

(Coat-of-Arms)

ELECTION SUPERVISORY COMMITTEE

**DECREE OF THE ELECTION SUPERVISORY COMMITTEE
NUMBER 13 YEAR 2003**

ON

DISPUTE RESOLUTION MECHANISM

THE ELECTION SUPERVISORY COMMITTEE

Considering : Whereas, to conduct the duties and authorities of election supervisors in handling disputes about the implementation of the election, a Decree of the Election Supervisory Committee is needed to define the dispute resolution mechanism.

Bearing in mind :

1. Law Number 12 of 2003 on the Election of Members of People's Representative Council, Regional Representative Council and Regional People's Representative Council (State Gazette of the Republic of Indonesia of year 2003 Number 37, Supplementary State Gazette of the Republic of Indonesia Number 4277);
2. Decree of the National Election Commission Number 88 of 2003 on the Election Supervisory Committee;
3. Decree of the Election Supervisory Committee Number 8 of 2003 on the Job Description and Work Relationship Of the Election Supervisory Committee, Provincial Election Supervisory Committee, Regency/City Election Supervisory Committee and Sub-district (*Kecamatan*) Election Supervisory Committee.

Attending to : Result of the Plenary Meeting of Election Supervisory Committee on July 23, 2003.

HAS DECIDED:

To enact : THE DECREE OF THE ELECTION SUPERVISORY COMMITTEE ON DISPUTE RESOLUTION MECHANISM

Article 1

Resolution of disputes arising at all stages of the General Election for the DPR, DPD, Provincial and Regency/City DPRD shall be conducted in accordance with the dispute resolution mechanism as referred to in the attachment of this decree.

Article 2

In the event that the implementation of this decree needs to be adjusted to the situation and condition in the regions, the Provincial, Regency/City and Sub-district (*Kecamatan*) Election Supervisory Committee may regulate further provided this is not contradictory to this decree.

Article 3

This decree shall come into effect upon its enactment.

Enacted in : Jakarta
On : July 23, 2003

ELECTION SUPERVISORY COMMITTEE

VICE-CHAIRPERSON,

CHAIRPERSON,

(Pdt. SAUT HAMONANGAN SIRAIT) (Prof. DR. KOMARUDDIN HIDAYAT)

Attachment : Decree of Election Supervisory Committee

Number : 13 of 2003

Date : July 23, 2003

DISPUTE RESOLUTION MECHANISM

Materials:

1. Definition of electoral dispute
2. Scope of dispute that can be resolved by election supervisors

3. Parties involved in an electoral dispute
4. Division of competencies of election supervisors at each level
5. Process of electoral dispute resolution
6. End of electoral dispute resolution process
7. Timetable for electoral dispute resolution
8. Failure of electoral dispute resolution proposal
9. Documents for electoral dispute resolution
10. Exception for minor electoral disputes
11. Description of electoral dispute resolution process
12. Decision on electoral dispute made in the absence of the disputing parties

Official Report Formats:

- 1) Report of electoral dispute resolution through deliberation and consensus.
- 2) Report of dispute resolution through alternative resolution from election supervisors.
- 3) Report of dispute resolution through decision of election supervisor.
- 4) Report of the failure of dispute.
- 5) Report of the withdrawal of an electoral dispute resolution proposal.

1) Definition of Dispute:

An electoral dispute is a conflict between two parties or more that results from:

- Differences of interpretation between the parties; or
- A certain disagreement

That is related to:

- Facts about activities and events;
- Law; or
- Policy

In which an admission or opinion of one party:

- Is denied;
- Is being admitted differently;
- Is being avoided

By another party, and which takes place within the implementation of the election.

2) Scope of election dispute that can be solved by election supervisors:

All electoral disputes arising at each stage of implementation of the election, starting from voter registration to the inauguration of the DPR, DPD, and Provincial and Regency/City DPRD, except for electoral disputes on the results of elections, which are the jurisdiction of the Constitutional Court.

3) Parties involved in an electoral dispute

a. Parties that may be involved in an electoral disputes are:

- 1) Election management bodies.
- 2) Participating political parties, including National Executive Board, Provincial Executive Board, Regency/City Executive Board, etc.
- 3) Individual electoral participants for the election of members of the DPD.
- 4) Members and/or administrators of participating political parties.
- 5) Citizens with voting rights.

- 6) Election observers.
- b. Parties that request a resolution of an electoral dispute that concerns them are called plaintiffs.
- c. Parties that are involved in an electoral dispute with the plaintiffs are called defendants.
- d. Parties as referred to in number 3a (3, 4 and 5) may give their authority to other parties to represent them in the dispute resolution by a power of attorney.
- e. Parties as referred to in number 3a (1, 2 and 6) shall give their authority to the organizers, members, staff or other parties to represent their institutions in the dispute resolution by a power of attorney.

