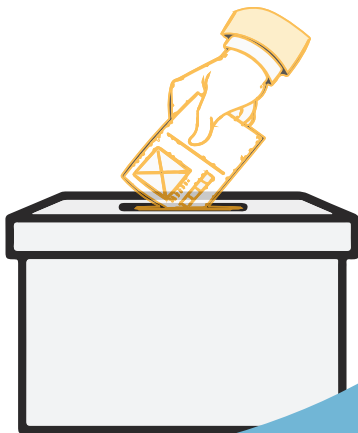




QUICK GUIDE

FOR PARTY / CANDIDATES AGENTS



June, 2022

VISION

A model regulator of political parties for viable democratic multiparty systems.

MISSION

To promote the realization of political rights through registration and regulation of political parties in Kenya

CORE VALUES

Professionalism
Integrity
Respect for the rule of law
Impartiality
Inclusivity



QUICK GUIDE

FOR PARTY / CANDIDATES AGENTS

June, 2022

TABLE OF CONTENTS

Foreword	03
Roles, rights and responsibilities of agents	04
Who is an Agent?	04
What are the main roles of Agents?	06
What are the categories of Agents?	07
What are the accreditation documents	11
Polling station materials and authorised persons	14
Election day processes	22
Opening of polling stations	24
Voting processes	26
Closing and counting of voters	38
Tallying, announcement, and declaration of results	49
Agents communication protocols	55

FOREWORD

The Quick Guide for political parties and candidates' agents is aimed at being a handy reference point for agents while monitoring the elections to understand: - their roles and responsibilities; accreditation; admission to polling station; rights and obligations; dos and don'ts; procedures of voting, vote counting, announcement of results, filling of statutory forms and declaration of the results.

An Election Agent is an individual who monitors and observes the conduct of elections on behalf of a political party or an independent candidate on election day and must have knowledge of electoral processes. The Elections Act, 2011 defines an agent as; "a person duly appointed by a political party or an independent candidate for the purposes of an election and includes a counting and a tallying agent".

Article 81 of the Constitution identifies indicators of free, fair and credible election to include: Conducted by secret ballot, Free from violence and intimidation, free from improper conduct or corrupt practices, conducted by an independent body, transparent, administered in an impartial, neutral, efficient, accurate and accountable manner. The Agents, therefore, must monitor and document in the checklist, every aspect of polling and ensure the indicators are observed by the election officials.

Where Agents detect a breach of conduct, they must bring the concerns to the attention of the Presiding Officer, Returning Officers at various levels, their Chief Agents, party or candidate for purposes of resolving the problems. The effective participation of agents in the polling process enhances credibility and transparency of an election.

The Office of the Registrar of Political Parties (ORPP) greatly appreciates support from the National Democratic Institute (NDI), particularly the thoughtful input from the County Director - Dennis Omondi and the Program Director- Alice Njau in the development of The Quick Guide for Party Agents.

I acknowledge and commend the cooperation received from the consultant, Patrick Odame and the ORPP staff for their efforts from the beginning to the end of the development of this Quick Guide for Agents.



Ann N. Nderitu, MBS, CBS
Registrar of Political Parties

ROLES, RIGHTS AND RESPONSIBILITIES OF AGENTS

Who is an Election Agent?

The Elections Act defines an Agent as; “a person duly appointed by a political party or an independent candidate for the purposes of an election... and includes a counting Agent and a tallying Agent.

How many Agents are required in a polling station per candidate or party?

Political Parties and Independent Candidates are allowed to nominate one election Agent per polling station for Election Day. The Agent appointed by the party is required to represent the party and all its candidates, no matter what positions they are contesting. The presence of agents promotes free, fair and credible elections.

What are the indicators of a free, fair and credible election?

- ✓ Conducted by secret ballot
- ✓ Free from violence and intimidation
- ✓ Free from improper conduct or corrupt practices
- ✓ Conducted by an independent body
- ✓ Transparent
- ✓ Administered in an impartial, neutral, and efficient manner

What does the law provide about the voting method?

- ✓ Voting method that is simple, accurate, verifiable, secure, accountable and transparent
- ✓ Votes cast should be counted, tabulated and the results announced at the polling station by the Presiding Officer (PO) promptly.
- ✓ The results are collated in an open and accurate manner and announced promptly by the Returning Officer (RO).
- ✓ Structures to eliminate electoral malpractices should be put in place.

What elective positions are provided in the constitution?

- ✓ President
- ✓ 290 Member of National Assembly
- ✓ 47 County Senators
- ✓ 47 County Woman Member to the National Assembly
- ✓ 47 Governors
- ✓ 1450 Member of County Assembly

What general criteria should be used to recruit Agents?

- ✓ Ability to read and write.
- ✓ Basic knowledge of ICT
- ✓ Integrity
- ✓ Loyalty to the nominating party or candidate
- ✓ Observant and focused on details
- ✓ Knowledge of the Electoral process

What are the main roles of an Agent?

Agents should:

- ✓ Collect and document information about the election day processes
- ✓ Identify and bring to the attention of election officials any errors, irregularities and malpractices
- ✓ Sign declaration forms at the end of polling
- ✓ Update party and/or candidates on the overall conduct of elections at the polling station where they are deployed to
- ✓ Report to the party or candidate, any incidents that may occur.

What are the categories of Agents that are recruited?

1. National Presidential Chief Agent
2. County Chief Agent
3. Constituency Chief Agent
4. Polling Station agent

What are the duties of the National Presidential Chief Agent?

