reception and Custody Group shall submit the locked ballot box to the SBOC, which shall, in turn, assign the ballot box to a sub-canvassing committee, together with the list of Overseas Absentee Voting Election Returns contained therein. For this purpose, the Reception and Custody Group shall maintain a record of the Overseas Absentee Voting Election Returns submitted to the SBOC.

d) Upon receipt of the ballot box containing the Overseas Absentee Voting Election Returns, the SBOC shall examine the condition of the ballot box and the self-locking seal. The Member-Secretary shall record in the Minutes the condition and serial numbers of the ballot box and the self-locking seal.

e) The SBOC shall open the ballot box to ascertain that the Overseas Absentee Voting Election Returns indicated in the envelopes being retrieved correspond to the list submitted by the Reception and Custody Group.

f) The Member-Secretary shall record in its Minutes the:

- 1) quantity of envelopes received and their condition and serial numbers;
- 2) the condition and serial numbers of the paper seal; and
- 3) the serial numbers and places of origins of the Overseas Absentee Voting Election Returns.

g) Thereafter, the SBOC shall assign to a sub-canvassing committee, the Overseas Absentee Voting Election Returns. It shall likewise provide the sub-canvassing committee with a blank Overseas Absentee Voting Statement of Votes By Precinct (OAVF No. __) and enter in the Minutes the serial numbers of the Overseas Absentee Voting Election Returns assigned to a sub-canvassing committee.

h) Before opening each envelope, the sub-canvassing committee shall exhibit the same to the counsel and watchers present.

i) After the envelope is opened, the sub-canvassing committee shall retrieve the Overseas Absentee Voting Election Returns and exhibit the same to the counsel and watchers present.

j) The sub-canvassing committee shall examine the condition of the inner paper seal and the Member-Secretary shall record in the Minutes the condition and serial number of the paper seal.

k) The sub-canvassing committee shall break open the inner seal, unfold the Overseas Absentee Voting Election Returns and exhibit the same to the counsel and watchers present.

l) The Member-Secretary shall record in the Minutes the condition and serial number of the Overseas Absentee Voting Election Returns.

m) If there is no objection to the inclusion in the canvass of the Overseas Absentee Voting Election Returns, the sub-canvassing committee, shall proceed to canvass the Overseas Absentee Voting Election Returns by entering in the Overseas Absentee Voting Statement of Votes By Precinct, the votes obtained by each candidate as they are read. If there is an objection, the sub-canvassing committee shall note the objection in its Minutes and proceed to canvass the Overseas Absentee Voting Election Returns as provided above.

n) If the objection is on the basis of manifest error:

- 1) The Overseas Absentee Voting Election Return shall at first be set aside;
- 2) Proceed in the canvassing of other Overseas Absentee Voting Election Returns; and
- 3) Follow the procedure set forth in Article 99 of these Rules for the correction of manifest error.

o) In the preparation of the Overseas Absentee Voting Statement of Votes By Precinct, the sub-canvassing committee shall divide the seven (7) copies of the Overseas Absentee Voting Statement of Votes By Precinct between the Vice-Chairman

(4 copies) and Member-Secretary (3 copies) who shall accomplish the same simultaneously as the Chairman reads the votes. After the completion of the Overseas Absentee Voting Statement of Votes By Precinct, the copies accomplished by the Vice-Chairman and the Member-Secretary shall be compared to ensure that they bear the same entries and total. In case of discrepancies, the Vice-Chairman and the Member-Secretary shall refer back to the corresponding Overseas Absentee Voting Election Returns until the discrepancies are ascertained and the figures are corrected.

p) Immediately after the Overseas Absentee Voting Election Returns have been canvassed, the Chairman of the sub-canvassing committee shall write on the upper right hand corner of the Overseas Absentee Voting Election Returns, the word "CANVASSED" and affix below it his signature and the date of canvass. Thereafter, the canvassed Overseas Absentee Voting Election Returns shall be returned to its envelope.

