



IHEC Regulation No.16

According to the authority which has been given to the Board of commissioners in the article (4), item (8) of the Independent High Electoral Commission's law No. (11), in the year 2007, we decided issuing the following regulation:-

Regulation no. (16)

(Complaints and Challenges)

For the Elections of the Iraqi Council of representatives of the year 2010

(Preamble)

The independent High (Supreme) Electoral Commission in Iraq has been established according to law no (11) of the year 2007 to be precisely the only electoral authority in Iraq, The commission is professional, autonomous, independent, and neutral, subjected to the supervision of council of representatives.

Part 1 (Terminology)

The following terms represented the meaning in the face of each one of them:-

1. "**Commission**":-means The Independent High Electoral Commission.



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2. **"Council of representatives"**: - As it has been explained in the constitution of the republic of Iraq, year 2005.
3. **"The supreme Federal Court"**: - It is an independent judicial body, financially and administratively under the federal judicial authority, it certifies the results of the Iraqi Representatives' Council's elections.
4. **"The board"**: - Board of Commissioners (BOC).
5. **"Electoral Judicial Body"**: - A body which consisted of three part-time judges appointed by the court of appeals that looks in appealing on the final decisions of the BoC or those submitted from those affected by the decisions of the Board.
6. **"Political Entity"**: - Is:-
 - A. An organization including the political party which composed of qualified voters voluntarily united on the basis of shared ideas, interests and benefits, to express their needs and enable their representatives to nominate themselves to a general post on the condition that the PE should obtain the official certification as a PE by IHEC.
 - B. A person who intended to nominate him/herself individually for elections on condition that he/she will obtain the official certification as a political entity by IHEC.
7. **"Electoral Regional Office"**: - is IHEC office in Kurdistan Region.
8. **"Code of Conduct"**: - Are special rules
9. **"Electoral Office"**: - It is the central IHEC office of the governorate.
10. **"Challenges and Complaints"**: - Re challenges and complaints related to the stages of the electoral process of the election of the Iraqi council of representatives.

Part 2 (Authorities)

1. The Board got the authority to resolve disputes arising during preparing, arranging, implementing, and performing of



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elections; this includes all matters related to the adjudication procedures in complaints and disputes related to elections. The board can issue any procedures or additional adjustments on this regulation if necessary and according to the law.

2. The Board can entrust its authorities to the GEO to settle a particular disputes.
3. The Board must refer any criminal issue to the specialized authorities in case of having evidences on occurring criminal misconduct against the safety of elections and referendum. If the Board applies a civil sanction on a violation; then it does not mean that there is no criminal penalty is applied under applicable Iraqi laws.

Part 3

(Procedures of Submitting a Complaint)

1. Any person, except electoral observers, got the right to submit complains 'or dispute' petitions to the Board on the electoral process.
2. In order to protect the integrity and safety of the electoral process, the Board initiatively applies a penalty or any corrective procedures in case of any electoral rules breach even if there is no complaint about.
3. Submission of complaints takes the following steps:-
 - a. The complaints should be written and signed by the person or who deputizes him/her who witnesses the event in which the violation occurred.
 - b. If the complainant was a political entity then its deputy must sign the complaint.
 - c. The complaint could be produced in the stage of registration to the manager of registration center or the manager of the electoral office in the governorate. The



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- complaint will be produced in polling stage to the manager of the station, the manager of polling center, the manager of regional electoral office, the GEO or to the national office directly.
- d. Complaints of the polling stage will be submitted within (42) hours starting from the date of the occurrence of the violation.
4. The complaint must be composed of the following information:-
- a .The name of the complainant, his/her address, and required information to call him/her.
 - b .The name and information helps to call the supposed violator, if available.
 - c .Detailed description of the supposed violation including date, time, place, and environment.
 - d .Any other complaints related to the electoral process are submitted either to the concerned GEO's manager who will refer them confidentially or directly to the National Office.
5. The department of complaints and consultants in the secretariat of the BoC will investigate the complaint and makes recommendations to the BoC by coordination and cooperation with the regional electoral office or the GEO s.