Every political party/candidate participating in elections is entitled to one national presidential chief agent who: -

- ✓ Represents party and/ or presidential candidate at the national level.
- ✓ Liaises with the IEBC at the National Tallying Centre.
- ✓ Liaises with the IEBC at the national level on all aspects of polling, ensuring that the interests of their candidates and party are protected and the process is credible.
- ✓ Attends observer briefs.
- ✓ Attends public election related activities.

National Agents are necessary even for parties without presidential candidates.

What are duties and responsibilities of the County Chief Agent?

Every political party and independent candidate may appoint one county Chief Agent for each of the forty-seven Counties, especially, when contesting elective positions of the Governor, Senator, and County Woman Member of National assembly.

The County Chief Agent: -

- ✓ Can access all polling stations within the county on polling day
- ✓ Represents party and/ or candidate at the County level.
- ✓ Liaises with the IEBC at the county tallying centre on all aspects of polling.
- ✓ Coordinates and ensures that the interests of their candidates/party are protected, and the process is credible.
- ✓ Reports to the Presidential Chief Agent, Candidate, or party.

What are the duties and responsibilities of Constituency Chief Agents?

Every political party or independent candidate may appoint one Chief Agent per constituency.

The agent: -

- ✓ Can access all polling stations within the constituency and report through party structure or to candidates.
- ✓ Represents party and/ or candidate at the constituency level.
- ✓ Liaises with the IEBC at the constituency tallying centre on all aspects of polling
- ✓ Coordinates and ensures that the interests of their candidates and party are protected and the process is credible.

What are the duties and responsibilities of Polling Station Agent

Every political party or candidate participating in an election is entitled to one agent per polling station,

The Agent: -

- ✓ Represents party and/ or candidate at the polling station level.
- ✓ Liaises with the IEBC at the polling centre on all aspects of polling.
- ✓ Ensures that the interests of their candidates and party are protected and the process is credible.
- ✓ Obtains official information about the elections from the Presiding Officer.
- ✓ May Attend observer briefs and public election activities.

- ✓ Can dispute the inclusion of a ballot paper in the count that they believe should be “rejected”.
 - ✓ Can object to the rejection of a ballot paper that they believe is “valid”.
 - ✓ Can request the Presiding Officer to have the vote recounted/rechecked (provided that this recount does not take place more than twice).
- N.B. The Presiding Officer’s decision is final.
- ✓ May also be appointed as counting agent.

What are Agents prohibited from doing?

- ✓ Interfere with the voting process or the independence of the election officials in the polling stations
- ✓ Enter or remain in a polling station without an identification badge issued by IEBC.
- ✓ Interfere or attempt to influence any voter.
- ✓ Disclose any knowledge concerning the vote of a person
- ✓ Disclose the name of a voter who has or who has not applied for a ballot paper, or voted in a polling station.
- ✓ Wear a badge or emblem of a political party or candidate, or campaign for the political party or candidate within the polling station.

- ✓ Deliberately show on “how-to-vote” card, or any similar directions as to how a voter should vote, in the polling station.

How are Agents accredited by the IEBC?

- ✓ Political Parties and independent candidates submit to the IEBC the names of appointed Presidential, County, and Constituency Chief Agents at least fourteen days before the date of elections.
- ✓ The details of the polling station agents are submitted before election date, on a date specified and communicated by the commission.
- ✓ The IEBC then issues agents with a serialized accreditation badge, which serves as their authorization to participate in the electoral process at their designated polling station.

What documents are required for admission into a polling station and tallying centre?

- ✓ An original identification document (Identity Card or Passport)
- ✓ A copy of the letter of appointment from their party or candidate
- ✓ An accreditation badge supplied by IEBC
- ✓ A duly signed Oath of Secrecy signed by commissioner of oaths.

What does IEBC expect of the Agents?

Agents are expected to:

- a) Have been trained on the electoral process before Election Day.
- b) Report on time to be able to observe the entire electoral process.
- c) Be able to raise concerns and endeavor to amicably resolve issues.
- d) Document concerns and communicate to the party/candidate.
- e) Be objective in raising concerns.
- f) not intimidate or interfere with any voter:
- g) Not campaign on behalf of their candidate or party on Election Day.
- h) Sign polling station diary, statutory and administrative forms as required:
- i) Not assist a voter.

What should Agents carry on election day?

On Election Day, an Agent is expected to carry the following materials to the polling station:

- a) Copy of The Election Agents' guide.
- b) An appointment letter from the political party or candidate
- c) An IEBC issued Accreditation Badge

- d) An Agent Checklist
- e) A notebook and pen
- f) A torch if possible
- g) The contact information of National, County, and Constituency Chief Agents
- h) Food and water
- i) A small amount of money for transportation
- j) A mobile phone (Agents must however note that they are not allowed to use their mobile phones at the polling station, except to send SMS or WhatsApp but not to take photos or make phone calls).

What are the polling day activities that an agent is required to observe?

- Actual voting process
- The counting of votes
- The tallying and collation of votes
- Verification of results
- The transmission of results; and
- The official announcement and declaration of results
- Safe keeping of election materials

POLLING STATION MATERIALS AND AUTHORISED PERSONS

Who are the persons authorized to be in the polling station?