q) After all the columns of the Overseas Absentee Voting Statement of Votes By Precinct are filled, or there is no more Overseas Absentee Voting Election Returns to be canvassed, the members of the sub-canvassing committee shall print their names on the Overseas Absentee Voting Statement of Votes By Precinct below the space intended for the names and signatures of the members of the SBOC.

r) After the members of the sub-canvassing committee have affixed their signatures above their printed names, they shall submit to the SBOC the Overseas Absentee Voting Statement of Votes By Precinct they prepared, together with the canvassed Overseas Absentee Voting Election Returns.

s) The SBOC, upon receipt of the Overseas Absentee Voting Statement of Votes By Precinct prepared by the sub-canvassing committee, shall forward the same to the Tabulation Group, together with the Overseas Absentee Voting Election Returns.

t) Upon receipt of the Overseas Absentee Voting Statement of Votes By Precinct and the Overseas Absentee Voting Election Returns, the Tabulation Group shall:

- 1) Using an adding machine with tape, add all the entries in each column of the Overseas Absentee Voting Statement of Votes By Precinct prepared by the sub-canvassing committee.
- 2) Verify the accuracy of the entries in the adding machine tape as against the entries in the Overseas Absentee Voting Statement of Votes By Precinct. If the entries are the same, enter the sub-total in the space provided. If the entries are not the same, make the necessary corrections, re-compute as provided in Item 1 above, and enter the correct sub-total in the space provided;
- 3) Authenticate the adding machine tape by affixing their signatures above their printed names at the back thereof, and attach the same to the Overseas Absentee Voting Statement of Votes By Precinct;
- 4) Affix their signatures above their printed names, and imprint their thumbmarks on the certification portion of the Overseas Absentee Voting Statement of Votes By Precinct; and
- 5) Forward to the SBOC the signed Overseas Absentee Voting Statement of Votes By Precinct together with the canvassed Overseas Absentee Voting Election Returns.

u) Upon receipt from the Tabulation Group of the Overseas Absentee Voting Statement of Votes By Precinct and Overseas Absentee Voting Election Returns the SBOC shall:

1) Inform the watchers present that the SBOC will commence the preparation of the summary of votes obtained by each candidate;

2) Using another set of Overseas Absentee Voting Statement of Votes By Precinct, prepare the summary of the votes by entering therein:

i. The serial number of the Overseas Absentee Voting Statement of Votes By Precinct containing the adding-machine tape sub-total; and

ii. All the sub-totals for each candidate contained in the Overseas Absentee Voting Statement of Votes By Precinct prepared by the sub-canvassing committee and tabulated by the Tabulation Group;

3) After all the columns have been filled or there is no more Overseas Absentee Voting Statement of Votes By Precinct to be received, affix their signatures above their printed names and imprint their thumbmarks on the certification portion of the Overseas Absentee Voting Statement of Votes By Precinct prepared by the sub-canvassing committee and tabulated by the Tabulation Group;

4) Place, in the presence of the watchers, if any, the Overseas Absentee Voting Statement of Votes By Precinct prepared by the sub-canvassing committee inside a ballot box;

5) Place, in the presence of the watchers, if any, the canvassed Overseas Absentee Voting Election Returns inside a separate ballot box. When the ballot box is already full or if there is no more Overseas Absentee Voting Election Returns to be placed inside, it shall be closed and locked with three padlocks and self-locking seal. The keys corresponding to the padlocks shall each be kept by the members of the SBOC. The locked ballot box shall be kept and preserved in a secure room under the custody of the Chairman of the SBOC; and

6) Follow the above procedure until all the Overseas Absentee Voting Election Returns have been canvassed and the sub-totals have been entered in the summary of votes.

v) After the summary of votes has been completed, the SBOC shall forward the same to the Tabulation Group.

w) Upon receipt of the summary of votes, the Tabulation Group shall:

1) Compute the grand total by adding all the sub-totals;

2) Record the grand total of votes obtained by each candidate;

3) Accomplish the certification portion by affixing their signatures above their printed names and imprinting their thumbmarks thereon; and

4) Forward the summary of votes to the SBOC.

