



INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

GENERAL ELECTIONS HANDBOOK FOR OBSERVERS



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DEFINITION OF TERMS

In this handbook, the following terms shall have the following definitions:

“Commission” means the Independent Electoral and Boundaries Commission (IEBC), constituted under Article 88 of the Constitution of Kenya, 2010.

“Electoral process” means all aspects of the election process and all election technologies including, but not limited to, voter registration, nomination of candidates, campaigning, polling, counting, announcement of results, and processing of complaints and disputes.

“Observer” means a person or an organisation accredited by the Commission to observe an election or a referendum.

“Monitor” means a person or an organisation appointed by the Commission to examine an election or a referendum.

“Observer organisation” means any individual organisation registered under the laws of Kenya and accredited by the Commission. When two or more accredited observer organisations form a working group or partnership for – among other things – election observation, such working group or partnership shall be deemed to be a single observer organisation.

“International Observers” means an observer deployed by, or under, the authority of intergovernmental agencies, international organisations and other NGOs not domiciled in Kenya

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

Our Vision

To be an independent and credible electoral management body committed to strengthening democracy in Kenya.

Our Mission

To conduct free and fair elections and to institutionalise a sustainable electoral process.

Our Mandate

The Commission is responsible for conducting, or supervising, referenda and elections to any elective body or office established by the Constitution, and any other elections as prescribed by an Act of Parliament.

Our Address

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FOREWORD

The Independent Elections and Boundaries Commission (IEBC) is mandated by Article 88(4)(h) of the Constitution of Kenya, 2010 to facilitate observation, monitoring and evaluation of elections.

Observation of elections by independent observers enhances the legitimacy of the electoral processes, as well as the outcome. The reports of observers provide objective critique of an electoral process, giving recommendations on how best the Commission could improve future management of elections, hence increase election integrity.

This handbook has been published as part of IEBC's commitment to transparency and integrity in the conduct and management of elections in Kenya.

This Handbook for Observers clarifies the rights and roles of observers within the electoral legal framework. It further stipulates the code of conduct to be adhered to by both domestic and international observers, in accordance with international standards of election observation.

I wish to acknowledge the support of all Commissioners, particularly, the members of Voter Education and Media Committee, as well as the IEBC Management, led by the Deputy Commission Secretary in charge of operations.

I also recognize the role of the Directorate of Voter Education and Partnerships – including Director Rasi Masudi, Jane Gitonga, Joyce Ekuam, Lawrence Barasa, Joyce Akello and Ann Njanja in developing this hand book.

We are also indebted to Mr. Bosire Nyamori and Mr. Kamau Wairuri of Strathmore University for their technical input in this handbook.



Ezra Chiloba
Commission Secretary/Chief Executive Officer

Section One

BACKGROUND

INTRODUCTION

These guidelines and the associated forms are intended to provide election observers with the information they need to effectively observe and report on the electoral process and systems in Kenya.

THE FUNCTIONS OF THE IEBC

The IEBC is established under Article 88 of the Constitution of Kenya (2010). It is mandated to conduct and supervise elections to any elective body or office in Kenya, as well as conducting referenda, as provided for in the Constitution and the relevant Acts of Parliament.

The IEBC is specifically responsible for:

- continuous registration of citizens as voters;
- regular revision of the voters roll;
- delimitation of Constituency and Ward boundaries;
- regulation of the process by which parties nominate candidates for election.
- Settlement of electoral disputes;
- registration of candidates for election;
- voter education;
- facilitation of observation, monitoring and evaluation of elections;
- regulation of campaign financing;
- development and enforcement of a Code of Conduct for candidates and parties contesting elections;
- monitoring of compliance with the legislation required by Article 82(1)(b) of the Constitution relating to nomination of candidates by parties.

THE STRUCTURE OF IEBC

The Commission comprises of a Chairperson and six (6) members, supported by a secretariat.

The Commissioners

The Commissioners provide oversight and direction through established committees. As an independent constitutional commission, the IEBC is exempt from governmental or administrative authority in the exercise of its functions.

The Secretariat

The IEBC Secretariat is the administrative and executive arm of the Commission. It is responsible for the execution of the various phases of the electoral process. The secretariat is headed by the Commission Secretary, who also serves as the Chief Executive Officer (CEO). The Commission Secretary is supported by two Deputy Commission Secretaries (DCS), one in-charge of Operations and the other one in-charge of Support Services. The functions of the Secretariat are arranged under 8 Directorates: (1) Legal and Public Affairs, (2) Voter Education and Partnerships, (3) Voter Registration and Electoral Operations, (4) Finance, (5) Information and Communication Technology, (6) Research and Development, (7) Human Resource and Administration and (8) Risk and Compliance. Each Directorate is headed by a Director.

