Election Administration Manual

The South African Local Elections and Governance Support Project

Prepared by CORE
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Electoral Code of Conduct for Political Parties

5.1. Purpose of the Code

The Electoral Code of Conduct was established prior to the April 1994 election (as Schedule 2 of the Electoral Act of 1993) to be followed by political parties contesting the elections to ensure that the elections were free and fair and that a climate of democratic tolerance prevailed, in which political activity could take place without fear of coercion, intimidation or reprisals.

Following comments provided by various interest groups, the Code of Conduct was revised for the purpose of the local government elections. The objective of the Code remains the same, but some provisions have been adjusted or extended.

The revised regulations prepared by the Regulations Task Team of the ETG (Chapters 18-22 and Schedule 3) are clearer in terms of the binding nature of the Code, the groups and individuals to whom it applies, and the processes by which it will be enforced. This means that:

1. The lodging of an application for registration or nomination by a party or candidate automatically binds that party, candidate, and every "representative" to the provisions of the Code.

2. "Representatives" include party agents, messengers, subscribers to the nomination of a candidate, persons on party lists for proportional representation, and supporters (including all party members or financial subscribers).

3. A contravention of the Code by a representative is regarded as a contravention also by the party or candidate, thus reinforcing the accountability of the party or candidate for the actions of their representatives.

4. Electoral Tribunals and an Electoral Appeal Tribunal will be appointed in each province, by the respective Premier. These Tribunals are intended to ensure that the Code is effectively enforced.

5. Penalties have been set at R 100,000 for any infringement of the Code.
The Returning Officer for the transitional authority to which any complaint applies will be responsible for:

6. Receiving and processing an affidavit filed by the person (claimant) wishing to institute proceedings against a party or person (respondent).

7. Making every effort to resolve the dispute without referring it to the Tribunal.

The Tribunal should attempt to resolve the issues "effectively, equitably and quickly", without recourse to extensive and technical legal procedures. Exactly how this will be accomplished will be determined by each Tribunal.

The new regulations attempt to simplify procedures to permit easier enforcement by non-legal participants and give the Tribunals greater control over their own procedures.

5.2. Presence of Political Party Agents and Candidates at Voting and Counting Stations

Whilst it is important to have political party agents present to observe the proceedings at voting and counting stations, the presence of candidates themselves creates a danger of escalating tension and conflict. Even if candidates do not behave in a threatening manner, voters may feel intimidated by their presence and lack confidence in the secrecy of their vote, particularly in areas characterised by inter-party conflict and violence. Therefore, the election regulations should prohibit the presence of candidates within the inner perimeter of a voting station, in keeping with international practice.

Party agents, who are well-trained in the various aspects of the Election Law and regulations, will be best able to monitor the proceedings and protect the interest of their parties. In the absence of official election monitors, employed by the electoral authorities, the role of party agents is particularly important. However, that role will only be constructive if these agents understand exactly what is expected of them, what their rights and responsibilities are, and what they are not permitted to do. It is the political parties which must undertake to ensure that each of their agents is fully trained and ready to abide by the Electoral Code of Conduct and all other regulations.
5.3. **Provisions of the Code**

While reference should be made to the formal provisions of the regulations themselves when reporting violations, the following is a summary of the provisions of the Electoral Code of Conduct:

1. Publicly condemn violence and intimidation.
2. Do not engage in violence or intimidation, or in language or action which might lead to violence or intimidation.
3. Do not allow weapons to be carried or displayed at political meetings, marches, demonstrations, voting stations, etc.
4. Do not publish or repeat false, defamatory or inflammatory allegations about political opponents.
5. Cooperate with other political parties to avoid scheduling political activities at the same times and places.
6. Do not impede access to eligible voters by political opponents.
7. Do not destroy, disfigure or remove other political parties’ campaign materials.
8. Do not plagiarise other political parties’ symbols, colours or acronyms.
9. Do not bribe eligible voters in respect of the election campaign or voting.
10. Do not abuse positions of power, influence, or privilege in respect of the election campaign or voting.
11. Do not discriminate on the basis of race, sex, ethnicity, class, gender, or religion in connection with the election or electoral activity.
12. Facilitate the equal participation and access of women to political activities and to vote.
13. Cooperate with the electoral authorities in investigating issues and allegations in connection with the election.
14. Take all reasonable steps to ensure the safety of electoral officers, voters’ roll officers and their authorised representatives from insult, hazard or threat in the course of their official duties.
15. Reassure voters with regard to the secrecy and integrity of the ballot, and that no one will know how any other person has voted.
16. Take necessary and reasonable steps to discipline and restrain the party’s or candidate’s representatives, employees or supporters from:
   a. Infringing the Code;
   b. Committing any offense in terms of these regulations or any other law;
   c. Committing any prescribed election irregularity;
   d. Contravening or failing to comply with any provision of the election regulations.
17. Establish and maintain communication with the Provincial Government, the voters’ roll officer, the returning officer, and the election committee, and with parties and candidates at provincial and local level, including the exchange of names, addresses, contact telephone and fax numbers of election agents and other relevant office-bearers and representatives.
5.4. Commitments to be Made by Political Parties

In becoming bound to the Code, all parties, candidates and representatives agree to promote its objective and to enable electoral campaigning and public debate to take place throughout the provinces. They commit themselves:

1. to give wide publicity to the Code;
2. to promote voter education campaigns;
3. to instruct their members and supporters accordingly.

The political parties undertake to ensure that:

4. Each party, candidate or representative nominated to that party shall ensure his or her attendance and participation at meetings of any liaison committee or other forum in connection with the election convened by or on behalf of the Premier.
5. Candidates and representatives cooperate with the designated electoral authorities and accept their decisions and directives.
6. In taking part in the election and thereby accepting this Code, they will accept the outcome of the election as declared by the electoral authorities.
7. They will facilitate access by civil society monitors to political activities and permit them to carry out their role as observers of the election process.
8. Through extensive training, their agents will play appropriate roles during the campaigns and at the voting and counting stations.
9. They shall discipline those candidates and representatives who do not adhere to the Code.

5.5. Enforcement of the Code

The regulations provide that the Premier of each province will appoint legal officers to a Tribunal. The nature, composition and location of the Tribunals is left to the sole discretion of the Premier.

Complaints by any party or individual may be made to the Tribunal. The Tribunal will establish the necessary hearing procedures and make a judgement in the dispute.

Guilty parties may, in terms of the regulations, be fined R 100,000 for any violation of the Code. Several political parties appear to have issued strict instructions to all their structures to adhere to the Code.