- x) Upon receipt of the summary of votes, the SBOC shall:
- 1) Verify the accuracy of the computation made by the Tabulation Group;
 - 2) If the computation is accurate, affix their signatures above their printed names, imprint their thumbmarks on the certification portion of the Overseas Absentee Voting Statement of Votes By Precinct received from the Tabulation Group. If the computation is not accurate, return the Overseas Absentee Voting Statement of Votes By Precinct to the Tabulation Group for re-computation;
 - 3) Prepare the Overseas Absentee Voting Certificate of Canvass, and thereafter affix their signatures and thumbmark on the certification portion thereof;
 - 4) Require the watchers, if any, to affix their signatures and thumbmark on the Overseas Absentee Voting Certificate of Canvass; and
 - 5) Distribute the Overseas Absentee Voting Certificate of Canvass, together with the corresponding Overseas Absentee Voting Statement of Votes by Precinct retrieved from the ballot box as well as the summary of votes, in the manner prescribed under Articles 85 and 86 of these Rules.

ART. 94. Adjournment/suspension of canvass. – a) In case of adjournment or suspension of canvass, the SBOC or sub-canvassing committee, as the case may be, shall write “ADJOURNED” or ‘SUSPENDED” and the time and date of adjournment or suspension and affix their initials, in the column immediately after last column with entries. The Overseas Absentee Voting Statement of Votes by Precinct shall be placed in the ballot box provided in Item (c) hereunder;

b) Advance results for all the precincts so far canvassed shall be made available to mass media and other interested parties.

c) The remaining unopened envelopes and Overseas Absentee Voting Statement of Votes by Precinct shall be placed in the ballot box provided for the purpose which shall be locked with three padlocks and self-locking metal seals. The members of the SBOC shall keep the keys to each padlock.

d) The serial number of the metal seal and the quantity of the remaining unopened envelopes shall be recorded in the minutes.

e) Upon resumption of the canvass, the:

- 1) Member-Secretary of the SBOC shall verify and enter in the Minutes the condition of the three padlocks and the metal seal, as well as its serial number.
- 2) Thereafter, SBOC shall then, in the presence of the watchers, open the ballot box, retrieve the partially filled Overseas Absentee Voting Statement of Votes by Precinct and the unopened envelopes containing the Overseas Absentee Voting Election Returns not yet canvassed, and proceed with the canvass until all Overseas Absentee Voting Election Returns are canvassed.

In accomplishing the Overseas Absentee Voting Certificate of Canvass, the Overseas Absentee Voting Statement of Votes by Precinct and other forms, all the members of the SBOC, the Sub-canvassing committee, including the Tabulation Group, shall see to it that the impression on the first copy of the set is recorded on each and every page thereof.

ART. 95. *When the Overseas Absentee Voting Election Returns are delayed, lost or destroyed.* – In case its copy of the Overseas Absentee Voting Election Returns is missing, the SBOC shall, by authorized messenger, immediately obtain the same from the SBRCG, or if the said Overseas Absentee Voting Election Returns has been lost or destroyed, the SBOC, upon prior authority of the Commission, may use any of the authentic copies thereof or a certified copy of said Overseas Absentee Voting Election Returns issued by the Commission, and forthwith direct its representative to investigate the case and immediately report the matter to the Commission.

ART. 96. *Material defects in the Overseas Absentee Voting Election Returns.* – If it should clearly appear that some requisite in form or data have been omitted in the Overseas Absentee Voting Election Returns, the SBOC shall call for all the members of the SBEI concerned by the most expeditious means to effect the corrections: Provided, That in case of the omission in the Overseas Absentee Voting Election Returns of the name of any candidate and/or his corresponding votes, the SBOC shall require the SBEI concerned to complete the necessary data in the Overseas Absentee Voting Election Returns and affix therein their initials: Provided, further, that if the votes omitted in the Overseas Absentee Voting Election Returns cannot be ascertained by other means except by recounting the ballots, the Overseas Absentee Voting Election Returns shall be set aside and such fact shall be reported to the Commission which shall proceed as provided in Sec. 234 of the Omnibus Election Code.