The IEBC's operations are decentralised with field officers in 17 counties managed by County Elections Managers (RECs). The Commission has also established offices in each of the 290 constituencies. Each of these is managed by a Constituency Elections Coordinator. The Constituency Election Coordinators are supported by 290 Constituency Assistants. The organisational structure is contained in Figure 1.

1.1.1.1 The IEBC Headquarters

The IEBC Headquarters (HQ), located in the city of Nairobi, hosts the Commission and the National Secretariat. The HQ is responsible for the development and oversight of plans and for the overall management of the electoral process.

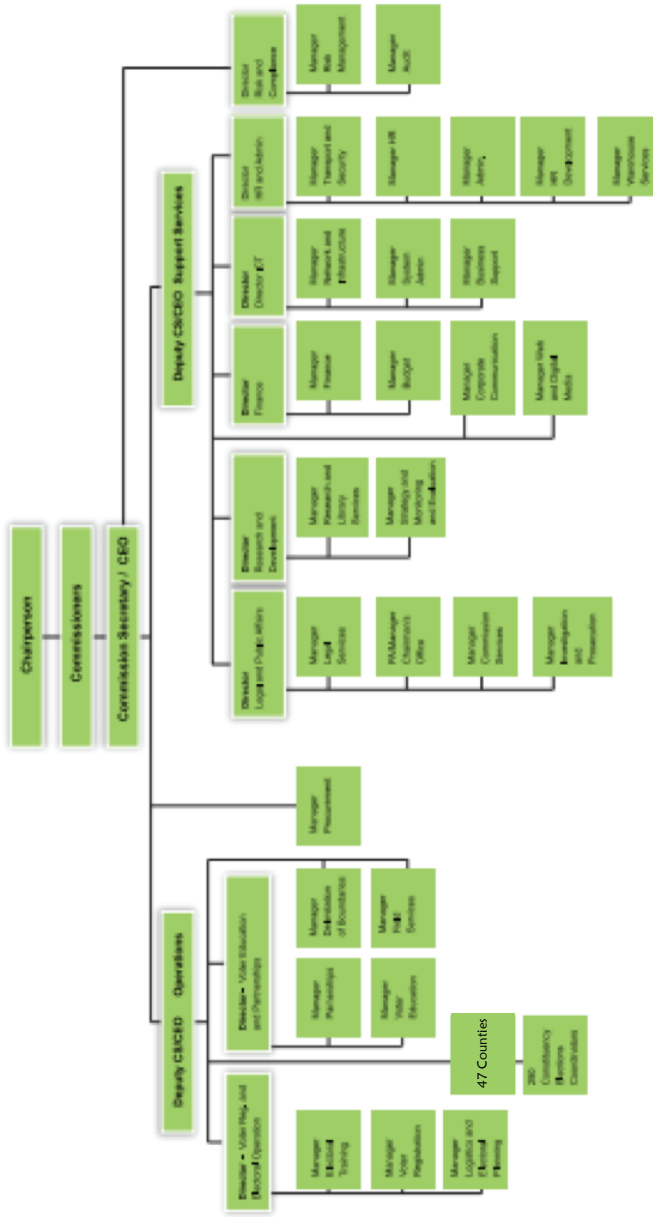
1.1.1.2 The County Offices

The CEMs coordinate and supervise the work of the Constituency Electoral Coordinators and monitor the progress of electoral processes in their counties.

1.1.1.3 Constituency Electoral Offices

The Constituency Election Coordinators (CECs) supervise and implement the various phases of the electoral process including voter registration, voting, counting and tallying of votes in their respective electoral Constituency assisted by the Constituency Administrative Assistants and temporary polling staff.

Figure 1: JIBC Organizational Structure



Section Two

ELECTION OBSERVATION

Introduction to Election Observation

Election observation is widely accepted around the world. It is conducted by various organisations, including foreign missions, inter-governmental organisations, non-governmental organisations, civil society organisations, faith based organisations and academic and research institutions, among others. The purpose of election observation is to provide an impartial and accurate assessment of the conduct of electoral processes by the Electoral Management Body (EMB) and other relevant stakeholders. Election observers, both domestic and international, are usually invited to observe all phases of the electoral process.

Who is an elections observer?

An election observer is an individual, a group or an organisation accredited by the Commission to observe an election or a referendum, but working independently. Observers gather information about electoral process and outcomes, and use the information to make informed judgments on the conduct of the election, more so with regard to how credible, free and fair the election was. Election observers can be either domestic or international.

Elections observers and Elections Monitors

Election observers are different from election monitors. While observers only monitor going on quietly, monitors promote compliance with the electoral legal framework and help to deter questionable activities. Unlike election observers, election monitors may be partisan (conducted by political parties) or non-partisan (conducted by accredited national or international observers).