- ✓ The Presiding Officer
- ✓ The Deputy Presiding Officer
- ✓ Polling Clerks
- ✓ Interpreters
- ✓ Security/Police Officers on duty
- ✓ Voters and persons accompanying Assisted voters
- ✓ Accredited election observers
- ✓ Accredited media
- ✓ Accredited Election Agents
- ✓ Authorized candidates
- ✓ Members and staff of the IEBC on duty.

What are the duties of Returning Officer and Deputy Returning Officer

- i. Conducting election activities at constituency level
- ii. Ensuring presiding officers in their constituency conduct elections in a free and fair manner
- iii. Receiving polling station election results from Presiding Officers
- iv. Conducting the final tally of votes and declaring

the winner for the election of the Member of the National Assembly and Member of the County Assembly

- v. Receiving, collating, and publicly announcing the results of President, Senate, County Woman Members to the National Assembly from the polling station in the Constituency
 - vi. Scanning and uploading the results forms to the elections public portal maintained by the IEBC.
- RO is assisted by Deputy Returning Officer

What are the duties of Presiding Officer/Deputy Presiding Officer?

- ✓ Presiding election activities at their assigned polling station
- ✓ Providing security for election materials and personnel
- ✓ Regulating the flow of voters and other authorized personnel within the polling station,
- ✓ Counting and tallying of votes
- ✓ Declaration and posting of the election results for their polling station at the front door of the polling station

Who are Polling/Counting Clerks?

- They are election officials assigned to every polling station to assist the Presiding Officer to conduct elections at their specific polling station.
- The Clerks, located at different tables, perform distinct duties as follows:

Queuing Clerks: They guide voters to their respective polling stations within the center, giving priority to those with special needs (PWDs, expectant mothers, nursing mothers, elderly and the sick.

Clerk 1: Welcomes the voter and inspect voters for signs to confirm they have not voted at any polling station prior.

Clerk 2: Receives voter's ID or passport from Clerk 1, cancel voters name, and calls out name of voter loudly.

Clerk3: Stamp face of counterfoil and back of ballot papers with IEBC stamp and issue **Presidential** and **Member of National Assembly** ballot paper to voters

Clerk 4: Stamps face of counterfoil and back of ballot papers with IEBC stamp; Issues **Member of County Assembly** and **Senator** ballot paper to

voters; Confirms that facial features in ID or valid passport corresponds to owner's face; Invites voter to place their thumbs on KIEMS and check their biometrics and validate the voter's **record in the KIEMS**.

Clerk 5: Stamps face of counterfoil and back of ballot papers with IEBC stamp; Issues **County Woman Member of the National Assembly** and **Governor** ballot paper to voters; Hands over ID/ passport to voter; Guides voter to voting booth.

Clerk 6: Marks left small finger with indelible marker (or middle index finger if voter has colored nails); Marks thumb of person assisting voter with indelible ink (or between index finger and thumb if has colored nails); guides voter out of polling station; Assists Deputy Presiding officer to guide voters within room.

What is the role of Security/Police Officers

- ✓ They form part of the security personnel at the disposal of and responsible to the IEBC on that day.
- ✓ Their primary duty is maintaining peace and order at the polling station, under direction of IEBC Officials.
- ✓ They ensure that every voter's right to an election

free of intimidation, violence and bribery is protected.

- ✓ They offer protection of the election staff, the polling process, the counting of the votes, and the safe transportation of election materials to the Constituency and County Tallying Centers.
- ✓ Two Officers are deployed to each Polling station to keep security, while others are deployed at tallying centres.

Candidates and running mates

- ✓ Attend the proceedings at any polling station in the country on polling day if they so wish.
- ✓ Allowed to go round and not to overstay at any polling station

Voters: They will be present at the polling station, but must leave as soon as they have cast their vote.

Accredited Media Persons: They are allowed into polling stations but are expected not to overstay at one polling station and go round various polling stations.

Accredited observers: They can stay at a polling station and also go round various polling stations.

What election materials and equipment are critical for election?

- An electronic Poll Book/ KIEMS containing the names of the voters entitled to vote at that particular polling station
- Printed Register of Voters containing the names of the voters entitled to vote at that particular polling station
- Transparent and color-coded ballot boxes that identify the respective elective positions and identifying serial numbers
- Sufficient ballot papers color coded in similar colors that correspond with those of the respective ballot boxes for each elective position
- Stationery materials to enable voters to mark their ballot papers
- Instruments for stamping the official mark of the IEBC on ballot papers
- Indelible pens for marking voters' fingers, indicating they have voted
- IEBC official Seals
- A sufficient number of enclosed polling booths in which voters can mark their votes in privacy.

What are the color codes of ballot box lids for various positions?

Elective position	Description of the ballot paper	Colour of the ballot box lid
Presidential	White	
Senator	Yellow	
County women Member of National Assembly	Purple	
Member of National Assembly	Green	
Governor	Blue	
Member of the County Assembly	Beige	

What are the important forms used in polling a station?

- Form 32(Oath of Secrecy by Persons assisting a Voter)
- Form 32 A (Voters identification and verification form)
- Form 33 (Candidates' Tally Sheet)
- Form 34A (President Results)
- Form 35A (Member of National Assembly Results)
- Form 36A (Member of County Assembly results)

- vii. Form 37 A (Governor Results)
- viii. Form 38A (Senator results)
- ix. Form 39A (County Woman Member of the National Assembly)
 - Polling station Diary
 - Any other relevant materials

ELECTION DAY PROCESSES

When does the polling station open and close?