4) Division of competencies of Election Supervisors on each level

- a. The election supervisory committee shall resolve electoral disputes:
 - 1) That involve the members and/or administrators of participating political parties, election management body, participating political parties, individual electoral participants or institutions at the national level;
 - 2) That involve parties in different provinces;
 - 3) That, according to the findings of the Provincial Election Supervisory Committee cannot be resolved at the Provincial Election Supervisory Committee level.
- b. The Provincial Election Supervisory Committee shall resolve electoral disputes:
 - 1) That involve the members and/or administrator of participating political parties, election management body, participating political parties, individual electoral participants or institutions at provincial level;
 - 2) That involve parties in different regencies/cities;
 - 3) That, according to the findings of the Regency/City Election Supervisory Committee, cannot be resolved at the Regency/City Election Supervisory Committee level.
- c. The Regency/City Election Supervisory Committee shall resolve Electoral Disputes
 - 1) That involve the members and/or administrator of participating political parties, election management body participating political parties, individual electoral participants or institutions at regency/city level;

- 2) That involve parties in different sub-districts (*kecamatan*);
- 3) That, according to the findings of the Sub-district (*Kecamatan*) Election Supervisory Committee, cannot be resolved at the Sub-district (*Kecamatan*) Election Supervisory Committee level.
- d. Sub-district (*Kecamatan*) Election Supervisory Committee shall resolve electoral disputes that involve members and/or administrators of participating political parties, institutions or citizens at sub-district (*kecamatan*) level.
- e. Electoral disputes as referred to in letter a (1) and (2), b (1) and (2) as well as c (1) and (2) which involve parties at different level shall be resolved by election supervisors of higher level.

5) Process of Electoral Dispute Resolution

The process of electoral dispute resolution is as follows:

- a. Determination of a report file as an electoral dispute by the election supervisor receiving the report;
- b. Submission of the electoral dispute report file by the election supervisor receiving the file to the authorized election supervisor;
- c. Examination and investigation of the electoral dispute report file by the authorized election supervisor;
- d. Summoning of disputing parties by authorized election supervisor;
- e. In the event that the disputing parties meet and reach a consensus through deliberation, the outcome is reported in the **Report of Electoral Dispute Resolution through Deliberation and Consensus** (Form B-1).
- f. In the event that consensus is not reached through deliberation, the authorized election supervisor shall offer an alternative resolution to the disputing parties, and in the event that this resolution is accepted, it is reported in the **Report of Dispute Resolution through Alternative Resolution from Election supervisor** (Form B-2).
- g. In the event that the offer of alternative resolution is not accepted by one or both of the disputing parties, the election supervisor shall make a final and binding decision, which is reported in the **Report of Dispute Resolution through Decision of Election supervisor** (Form B-3).

6) End of Electoral Dispute Resolution Process

A dispute handled by election supervisors is resolved when:

- a. Consensus through deliberation can be reached, as referred to in number 5e, signified by a **Report of Dispute Resolution by Deliberation and Consensus**.
- b. Alternative resolution from the election supervisor is accepted by the disputing parties, as referred to in number 5f, signified by a **Report of Dispute Resolution by Alternative Resolution from Election Supervisor**.
- c. A decision is made by the election supervisor, as referred to in number 5g, signified by a **Report of Dispute Resolution through Election supervisor Decision**.

7) Timetable for Electoral Dispute Resolution

- a. The process as referred to in number 5a shall be finalized no later than 7 days from the receipt of the report.
- b. The process as referred to in number 5b shall be finalized no later than 3 days after number 5a is conducted (for areas difficult to reach, no later than 7 days after number 5a is conducted).
- c. The process as referred to in number 5c shall be finalized no later than 3 days after number 5b is conducted.
- d. The process as referred to in number 5d shall be finalized no later than 3 days after number 5c is conducted (for areas difficult to reach, no later than 7 days after number 5c is conducted).
- f. Meetings as referred to in number 5e shall be conducted no later than 3 days after number 5d is conducted (for areas difficult to reach, no later than 7 days after number 5d is conducted).
- g. The process as referred to in number 5e, 5f and 5g shall be finalized no later than 14 days after number 5e is conducted.