Part 4 (Hearings)

1. The Board may call witnesses or polls of the case, and then hold meetings which might be general or private according to the Board's point of view.
2. The Board may ask or receive evidences in relation; in the hearing's sessions by all means.



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3. The whole evidences will be presented to the Board, should be approved in the minutes and then attached with the complaint.

Part 5 **(Replying to Complaints)**

1. When the Board decided that the complaints is based on legal fundamentals, the complained of, is informed in writing, whenever it is possible, then he/she is given an opportunity to respond to the complaint in a specific time.
2. The complainer of produces his/her respond in writing or signed by his/her deputy. If the complainer of was a political entity, then its leader or representative will sign the response.
3. A respond may be submitted to the electoral regional office or to the GEO s and it should be submitted secretly o the BoC as fast as it possible.
4. The Board keeps on examining the complaint even if the complainer of did not produce any respond.
5. The complaint might be run over again in the following cases:-
 - a. In case of finding new evidences.
 - b. In case of delaying the submission of the respond to the Board after it had been submitted by the exact day.

Part 6 **(Adjudication to complaints)**

1. The Board got the right to refuse a complaint that is not accompanied with efficient evidences or lacked, obviously, what rationalized it; or that which lacked the formal conditions.
2. Submitting vexatious complaint by a political entity or any body, considered as a violation to the rules of this regulation.



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And be subject to the penalty imposed on by the Board of commissioners.

3. The Board might refer the complaint or sides of it that lies outside its jurisdiction, to a special authority.
4. The Board ran over the complaints produced in the proper time, neutrally, with the guaranty of the secrecy of special information submitted, except what refers to the right of feud polls in knowing the subject of the complaint.

Part 7 **(Sanctions)**

1. The Board imposes penalties on any person or (political entity) that violates any rule, regulation, instructions, any code of the Code of Conduct, or any decision came into force which is related to arranging or carrying out election.
2. Political Entities are responsible on any violations had been done by their members, candidates, or agents. When the proper penalty is determined, then the Board may consider, whether the political Entity has made the necessary efforts to avoid such violations.
3. If a violation was approved ,the Board imposes the following penalties on the violators:-
 - a. returning back the situation to what it was before the violation took place if it is possible.
 - b. Financial fine.
 - c. cancellation of the certification on the accreditation of a Political Entity of elections.
 - d. Preventing a Political Entity from participating in the future elections.
 - e. Eliminating the name of the candidate from the candidate's lists of elections.



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- f.** Preventing a person from participating as a candidate, an electoral employee, or as a Political Entity in this elections or in the future elections.
- g.** Preventing or canceling the accreditation of a team from the observers' teams or a person within the observers' team in this election or the future elections.
- h.** The Board got the right at any time before certifying the results; to order a recount of the ballot papers and votes in some center, or took another proper act.
- i.** Monies collected from penalties imposed on by the Board, will be considered as revenue to the public treasury.

Part 8

(Challenging on the results of elections)

1. Challenges on results are submitted to the electoral office in the governorate, regional electoral office, in the national office, or directly to the electoral judicial commission.
2. The chief of the PE, or the candidate, or the authorized representative of the entity could submit the challenge, if the electoral system depends on the system of open list.
3. The challenge is produced before one of the sides mentioned in the item (1). The same challenge is not allowed to be submitted to more than one side.
4. Publishing results in at least three daily newspapers and in both languages, English and Arabic once. The results will be challenged within three days starting from the next day of publication.



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Part 9 (Fulfillment of Decisions)

1. The Decisions of the Board shall be executed within the specified period of time. Otherwise, the violator (a person or a political entity) will be exposed to a severe penalty.
2. The decisions of the Board related to the electoral complaints and challenges shall be published in accordance with the conditions stipulated in article (8) of IHEC's law.

Part 10 (Challenges on the decisions of the Board)

1. It is allowed to challenge on the final board's decisions at the electoral judicial commission according to the provisions of the Article (8) of IHEC's law.
2. All decisions of the board should compose of a notification to sides about their right in appealing.

Part 11 (Date of enforceability)

This regulation shall enter into force since the date of its ratification by the Board in 13/8/2009.

Board of Commissioners