- ✓ All polling stations are obligated by law to commence the voting process at **06:00 a.m.** in the morning and to end at **05:00 p.m.** in the evening.
- ✓ Despite this, any voter who is still in the queue at **05:00 p.m.** on polling day can be allowed to cast their vote.
- ✓ Polling stations that open late are allowed to close late to compensate for time lost

What must an Agent do before accessing a polling station?

- ✓ Agents should arrive at the polling station at least an hour earlier than the official opening time (**05:00 a.m.**) to ensure the effective carrying out of their pre-opening duties.
- ✓ Prior to carrying out their duties on Election Day, agents must:
 - Officially obtain their appointment letter, oath of secrecy and identification badge, which are required for access to the polling station
 - Obtain training via their party/candidates' chief agents
 - Obtain and understand the party/candidate

observation checklist

- Obtain instructions from their party/candidate as to how and when they will communicate/ report back during election day
- Ensure that they have suitable means of communication, such as a smart mobile phone with sufficient credit
- Ensure that they have the contact details of all those with whom they may need to communicate.

What should agents observe during the entire process?

- a. Observe preparation and the opening of the polling station;
- b. Observe whether the voting procedures conforms with the laid down regulations
- c. Observe the closing procedures at the end of polling;
- d. Witness if counting and transmission procedures are adhered to;
- e. Confirm that separate packets are made and sealed;
- f. Sign the polling station diary and the declaration of statutory results forms.

- g. Witness the tallying of results;
- h. Observe scanning and electronic transmission of results of Presidential election from polling station to the constituency, County and National tallying centre
- i. Complete a checklist and submit the same to the party/candidate.

OPENING OF POLLING STATIONS

What are the procedures for opening of the polling stations?

During opening of a polling station, the Presiding Officer undertakes the following tasks: -

- ✓ Verifies accreditation of Agents, media and observers.
- ✓ Opens the polling station at exactly 0600hrs whether or not Agents are present.
- ✓ Shows the ballot boxes to all those present at the station, so that Agents and observers can ascertain for themselves that they are empty.
- ✓ Closes the ballot boxes with the official seals of the IEBC and allow each election Agent to record the serial numbers of the security seals.

What is the Agents role during the opening of polling stations?

- ✓ Observe and take note of the strategic voting materials available in the polling station.
- ✓ Confirm the emptiness of the ballot box before polling begins;
- ✓ Inspect and records the serial numbers and seals of the ballot boxes;
- ✓ Record the serial numbers of the ballot papers;
- ✓ Confirm that ballot boxes are placed in an area in the polling station that will allow them to be in full view of the voting process.
- ✓ Note and record the time that the polling stations was opened.
- ✓ Note the election officials and other authorized persons present.

VOTING PROCESS

THE VOTING PROCESS



INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)

For more information contact any Independent Electoral and Boundaries Commissioner (IEBC) County Office, Constituency Office or IEBC Head Office: 16th Floor Anniversary Towers
P.O. Box 45371 - 00100 G.P.O., Nairobi, Kenya. Tel: (254) 020 - 2709000 | (254) 020 - 2877000 Email: info@iebc.or.ke Website: www.iebc.or.ke



@IEBCKenya



facebook.com/IEBCKenya



@iebcKenya



youtube.com/IEBCpage

Your Vote. Your Future

What happens once the polling station is open that agents need to observe?

Once the voters enter the polling station, they will meet a Queuing Clerk whose duties include ensuring orderly queues outside the polling station and directing voters to the respective polling station

- i. The voter is checked for any signs that they have not voted at any polling station elsewhere (checking for ink marks)
- ii. Voter is identified and verified biometrically using KIEMS and their national identity card or valid

Kenyan passport

- iii. If a duly registered voter cannot be validated biometrically using KIEMS, the Presiding Officer will fill KIEMS Supervisor Validation Form witnessed by Agents.
- iv. The name of the Voter is called out loudly and details of the Voter are crossed out on the printed copy of the register
- v. The voter is issued with ballot papers and guided to the polling booth to mark.
- vi. Each clerk issuing ballot papers will detach it from the booklet; stamp at the back and on the face of the counterfoil with the official IEBC mark. The voter is given back their ID or passport.
- vii. The voter proceeds to the ballot booth and marks their vote on each of the ballot papers.
- viii. The voter then folds up the ballot papers to conceal their vote, and exits the enclosed polling booth. Voter inserts each ballot paper in the respective ballot box.
- ix. The voter is then marked with the indelible marker and guided out of the polling station.

What are some of the election offences?

Election offences related to Voting

A person who—

- a) Without authority takes out of a polling station any ballot paper or is found in possession of any ballot paper outside a polling station;
- b) Without authority destroys, takes, opens, disposes of or otherwise interferes with any election material in use or intended to be used for the purposes of an election;
- c) Without authority prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election;
- d) Not being authorized to do so under this Act, makes any mark on any ballot paper issued to any person other than to himself;
- e) Votes at any election when they are not entitled to vote;
- f) Votes more than once in any election;
- g) Interferes with a voter in the casting of his/her vote in secret;
- h) Pretends to be unable to read or write so as to be assisted in voting; or

i) Pretends to be visually impaired or suffering from any other disability so as to be assisted in voting **commits an offence and is liable on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding six years or to both.**

Election offences by members and staff of the IEBC

A member of the IEBC, staff or other person having any duty to perform pursuant to any written law relating to any election who—

- ✓ Wilfully prevents any person from voting at the polling station at which they know or have reasonable cause to believe such person is entitled to vote;
- ✓ Wilfully rejects or refuses to count any ballot paper which they know or have reasonable cause to believe is validly cast for any candidate in accordance with the provisions of such written law;

- ✓ Wilfully counts any ballot paper as being cast for any candidate which they know or have reasonable cause to believe was not validly cast for that candidate;
- ✓ Interferes with a voter in the casting of his vote in secret;
- ✓ Colludes with any political party or candidate for purposes of giving an undue advantage to the political party or candidate;

commits an offence and is liable on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years or to both.