8) Failure of electoral dispute resolution proposal

- a. A proposal fails if the plaintiff or his/her attorney at law cannot attend an initial meeting, following three proper summonses by the election supervisor, and is reported in the **Report of the Failure of Dispute** (Form B-4).
- b. A proposal for electoral dispute resolution can be withdrawn prior to the initial meeting, and is reported in the **Report of Revocation of Electoral Dispute Resolution Proposal** (Form B-5).
- c. A failed proposal may be re-submitted no later than 7 (seven) days after the occurrence of the dispute.

9) Documents for Electoral Dispute Resolution

Documents used to resolve electoral disputes are:

- a. A Report File in accordance with Decree of the Election Supervisory Committee No. 09 of 2003 on Reporting Procedure.
- b. Written documents consisting of additional data such as:
 - 1) Main issues disputed
 - 2) Reason for and cause of dispute
 - 3) Facts of electoral dispute
 - 4) Witnesses and evidence (if any)
 - 5) Matters to be prosecuted and basis of prosecution
 - 6) Address of the defendant, if the address of the defendant is not clear.
- c. Written documents as referred to in letter b above must be submitted by the plaintiff to the election supervisor receiving the report no later than 2 (two) days after being requested by the election supervisor receiving the report. In the event that the plaintiff submits these documents after the above time limit, the proposal will be deemed to have failed.

10) Exception for Minor Disputes

In the event that, based on the consideration of the election supervisor, the nature of the reported dispute is minor and can be resolved quickly, the preliminary report from the plaintiff can be completed by oral explanation, which will be recorded by the election supervisor.

Resolution in brief as referred to above proceeds as follows:

- a) The process as referred to in number 5a shall be finalized no later than 7 days after the report is received.
- b) The process as referred to in number 5b shall be finalized no later than 3 days after number 5a is conducted (for areas difficult to reach, no later than 7 days after number 5a is conducted).
- c) The process as referred to in number 5c shall be finalized no later than 1 day after number 5b is conducted.

- d) The process as referred to in number 5d shall be finalized no later than 1 day after number 5c is conducted (for areas difficult to reach, no later than 3 days after number 5c is conducted).
- e) A meeting as referred to in number 5e shall be conducted no later than 1 day after number 5d is finalized (for areas difficult to reach, no later than 3 days after number 5d is finalized).
- f) The process as referred to in number 5e, 5f and 5g shall be finalized no later than 14 days after number 5e is conducted.

11) Description of Electoral Dispute Resolution Process

- a. submission of an electoral dispute report file by an Election supervisor receiving the file to the authorized election supervisor.
 - File is submitted quickly, completely and in writing, adhering to the time limits as defined in number 7b and number 10b.
- b. Examination and investigation of the electoral dispute report file by the authorized election supervisor.
 - 1) The examination conducted by the election supervisor receiving the report must ascertain if the requirements defined in number 9b have been fulfilled.
 - 2) In the event that the requirements defined in number 9b have not been fulfilled, the election supervisor receiving the report must request the Plaintiff to complete them.
- c. Proper summonses to the disputing parties by the authorized election supervisor
 - 1) The authorized election supervisor sends a summons letter.
 - 2) Summons is given to the plaintiffs and defendants.
 - 3) Summons must adhere to the time limit as defined in number 7c and number 10c.
- d. Implementation of electoral dispute resolution through deliberation and consensus

1) Process Framework

- (1) The election supervisor shall handle the resolution of an electoral dispute by bringing together the disputing parties in a closed meeting.
- (2) The election supervisor shall request the plaintiff to explain the main points of the dispute

- (3) The election supervisor shall ask whether all parties are willing to resolve the dispute by consensus through deliberation. In the event that all disputing parties are willing to, the process is continued as per number (4) below. In the event that one of the parties is not willing to do so, the process is continued as at number 11e.
- (4) The election supervisor shall offer a mechanism for and regulation of the deliberation.
- (5) The election supervisor shall give a response to the explanation of the plaintiff of the main points of the dispute, orally and/or in writing.
- (6) The election supervisor shall look for the main issues of the dispute and ascertain that all parties understand these issues.
 - (a) All parties (the plaintiffs and the defendants) shall propose an alternative resolution to the electoral dispute, together with their own reasoning to the election supervisor orally and/or in writing.
- (7) Consequently, all parties shall discuss the issues directly, to reach a consensus.
- (8) In the event that a consensus is not reached within:
 - (i) 1 day for disputes as referred to in number 4d
 - (ii) 2 days for disputes as referred to in number 4c
 - (iii) 3 days for disputes as referred to in number 4a and 4bthe process for resolving electoral disputes shall be continued by implementing number 11e.