ART. 97. *When Overseas Absentee Voting Election Returns appear to be tampered with or falsified.* - If the Overseas Absentee Voting Election Returns submitted to the SBOC appear to be tampered with, altered or falsified after they have left the hands of the SBEI concerned or otherwise not authentic, or were prepared under duress, force, intimidation, or prepared by persons other than the members of the SBEI, the SBOC shall use the other copies of said Overseas Absentee Voting Election Returns. If necessary, the copy of the Overseas Absentee Voting Election Returns inside the ballot box in the custody of the SBRCG which upon previous authority given by the Commission may be retrieved in accordance with Sec. 220 of the Omnibus Election Code. If the other copies of the Overseas Absentee Voting Election Returns are likewise tampered with, altered, falsified, not authentic, prepared under duress, force or intimidation, or prepared by persons other than the members of the SBEI, the SBOC or any candidate affected shall bring the matter to the attention of the Commission which shall proceed as provided in Sec. 235 of the Omnibus Election Code.

ART. 98. *Discrepancies in Overseas Absentee Voting Election Returns.* - In case of discrepancies in the other authentic copies of the Overseas Absentee Voting Election Returns, or discrepancies in the votes of any candidate in words and figures in the same Overseas Absentee Voting Election Returns, or discrepancies between the advanced results submitted by the SBEI and the figures in the corresponding Overseas Absentee Voting Election Returns, and in either case they affect the results of the

election, the SBOC shall not canvass the Overseas Absentee Voting Election Returns and shall submit the matter to the Commission which shall proceed as provided in Sec. 236 of the Omnibus Election Code.

In case there exist discrepancies in the votes of any candidate in tally (*tara*) as against the votes obtained in words or in figures in the same Overseas Absentee Voting Election Returns, the votes in the tally (*tara*) shall prevail.

ART. 99. *Canvass to be completed at earliest possible time.* – Subject to reasonable exceptions, the SBOC must complete its canvass within (i) forty-eight (48) hours in countries where there are not more than one hundred (100) Overseas Absentee Voting Election Returns to be canvassed, (ii) seventy-two (72) hours in countries where there are more than one hundred (100) up to two (200) hundred Overseas Absentee Voting Election Returns to be canvassed, and (iii) one hundred and twenty (120) hours where there are more than two hundred (200) Overseas Absentee Voting Election Returns to be canvassed.

ART. 100. *Manifest error.* – (a) Where it is clearly shown before proclamation that manifest errors were committed in the tabulation or tallying of Overseas Absentee Voting Election Returns during the canvassing, the SBOC may *motu proprio*, or upon verified petition by any candidate, political party, organization or coalition of political parties, after due notice and hearing, correct the errors committed.

There is manifest error in the tabulation or tallying of the results during the canvassing where:

- 1) A copy of the Overseas Absentee Voting Election Return was tabulated more than once;
- 2) Two or more copies of the same Overseas Absentee Voting Election Returns tabulated;
- 3) There was a mistake in the copying of the figures from the Overseas Absentee Voting Election Returns into the Overseas Absentee Voting Statement Of Votes;
- 4) Overseas Absentee Voting Election Returns from non-existent areas were included in the canvass;
- 5) Overseas Absentee Voting Election Returns from one country or counting center were included in the canvass for another district; or
- 6) There was a mistake in the addition of the votes of any candidate.

(b) In order to correct manifest errors, the following procedure shall be complied with:

- 1) The order for correction must be in writing and promulgated.
- 2) Any candidate, political party, or organization or coalition of political parties aggrieved by said order may appeal the same to the Commission within twenty-four (24) hours from its promulgation by facsimile, electronic mail or any other faster means of transmission, subject to the submission of the original verified

appeal within forty-eight (48) hours from the date it was faxed, e-mailed or sent by any other means.