Maintenance of secrecy at elections

- a) Every election officer, candidate, or agent in attendance at the counting of votes who fails to maintain or aids in violating the secrecy of the ballot or attempts to ascertain at such counting the number of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given by any particular ballot paper..
- b) Any person who captures an image of any marked ballot for purposes of financial gain or for showing allegiance,

commits an offence and is liable on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years or to both.

Personation

A person, who at an election—

- a) applies for a ballot paper in the name of another person, or of a fictitious person;
- b) Having voted once at any such election, votes again or applies at the same election for a ballot paper in his own name;
- c) Presents himself as an election official knowing that he is not, commits the offence of personation, which shall be cognizable.

Bribery

A person who, during an election period directly or indirectly offers a bribe to influence a voter to:-

- vote or refrain from voting for a particular candidate or political Party;
- A person who, during an election period, accepts or agrees to accept a bribe that is offered commits an offence.

Commits an offence under this section and shall be liable, on conviction, to a fine not exceeding

two million shillings or to imprisonment for a term not exceeding six years or to both.

Undue influence

A person who, directly or indirectly through another person on his behalf uses or threatens to use any force, violence including sexual violence, restraint, or material, physical or spiritual injury, harmful cultural practices, damage or loss, or any fraudulent device, trick or deception for the purpose of or on account of:-

- ✓ Inducing or compelling a person to vote or not to vote for a particular candidate or political party at an election;
- ✓ Display the ballot paper on which the voter has marked his vote, commits an offence.

Use of force or violence during election period

A person who, directly or indirectly in person or by any other person on his behalf, inflicts or threatens to inflict injury, damage, harm or loss on or against a person - so as to induce or compel that person to support a particular candidate or political party;

commits an offence and is liable on conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding six years or to both.

Use of national security organs

A candidate or any other person who uses a public officer, or the national security organs to induce or compel any person to support a particular candidate or political party

commits an offence and is liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding six years or to both.

Unlawful expenditure

A person who makes payment, contracts for payment or gives any other consideration of any kind for the purpose of promoting or procuring the election of a candidate at any election—

- on account of the conveyance of voters to or from the poll, whether for the hiring of vehicles, vessels or animals of transport of any kind whatsoever, or for railway fares, or otherwise, commits an offence.

Offences relating to the use of technology in elections

A person who, in relation to the electoral process:-

- ✓ steals or intentionally causes damage to electronic equipment;
- ✓ with the intent to cause or knowing that he is likely

to cause wrongful loss or damage to the public or any person, destroys or deletes or alters any information residing in a computer resource or diminishes its value or utility;

- ✓ intentionally acquires, uses, misuses, transfers, alters or deletes another person's identification information,

commits an offence and shall be liable, on conviction, to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding ten years or to both.

Aiding and abetting offences

A person who aids, abets, counsels or procures the commission of or attempts to aid, abet, counsel, or procure the commission of an offence specified in this Act commits an offence.

What is the Electoral Code of Conduct in election?

- ✓ The object of the code of conduct is to promote an environment conducive to the conduct of free and fair elections and tolerance.
- ✓ Every Agent is required to subscribe to this code of conduct and recognize the authority of the commission in its enforcement

- ✓ Every officer of a political party and every nominated candidate who, attempts to participate in or participates in an election without subscribing to the Electoral Code of Conduct commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding six years or to both.

How does the PO deal with Assisted Voters?

- ✓ Voters with disabilities or those that cannot read and write may request assistance, and are free to choose a Voter assistant.
- ✓ The Voter assistant must be over 18yrs old, and is required to take an oath of secrecy before the presiding officer
- ✓ The Voter assistant can accompany the voter to the booth and assist the Voter to mark the ballot papers in accordance with the voter's instructions.
- ✓ No agent, observer, or election official will observe this process.
- ✓ Voter assistants can only assist one voter during the entire polling process, and their fingers are marked in a designated place as evidence that they have assisted a voter.
- ✓ Where a voter does not have a voter assistant, the Presiding Officer in the presence of all agents

shall assist.

- ✓ Presiding Officer is required to record in the register of voters against the name of the voter, the fact that the voter was assisted and the reason for the assistance.

NOTE: No agent can assist a voter to vote under any circumstance.

What is a spoiled ballot and how is it treated?

- Where a voter marks a ballot paper wrongly and seeks replacement, the presiding officer will issue a new ballot but stamp the previous ballot “spoilt.”
- The Clerk must immediately cancel the spoiled ballot paper, and mark its counterfoil accordingly.
- No voter will be issued a replacement of a ballot paper more than twice.

Under what circumstances can voting be adjourned?

Presiding Officer may adjourn or postpone elections for specified reasons after consultation with the Returning Officer: -

- ✓ If proceedings at the polling station are interrupted by:
 - Riot
 - Open violence

- Flood or any other natural catastrophe
- Administrative difficulties
- ✓ The Presiding Officer must explain the circumstances to the voters and the candidates.
- ✓ Party agents have the right to be informed of the adjournment in sufficient time.
- ✓ In case voting is postponed, the agents should be present as the ballot boxes are sealed to affix party seals.