2) The Role of The Election supervisor in Electoral Dispute Resolution through Deliberation and Consensus

- (1) The election supervisor shall give an opportunity to the Plaintiff and to the Defendant to achieve consensus through deliberation.
- (2) The election supervisor shall not give any alternative electoral dispute resolution.
- (3) The election supervisor shall maintain conditions for deliberation that support the reaching of consensus.
- (4) The election supervisor shall encourage resolution through deliberation and consensus.

3) Official Reports

In the event that, during the deliberation, the parties come up with a consensus or resolution, the election supervisor shall write a **Report of Electoral Dispute Resolution through Deliberation and Consensus** (Format B-1).

- e. Implementation of electoral dispute resolution through alternative resolution from the election supervisor:

1) Process Framework

- (1) Continuing the process as referred to in number 11d.
- (2) The election supervisor shall study each proposed alternative resolution submitted by all parties (if any) and consequently offer one or more alternatives for electoral dispute resolution orally and/or in writing by explaining the advantages and disadvantages of each alternative.
- (3) All parties shall study the alternative electoral dispute resolutions offered by the election supervisor.
- (4) The election supervisor shall convene the parties to discuss the alternative resolution offered by the Election Supervisor.
- (5) All parties shall announce their responses to the alternative resolution offered by the election supervisor.
- (6) The election supervisor shall encourage agreement among the parties.
- (7) In the event that an agreement is not reached within:
 - i. 1 day for minor disputes
 - ii. 2 days for medium intensity disputes
 - iii. 3 days for major disputes

the process of resolving electoral disputes shall be continued by implementing number 11f.

2) The role of election supervisor through alternative resolution from election supervisors:

- (1) The election supervisor shall give one or several alternatives for resolution of the electoral dispute, based on the documents from all parties, the data, laws and regulations.

- (2) The election supervisor shall encourage agreement among the parties on one or a combination of alternatives proposed by Election Supervisor.

3) Official Report

In the event that in the meeting the parties agree to the alternative resolution proposed by the election supervisor, the election supervisor shall make a **Report of Dispute Resolution through Alternative Resolution from Election supervisor** (Format B-2).

- f. Implementation of dispute resolution through a final and binding decision of the election supervisor:

1) Process Framework

- (1) Continuing the process as referred to in number 11e.
- (2) The election supervisor shall give the documents containing the responses and/or objections from all parties, and the decision, with reasons, on the dispute to the Election Supervisors.
- (3) The election supervisor shall make a decision on the Electoral Dispute, as best and as justly as possible, in a Closed Plenary Meeting of the Election Supervisors, by considering the documents, data, proposal from the Election Supervisor, responses from all parties, laws and regulations.
- (4) The decision of the election supervisor shall be advised to all parties and made available to the public.

2) Official Report

Resolution of dispute through decision of election supervisor shall be recorded in a **Report of Dispute Resolution through Decision of Election supervisor**(Format B-3).

- g. Other parties as mediators

In resolving an Electoral Dispute through deliberation and consensus, and alternative resolution from an Election Supervisor, the election supervisor may request an independent party to play a role in the process of dispute resolution.

- h. A dispute resolution report as referred to in number 5 letter e, f, g shall be made in multiple copies and given to:

- (1) Plaintiffs
- (2) Defendants

(3) KPU / Provincial KPU / Regency/City KPU in accordance with the relevant level

(4) Other institutions as necessary.

12) Decision on electoral disputes made in the absence of the defendants

In the event that the defendants are not present at the initial meeting, after being properly summoned three times by the election supervisors, the election supervisors shall make their decision on the proposal on the electoral dispute, as submitted.

Official Report

Dispute Resolution Through Deliberation and Consensus

Name :
Address :
(Place of Residence)
Place/Date of Birth :
Occupation :

Hereinafter shall be referred to as **Plaintiff**

Name :
Address :
(Place of Residence)
Place/Date of Birth :
Occupation :

Hereinafter shall be referred to as **Defendant**

I. Short Description of the Electoral Dispute

1. Whereas...
2. Whereas...
3. etc

II. Stance of the Parties (charges and response)

1. Charges of Plaintiff
 - a.
 - b.
 - c.
2. Response of the Defendant

- a.
- b.
- c.

III. Agreement of the Parties

Whereas, after the discussion, the Plaintiff and the Defendant have agreed to:

- 1. A
- 2. B
- 3. Etc

This agreement is made:.....
Place and Date of the Agreement.