- 3) The appeal must implead as respondents the SBOC concerned and all parties that may be adversely affected.
- 4) Upon receipt of the appeal, the Clerk of Court of the Commission shall forthwith issue summons together with the copy of the appeal to the respondent.
- 5) The Clerk of Court concerned shall immediately set the appeal for hearing.
- 6) The appeal shall be heard and immediately decided by the Commission En Banc.

RULE 8

CANVASSING OF CERTIFICATE OF CANVASS

ART. 101. *National Board of Canvassers.* - a) The Chairman and Members of the Commission, sitting *En Banc* shall compose the National Board of Canvassers to canvass the Overseas Absentee Voting Certificate of Canvass for Senators and Party-List submitted by the SBOCs in the order of their receipt.

b) The National Board of Canvassers for Senators and Party-List shall canvass the Overseas Absentee Voting Certificate of Canvass by following the procedure to be adopted by the Commission in the May 10, 2004 elections in the Philippines.

The dominant majority party and the dominant minority party shall furnish copies of the Overseas Absentee Voting Certificate of Canvass supported by an Overseas Absentee Voting Statement of Votes by Precinct to the third and fourth major accredited political parties, and the fifth and sixth major accredited political parties, respectively.

ART. 102. *Prohibition against movement from official station.* – No officer or member of the foreign service corps, including those belonging to attached agencies shall be transferred, promoted, extended, recalled or otherwise moved from his/her career post or position one (1) year before and three (3) months after the day of elections, except upon approval of the Commission.

The Commission, through the Chairman of the Committee, shall immediately act on all requests for exemption from the above prohibition.

RULE 9

PROHIBITED ACTS

ART. 103. *Prohibited acts.* – In addition to the prohibited acts provided by law, it shall be unlawful:

1) For any officer or employee of the Philippine government to influence or attempt to influence any person covered by the Overseas Absentee Voting Act of 2003 to vote or not to vote, for a particular candidate.

2) For any person to deprive any person of any rights secured under the Overseas Absentee Voting Act of 2003, or to give false information as to his/her name, address, or period of residence for the purpose of establishing his/her eligibility or ineligibility to register or vote under the Overseas Absentee Voting Act of 2003; or to conspire with another person for the purpose of encouraging the giving of false information in order to establish the eligibility or ineligibility of any individual to register or vote under the Overseas Absentee Voting Act of 2003; or to pay, or offer to pay, or to accept payment either for applications to vote *in absentia* or for voting;

3) For any person to tamper with the ballot, the mail containing the ballots for overseas absentee voters, the Overseas Absentee Voting Election Returns, including the destruction, mutilation and manipulation thereof;

4) For any person to steal, destroy, conceal, mutilate or alter any record, document or paper as required for purposes of the Overseas Absentee Voting Act of 2003;

5) For any deputized agent to refuse without justifiable ground, to serve or continue serving, or to comply with his/her sworn duties after acceptance of his/her appointment;

6) For any public officer or employee who shall cause the preparation, printing, distribution of information materials, or post the same in websites without prior approval of the Commission;

7) For any public officer or employee to cause the transfer, promotion, extension, recall of any member of the foreign service corps, including members of attached agencies, or otherwise cause the movement of any such member from his/her current post or position one (1) year before and three (3) months after the day of elections, without securing prior approval of the Commission;

8) For any person who, after being deputized by the Commission to undertake activities in connection with the implementation of the Overseas Absentee Voting Act of 2003, shall campaign for or assist, in whatever manner, candidates in the election;

9) For any person who is not a citizen of the Philippines to participate, by word or deed, directly or indirectly through qualified organizations/associations, in any manner and at any stage of the Philippine political process abroad, including participation in the campaign and elections.

The provision of existing laws to the contrary notwithstanding, and with due regard to the Principle of Double Criminality, the prohibited acts above are electoral offenses and punishable in the Philippines.

ART. 104. Penalties. – Any person found guilty of committing any of the prohibited acts enumerated in the immediately preceding article, except paragraph 3, shall be punished with imprisonment of not less than one (1) year but not more than six (6) years and shall not be subject to probation. In addition, the guilty party shall be sentenced to suffer disqualification to hold public office and deprivation of the right of suffrage.