Why Observe Elections?

Election observation is a legal requirement that serves to enhance the credibility of the Commission by promoting public confidence and fostering trust in the electoral process. Election observation helps raise the legitimacy of an electoral process. It is also a learning opportunity for the national Electoral Management Body and election participants.

What to Observe

1.1.2 Many election observer organisations have a checklist of what to look out for while observing an election. These criteria usually include:

- i. administration and functioning of the electoral process;
- ii. legal and institutional framework for the electoral process;
- iii. Political context and climate in which the election is held.

1.1.3 Observers should cover the entire process from the beginning to the end, including the pre-election period, the election day and the post-election period. It is encouraged that coverage of an observer mission should be as broad as possible, with sufficient observers stationed throughout the country.

The Rights of Observers

Accredited observers have the right of:

- a) access to registration centres, nominations centres, polling stations, tallying centres (constituency, county and national) and the IEBC national and field offices;
- b) access to official information about the country and the elections from all election officials as long as the information is factual, public and within the official's knowledge;
- c) attending meetings convened for the briefing of election observers or for any other purpose;

- d) receiving cooperation from all election officials within the law;
- e) communicating with any person inside the polling station (other than a voter) if they obtain permission from the Presiding Officer and do so in a manner that does not interfere with the flow of the polling process;
- f) speaking, or communicating, with any person at any place outside the polling station on matters connected with the elections; and
- g) protection and security by the National Police Service while executing their role of observing elections.

Responsibilities of Observers


It is important for election observers to follow certain rules in the execution of their mandate in order to safeguard the integrity of elections.

Election observers are responsible for:

- a) Observing and documenting good practices and detecting integrity problems in the electoral processes, and bring them to the attention of the election management body and the public;
- b) complying with the Electoral Laws of Kenya and the code of conduct for observers;
- c) developing a deployment plan for the polling units or stations to be covered;
- d) meeting the costs associated with organising and deploying their observation mission and teams;
- e) where applicable, fulfilling the necessary immigration requirements for obtaining entry to Kenya.

Responsibilities of the Commission

- a) inviting potential observers to apply to the Commission for accreditation;
- b) establishing an Election Observers Accreditation Centre;

- 
- c) accrediting observers within a reasonable time to facilitate their planning;
 - d) providing observers with requisite information (e.g., list of polling stations, a map of polling stations and IEBC contact offices);
 - e) guaranteeing unimpeded access, within the confines of the law, to observers at all the stages and processes of the election; and
 - f) ensuring that all IEBC staff act within the limits of their powers and authority, and as much possible, assist the observers to carry out their role.

Section Two

LEGAL AND INSTITUTIONAL FRAMEWORK FOR ELECTIONS OBSERVATION

Introduction

1.1.4 The primary principles of elections in Kenya are established by the Constitution of Kenya, 2010 and an ensemble of statutes that govern the conduct of elections. Elections observers should be aware of these laws if they are to gauge the competence and impartiality of the IEBC in the conduct of elections in the country.

1.1.5 The laws on elections are found in the following sources of law:

- a) The Constitution of Kenya, 2010;
- b) Elections Act, 2011; Regulations have been made to facilitate compliance with the Elections Act:
- c)
 - (i) Elections (General) Regulations, 2012;
 - (ii) Elections(voter registration) regulations, 2012
 - (iii) Elections (voter Education) regulations,2012
 - (iv) Rules of Procedure on Settlement of Disputes, 2012;
 - (v) Elections (Parliamentary and County elections) Rules, 2013;
 - (vi) The Elections (Technology) Regulations, 2017
- d) Independent Electoral and Boundaries Commission Act, 2011;
- e) Political Parties Act, 2011;
- f) Elections Campaign Financing Act, 2013;
- g) Elections Campaign Financing Act Regulations, 2016;
- h) Elections Offences Act 2016;
- i) Leadership and Integrity Act, 2012;
- j) National Cohesion and Integration Act, 2008;
- k) Supreme Court (Presidential Election Petition) Rules, 2013; and
- l) Nomination Guidelines, 2012

1.1.6 In addition to the above, Kenya is party to international conventions and frameworks that set out standards and benchmarks for credible, free and fair elections. These conventions include:

- (i) Universal Declaration on Human Rights (UDHR);
- (ii) International Covenant on Civil and Political Rights (ICCPR);
- (iii) The African Charter on Human and Peoples Rights (ACHPR);
- (iv) The Declaration of Global Principles for Non-partisan Election Observation and Monitoring by Citizen Organisations; and
- (v) Code of Conduct for Non-partisan Citizen Election Observers and Monitors.