Plaintiff,

Defendant,

()

()

Election Supervisor,

()

Carbon copies:

- 1. Plaintiffs
- 2. Defendants
- 3. KPU / Provincial KPU / Regency/city KPU
- 4. Related institutions

Official Report
Electoral Dispute Resolution Through Alternative Resolution from
Election Supervisor

Name :
Address :
Place/Date of Birth :
(Place of Residence)
Occupation :

Hereinafter shall be referred to as **Plaintiff**

Name :
Address :
(Place of Residence)
Place/Date of Birth :
Occupation :

Hereinafter shall be referred to as **Defendant**

I. Short Description of the Electoral Dispute

1. Whereas...
2. Whereas...
3. etc

II. Stance of the Parties (charges and response)

1. Charges of Plaintiff
 - a.
 - b.
 - c.

2. Response of the Defendant

- a.
- b.
- c.

III. Alternative Agreements Proposed by Election supervisor

- 1. A
- 2. B
- 3. etc

IV. Agreement of the Parties

Whereas, after the meeting, the Plaintiff and the Defendant have agreed to choose alternative with the following considerations:

- 1. A
- 2. B
- 3. Etc

This agreement is made:.....
Place and date of the Agreement....

Plaintiff,

Defendant,

()

()

Election Supervisor,

()

Carbon copies:

- 1. Plaintiffs
- 2. Defendants
- 3. KPU / Provincial KPU / Regency/city KPU
- 4. Related institutions

Official Report
Electoral Dispute Resolution Through the Decision
of Election Supervisor

Name :
Address :
(Place of Residence)
Place/Date of Birth :
Occupation :

Hereinafter shall be referred to as **Plaintiff**

Name :
Address :
(Place of Residence)
Place/Date of Birth :
Occupation :

Hereinafter shall be referred to as **Defendant**

Whereas, following the failure to reach a consensus during the deliberation and consensus stage, and no resolution having been reached by an alternative resolution from the Election Supervisor, this dispute is resolved as follows:

I. Short Description of the Electoral Dispute

1. Whereas...
2. Whereas...
3. etc

II. Stance of the Parties (charges and response)

1. Charges of Plaintiff
 - a.

- b.
- c.
- 2. Response of the Defendant
 - a.
 - b.
 - c.

III. Consideration of Election Supervisors

- 1. A
- 2. B
- 3. etc

IV. Decision of Election Supervisors

- 1. A
- 2. B
- 3. etc

This decision is made:.....

Place and Date

Election Supervisor,

()

Carbon copies:

- 1. Plaintiffs
- 2. Defendants
- 3. KPU / Provincial KPU / Regency/city KPU
- 4. Related institutions

Official Report
Failure of Dispute

Province :
Regency/City :
Sub-district (*Kecamatan*) :
Village/*Kelurahan* :

Proposal Number :

It is decided that this dispute, with the following **Plaintiff:**

Name :
Address :
(Place of Residence)
Place/Date of Birth :
Occupation :

And the following **Defendant:**

Name :
Address :
(Place of Residence)
Place/Date of Birth :
Occupation :

With the summary of the case as follows:

.....
.....
.....
.....

Based on the Decree of the Election Supervisory Committee Number 13 of 2003, attachment number 8 letter a, the Proposal is declared **FAILED** as the Plaintiff or its Power of Attorney has not attended the initial meeting after being properly summoned 3 (three) times.

This decision is made:.....

Place and Date

Election Supervisor
Provincial / Regency/City / Sub-district *)
Chairperson **)

()

Carbon copies:

1. Plaintiffs
2. Defendants
3. KPU / Provincial KPU / Regency/city KPU
4. Related institutions

*) delete the unnecessary

***) if the chairperson is unable to sign, this can be delegated

Official Report
Withdrawal of Electoral Dispute Resolution Proposal

Province :
Regency/City :
Sub-district (*Kecamatan*) :
Village/*Kelurahan* :

Proposal Number :

Based on the Decree of the Election Supervisory Committee Number dated
..... attachment number 8 letter b, it is hereby declared that

Name :
Address :
(Place of Residence)
Place/Date of Birth :
Occupation :

Hereinafter shall be referred to as **Plaintiff**

To withdraw his/her proposal of Electoral Dispute resolution against:

Name :
Address :
(Place of Residence)
Place/Date of Birth :
Occupation :

Hereinafter shall be referred to as **Defendant**

With the following reasoning

:

.....
.....
.....

.....,..... 200

Acknowledged by,

Election Supervisory Committee

Provincial / Regency/City / Sub-district (*Kecamatan* *)

Plaintiff

Chairperson **)

()

()

Carbon copies:

1. KPU / Provincial KPU / Regency/City KPU
2. Defendants
3. Related institutions

*) delete the unnecessary

***) if the chairperson is unable to sign, this can be delegated