What should an Agent monitor, record and intervene with PO during the voting process?

- ✓ No voter applies for a ballot paper in the name of another person or a fictitious person
- ✓ No voter is allowed to vote twice whether in the same name or a different name
- ✓ No person who is not eligible to vote in that particular election or station is allowed to vote
- ✓ No person falsely presents themselves as an election official
- ✓ No candidate or agent pays or promises to pay wholly or in part for any voter's expenses or provides them with food, drinks, refreshment or cash for the purpose of influencing their vote
- ✓ No person uses or threatens to use any form of

force or violence to compel the person to vote or not vote for a particular candidate or political party

- ✓ No person induces or influences any other person to vote in an election knowing that they are not entitled to vote
- ✓ No person compels any voter who has already voted to inform that person or the candidate or political party for whom they have voted, or to display the ballot paper on which the voter has marked his or her vote
- ✓ No candidate or election agent promises to reward a voter for refraining from voting.

CLOSING AND COUNTING OF VOTES

What activities take place after the closure of polling station?

- ✓ The Presiding Officer is required by law to officially close the polling station at 5 p.m.
- ✓ Voters who are still in the queue at 5pm will still be allowed to cast their vote.
- ✓ Once all voters in the queue have voted, the Presiding Officer shall seal the aperture of all ballot boxes and affix them with the IEBC seal, to prevent any further ballot papers from being added to the ballot boxes.

- ✓ PO invites election agents present to affix their own seals on the apertures of the ballot boxes if they wish.

What should an Agent observe keenly when PO is filling the Polling station diary?

The Presiding Officer shall make a written statement in the Polling Station Diary with the following details:

- ✓ The number of ballot papers issued to PO
- ✓ The number of ballot papers (excluding spoilt ballot papers) issued to voters
- ✓ The number of spoilt ballot papers
- ✓ The number of unused ballot papers

How does the PO package the ballot papers after voting?

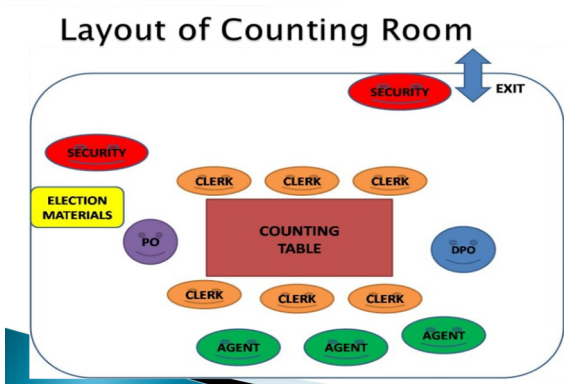
The Presiding Officer, in the presence of all election agents and other accredited observers, encloses in separate tamper proof envelopes, the following documents:

- ✓ Any spoilt ballot papers
- ✓ A marked copy of the voter register for a polling station
- ✓ The counterfoils of the used ballot papers
- ✓ The statement included in the Polling Station Diary.

How is the Counting Process conducted by the PO?

- ✓ Once the voting process is complete, the official counting of the votes at the polling station can begin.
- ✓ Only an agent who submits letters of appointment as Agent to the Presiding Officer at least 48 hours before the close of the poll will attend the counting of the votes.
- ✓ The Presiding Officer proceeds to rearrange the venue for the counting of votes, and assign duties to the clerks for the counting procedure.

What is the set up for counting of the vote?



- ✓ Agents and accredited observers to confirm that the ballot boxes have not been tampered with and that their seals are still intact.
- ✓ The Presiding Officer, DPO and polling clerks, in the presence of election agents and accredited observers, then proceed to sort ballot papers, account for ballot box content, and count the votes for that polling station.

What is the order of sorting and counting of ballot papers?

- a) President;
- b) Member of the National Assembly;
- c) Member of the County Assembly;
- d) County Senator;
- e) Woman County Member in the National Assembly;
- f) County Governor.

How are ballot papers classified during counting of votes?

During counting ballot papers are categorized:

1. Valid vote.
2. Rejected ballot
3. Rejection objected to ballot
4. Disputed
5. (Spoiled ballot -which is found in the ballot box)

What is a valid ballot?

- Is marked correctly and can be counted.
- A voter is allowed to make the following marks to the ballot paper as a sign of their voting intention or preference for a particular candidate against the name and symbol of that candidate:
 - ✓ A cross
 - ✓ A tick
 - ✓ A thumbprint
 - ✓ Any other mark

What is a rejected ballot?

This is a ballot that cannot be counted. The Presiding Officer may reject any ballot paper which:

- ✓ Is not an official ballot paper, i.e., it bears a serial number which differs from those on the ballot papers in that polling station and the relevant counterfoil
- ✓ Is of a different size than the official IEBC ballot papers
- ✓ Is of a different colour than the official IEBC ballot papers
- ✓ Is printed on a different paper than the official IEBC ballot papers

- ✓ Displays candidates/instructions different from the official IEBC ballot papers
- ✓ Lacks an official stamp from the IEBC
- ✓ Lacks a serial number
- ✓ Is unmarked
- ✓ Has marks for more than one candidate
- ✓ Is a marked ballot paper that can identify the voter; and
- ✓ Does not clearly indicate the choice of the vote
- ✓ Every rejected ballot shall be marked with the words “rejected” by the Presiding Officer.