The penalty of *prision mayor* in its minimum period shall be imposed upon any person found guilty of tampering with the ballot, the mail containing the ballots for overseas absentee voters, the Overseas Absentee Voting Election Returns, including the destruction, mutilation and manipulation thereof, without the benefit of the operation of the Indeterminate Sentence Law. If the offender is a public officer or a candidate, the penalty shall be *prision mayor* in its maximum period. In addition, the offender shall be sentenced to suffer perpetual disqualification to hold public office and deprivation of his/her right to vote.

The penalty of imprisonment of not less than one year shall be imposed on any immigrant and permanent resident who does not resume residence in the Philippines as stipulated in his/her affidavit within three (3) years after the approval of his/her registration under the Overseas Absentee Voting Act of 2003 and yet vote in the next elections. In addition to the removal of his/her name from the National Registry of Absentee Voters, he/she shall be permanently disqualified to vote *in absentia* and his/her passport shall be stamped “not allowed to vote”.

RULE 10

ROLE OF THE GOVERNMENT AGENCIES

ART. 105. *Assistance from Government Agencies.* - a) All government offices, particularly the Department of Foreign Affairs, Department of Labor & Employment, Department of Transportation and Communications, Philippine Postal Corporation, Philippine Overseas Employment Administration, Overseas Worker’s Welfare Administration, Commission on Overseas Filipinos, the Foreign Service Institute, the Social Security System and other government agencies concerned with the welfare of Filipino overseas shall, to extent compatible with their primary responsibilities, assist and give the Commission the fullest support in the implementation of the Overseas Absentee Voting Act of 2003.

b) The One Country Team Approach provided under Republic Act No. 8042 (Migrant Workers and Overseas Filipinos Act of 1995), as enunciated under Executive Order No. 74, series of 1993, shall apply in the implementation of the Overseas Absentee Voting Act of 2003 insofar as it does not conflict with the constitutional mandate of the Commission to have exclusive charge of the enforcement, administration and implementation of elections laws.

RULE 11

CONCLUDING PROVISIONS

ART. 106. *Access to official records and documents.* – Subject to the pertinent provisions of the Overseas Absentee Voting Act of 2003 and these Rules, any person shall have the right to access and/or copy at his/her expense all registration records, voters lists and other official records and documents, subject to payment of prescribed charges.

ART. 107. *Applicability of other election laws.* - The pertinent provisions of the Omnibus Election Code, as amended, and other election laws, which are not in conflict

with the provisions of the Overseas Absentee Voting Act of 2003 and these Rules shall remain in full force, and shall have suppletory application of these Rules.

ART. 108. *Enforcement and administration by the Commission.* – The Commission shall, for the purpose of ensuring honest, orderly, peaceful and free elections abroad, have exclusive charge of the enforcement, administration and implementation of the Overseas Absentee Voting Act of 2003.

ART. 109. *Effectivity.* – These Rules shall take effect immediately after publication in two (2) newspapers of general circulation in the Philippines.

ART. 110. *Dissemination.* - The Education and Information Department of the Commission shall cause the publication and widest dissemination of these Rules and furnish copies hereof to the Department of Foreign Affairs, Department of Labor and Employment, Department of Transportation and Communication, Philippine Postal Corporation, Philippine Overseas Employment Administration, Overseas Workers Welfare Administration, Commission on Filipinos Overseas, and Maritime Industry Authority.

APPROVED this **13th** day of **May**, 2003.

SO ORDERED.

(Sgd.) **BENJAMIN S. ABALOS, SR.**
Chairman

(Sgd.) **LUZVIMINDA G. TANCANGCO**
Commissioner

(Sgd.) **RUFINO S.B. JAVIER**
Commissioner

(Sgd.) **RALPH C. LANTION**
Commissioner

(Sgd.) **MEHOL K. SADAIN**
Commissioner

(Sgd.) **RESURRECCION Z. BORRA**
Commissioner

(Sgd.) **FLORENTINO A. TUASON, JR.**
Commissioner