What is a Rejection objected to ballot?

This is a ballot that is rejected by the Presiding Officer, but the agents have objected to the rejection.

- ✓ Every rejected ballot paper shall be marked with the word “rejected” by the Presiding Officer, and if an objection is made by a candidate or counting Agent to the rejection, the Presiding Officer shall add the words “rejection objected to”.
- ✓ A rejected ballot shall not be counted with valid ballots. An agent can follow up with the Returning Officer to try and resolve the ballots marked “rejection objected to.”

The decision of the Returning Officer will be final.

What is A disputed vote?

This is a ballot that the Presiding Officer considers valid but a candidate or an election Agent questions. The ballot is stamped disputed but at the end, the PO makes the final decision and awards it to a candidate.

How are votes sorted, counted, and transmitted?

- ✓ The ballot boxes at the polling station are emptied one at a time in the area designated for counting
- ✓ The ballot papers are then unfolded according to their respective elective positions. No attempt is made to look at the ballot papers at this time
- ✓ The ballot paper is placed at the spot designated for each candidate
- ✓ The votes for each candidate are counted.
- ✓ At this point, it is permissible for an Agent to call for recount.
- ✓ Following the counting process; it is the right of any election Agent present to request the Presiding Officer to re-count the votes if they feel that the count is not accurate.
- ✓ The re-count of the vote for any elective position is only allowed to take place twice.

- ✓ The results are recorded in the relevant forms
- ✓ The results are announced
- ✓ The results are transmitted electronically
- ✓ A copy of the results is posted at the polling station

Which statutory result declaration forms must be signed by PO, party /candidate agents?

- ✓ Form 34 A for Presidential election results at the polling station
- ✓ Form 35 A for National Assembly election results at the polling station
- ✓ Form 36A for County Woman Member of National assembly at the polling station
- ✓ Form 37 A for County Governor election results at the polling station
- ✓ Form 38A for County senator election results at the polling station
- ✓ Form 39A for County Member of County Assembly election results at the polling station
- ✓ It is not mandatory for election agents to sign the declaration of results but it is good practice to do so.
- ✓ Should an agent not agree with the results or feel that they do not want to sign the form, they are

required to record on the form, the reasons for their refusal to sign.

- ✓ The Presiding Officer transmits/submits to the returning officer the results (scanned Image of result form) in electronic form using the integrated electronic electoral system kit (KIEMS kit).
- ✓ The Presiding Officer must then provide each election Agent with a copy of the declaration of the results and affix one copy at the public entrance to the polling station.

How is the packaging of various ballot papers done?

Once this procedure is complete, the Presiding Officer must then seal, in separate tamper proof envelopes in the presence of agents:

- ✓ The counted ballot papers that are not disputed.
- ✓ The rejected ballot papers with the accompanying statement.
- ✓ The disputed ballot papers.
- ✓ The “rejection objected to” ballot papers.

Which packages are placed in the ballot boxes?

The Presiding Officer must then demonstrate to election agents and other accredited observers

present, that the ballot box used to carry the election results is empty before putting separate tamper proof envelopes inside the box, each envelope containing:

- ✓ valid votes;
- ✓ Rejected ballots sealed in a tamper proof envelope.
- ✓ Unused ballot papers sealed in a tamper proof envelope.
- ✓ Counterfoils of used ballot papers sealed in a tamper proof envelope.
- ✓ Copy of election results declaration form; and
- ✓ Stray ballot papers in a tamper proof envelope.

What items or forms are delivered by Presiding Officer to the Returning Officer?

- ✓ Sealed ballot boxes.
- ✓ Duly filled Polling Station Diary.
- ✓ Duly filled ORIGINAL Results declaration Forms.
- ✓ Declaration of secrecy by Voter assistants Forms (form 32)
- ✓ Form 32A.
- ✓ Unused or Spoilt results declaration forms in tamper proof envelopes.
- ✓ KIEMS kit with all its components.

- ✓ Marked Printed Register of Voters.
- ✓ Statement of Rejected Ballot papers form 41 in an A4 tamper
- ✓ KIEMS supervisor Validation Form.

What is the role of Agents during Closing, county and transmission of results?

- ✓ Take note and record the time of closing, and whether voters on the que are allowed to vote
- ✓ Confirm that remaining ballot papers are reconciled.
- ✓ Confirm that the ballot boxes are sealed and intact.
- ✓ Confirm that Procedures for counting are followed.
- ✓ Record the results announce.
- ✓ Sign results declaration forms.
- ✓ Record any incidences.
- ✓ Take image of result form 34A and transmit to Constituency and National Tallying centre among other duties.

TALLYING, ANNOUNCEMENT, AND DECLARATION OF ELECTION RESULTS

How are results processed at the constituency tallying centres?

The following processes take place at the constituency tallying centres:

- ✓ Receipt of Election results forms, packages, other materials and equipment retrieved from polling stations at the constituency tallying centre.
- ✓ Verification of completeness of Election results forms, other materials and equipment retrieved from polling stations.
- ✓ Tallying, Signing, dating and stamping of election collation forms by the Returning Officer and the Agents present.
- ✓ Announcement of Presidential election results and/or referendum respectively from each polling stations.
- ✓ Issuance of copies of the duly filled collation forms to the Agents present.

The Presiding Officer then proceeds with announcement of various elective positions as follows:

i. Announcement, Collation, and declaration of Member National Assembly (MNA) and Member of County Assembly (MCA) positions

- ✓ Issuance of copies of the duly filled declaration forms to the Agents present.
- ✓ Issuance of the certificate of election to the Member National Assembly and Member of County Assembly elect respectively.
- ✓ Transmission of the scanned copies of processed results to the public portal maintained by the Commission.
- ✓ Scanning and uploading of all result forms to EDMS for archival.

ii. Collation of election results from each polling stations for Governor, Senate and CWMNA positions

- ✓ Signing, dating and stamping of election collation forms by the Returning Officer and the Agents present
- Transmission of the scanned copies of processed results to the public portal maintained by the Commission.

- ✓ Scanning and uploading of all result forms to EDMS for archival.

iii. Announcement of election results from each polling stations Governor, Senate and County Woman Member of National Assembly (CWMNA) position

- ✓ Issuance of copies of the duly filled collation forms to the Agents present.
- ✓ Transmission of the scanned copies of processed results to the public portal maintained by the Commission.
- ✓ Scanning and uploading of all result forms to EDMS for archival.

iv. Physical delivery of original copies of election results to the County Tallying Centre and National Tallying Center

How are election results processed at County tallying centers

The following processes take place at the county tallying centres:

- ✓ Receipt of original election results forms from the constituency tallying centres for county governor, County senate and CWMNA positions.
- ✓ Verification of election results forms from the constituency.

- ✓ Tallying of election results from each Constituency for Governor, Senate and CWMNA positions respectively.
- ✓ Signing, dating and stamping of the election declaration form for Governor, Senate and CWMNA positions by CRO and the Chief Agents present.
- ✓ Announcement, declaration and issuance of certificates of election for each Constituency for Governor, Senate and CWMNA positions respectively.
- ✓ Transmission of the scanned copies of processed results to the public portal maintained by the IEBC.
- ✓ Scanning and uploading of all result forms to EDMS for archival.
- ✓ Physical delivery of original copies of election results to the NTC.

How are presidential election results processed at the National election results centre?

The following processes take place at the national tallying centres:

- ✓ Receipt of original presidential election results forms from constituency
- ✓ Verification of collated forms against the original forms from the polling stations
- ✓ Collation and tallying of polling stations results for election of the president
- ✓ Verification of the results of the collated presidential election results.
- ✓ Computing of the summary of total votes cast in favor of each presidential election candidate in each of the 47 counties to determine the 25 percent threshold in more than half the counties.
- ✓ Computing of the summary of total votes cast in favor of each presidential election candidate to determine the 50 percent plus one threshold.
- ✓ Signing, dating and stamping of the election declaration form by Chairperson and the Chief Agents present.
- ✓ Determining achievement of each candidate votes in regard to the 25 percent and 50 plus one threshold.

- ✓ Declaration of election results for the elections for the election of president and with achievement of each candidate in regard to the 25 percent and 50 plus One threshold.
- ✓ Issuance of the certificate of election to the president elect
- ✓ Delivering a written notification of the result to the Chief Justice and the incumbent President.
- ✓ Provide secure custody of election results at national election results center.

How is a Presidential petition filed?

Agents are required to document and keep evidence should there be a petition.

- ✓ An election petition to challenge the election of the President-elect must be filed within seven days after the date of the declaration of the results of the presidential election in the Supreme Court.
- ✓ The Supreme Court is required to hear and determine the petition and its decision within fourteen days after the filing of a petition and the decision is being final.
- ✓ Agents may be called as witnesses.

PARTY/CANDIDATES' AGENTS COMMUNICATION PROTOCOLS

What do party /candidates' agents communicate to the chief agent?

Agents may use their own party or candidate reporting tool and report the following information:

- ✓ Report on the opening of the polling station.
- ✓ Report on the voting progress and significant incidences.
- ✓ Report on turn-out.
- ✓ Report on the closing.
- ✓ Report on the start of the counting process.
- ✓ Report on progress on the counting.
- ✓ Report on signing the correct forms.
- ✓ Report on Election results on the polling station elections declaration forms.
- ✓ Verified Election results electronically transmitted by the Presiding Officer.

Polling day Activities for Agent

National Chief Agent –

Receives information from the county chief agents - Responds to information and decides if the legal team should be consulted - Send important information down the communication chain

County Chief Agent - In charge of the data collection center in the county party office - Collects information from the Constituency Chief Agents within the County - Receives SMS information from the election agents - Analyze the information and decides if the information should be taken to the region representatives from IEBC or taken to the national chief agent for further action - Informs the constituency chief agent with information

Constituency Chief Agent - Collects information from the election agents - Submit information to the County Chief Agent – engage the polling station Agents regularly throughout the election day

Election Agent - Present in the polling station - Fill the check lists - Regularly informs the constituency chief agent - Reacts to information and instructions given by the county chief agent (of the constituency agent)



Lions Place, 1st & 4th Floor
Karuna Close, Waiyaki Way, Westlands Nairobi.
P.O. Box 1131-00606
Sarit Center, Nairobi Kenya
Tel: +254(0)204 022000 | Mob: 0772 281 357
Email: info@orpp.or.ke



ORPPKenya



ORPPKenya



www.orpp.or.ke



ORPPKenya



NATIONAL
DEMOCRATIC
INSTITUTE

Methodist Ministries Centre, Block C,
Ground Floor
Oloitoktok Road, Nairobi, Kenya
P.O Box 1806 – 00200, Nairobi Kenya.
Tel: +254 20 2105805