Highlights of the Laws

The following sections outline some of the key provision of these laws.

The Constitution

The Constitution provides the general framework for management of elections; all other electoral laws derive their authority from the Constitution. The Constitution guarantees the exercise of political choice by stipulating rights and principles that must inform elections.

1.1.7 Below are some of these principles:

- (i) **Article 1** of the Constitution of the Republic of Kenya, 2010, stipulates: “All sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution. The people may exercise their sovereign power either directly or through their democratically elected representatives.”
- (ii) **Articles 10 (2)** encapsulates the national values and principles of governance that must inform the policy

process and law making including inclusiveness, fair, public participation, transparency and accountability.

(iii) Article 38 (1) states that “Every citizen is free to make political choices which include the right to: form or participate in forming a political party; participate in the activities of, or recruit members for a political party; or campaign for a political party or cause.

(iv) Article 38 (2) states that every citizen has the right to free, fair and regular elections based on universal suffrage and the free expression of the will of the electors for: any elective public body or office established under the constitution or any office of any political party of which the citizen is a member.

(v) Article 38 (3) states that every adult citizen has the right, without unreasonable restrictions: to be registered as a voter, to vote by secret ballot in any election or referendum, and to be a candidate for public office, or office within a political party of which the citizen is a member and, if elected, to hold office.”

(vi) Article 81 of the Constitution states that the electoral system should comply with several principles:

- a) Freedom of citizens to exercise their political rights under **Article 38**;
- b) Not more than two-thirds of the members of elective bodies shall be of the same gender;
- c) Fair representation of persons with disabilities;
- d) Universal suffrage based on the aspiration for fair representation and equality of vote and
- e) Free and fair elections which are:
 - i. by secret ballot;
 - ii. free from violence, intimidation, improper influence or corruption;

- iii. conducted by an independent body;
- iv. transparent; and
- v. administered in an impartial, neutral, efficient, accurate and accountable manner.

The Elections Act

The Act stipulates the procedures to be followed during elections. These include:

- a) registration of voters and determination of questions concerning registration;
- b) nomination of candidates by a political party;
- c) nomination of party list members;
- d) holding of elections;
- e) determination and declaration of results;
- f) voter education;
- g) accreditation of observers, agents and reporters;
- h) participation in elections by public officers;
- i) use of technology;
- j) recall of Member of Parliament;
- k) referendum;
- l) election offences;
- m) election disputes resolution, and
- n) Electoral Code of Conduct.

to operationalize this Act, various regulations have been put in place. these include:

Elections (General) Regulations, 2012

The Elections (General) Regulations 2012 are established under the Elections Act and they spell out the procedures for:

- appointment of returning officers and other election officials;
- qualification for persons seeking elective positions;
- political parties and independent candidate's symbols;
- designation and gazettement of electoral areas and polling station;

- issuance of writs and notices;
- nomination of candidates;
- campaigns;
- polling, tallying and counting of votes;
- announcement of results and returns; and
- Dispute resolution mechanisms.

The Elections (Voter Registration) Regulations, 2012

These regulations provide for the manner and procedure of conducting voter registration, inspection and verification of the register of voters. It also provides for the audit of Register of Voters

Elections (Voter Education) Regulations, 2012

These regulations provide for the mode of regulating the voter education process including development of the voter education curriculum, accreditation of stakeholders and administration of voter education programmes

Election Offences Act

This lays out offences, and corresponding punishment, arising from elections.

The Independent Electoral and Boundaries Commission Act 2011

The Act provides the legal framework for appointing Commissioners and effectively operationalises the functions of the Commission as established by Article 88 of the Constitution.

Rules and procedures on settlement of disputes, 2012

These rules provide for the procedure for filing, hearing and determination of claims, complaints, challenge or contest relating to any stage of the electoral process and including disputes relating to or arising from nominations but excluding election petitions and disputes subsequent to the declaration of election results.

The Political Parties Act 2011

Political parties in Kenya are required by the Constitution to adhere to democratic principles. The Political Parties Act, 2011 provides for registration, regulation and funding of political parties. The Act provides that every registered political party shall deposit their party Constitution, nomination rules and membership lists with the Registrar of Political Parties during the registration process. The Act provides for the Registrar of Political Parties to regulate compliance by Political Parties.

The Election Campaign Financing Act, 2013

The Elections Campaign Financing Act, 2013 imposes limits on campaign financing to regulate how candidates and political parties raise and spend money. The provisions of the Act provide a framework for ensuring that money is used for only legitimate purposes during elections and not as a means of promoting insecurity and distorting the electoral process and outcomes.

Specifically, the Act requires the Commission to:

- a) keep a register of campaign expenditure committees;
- b) supervise candidates, political parties and referendum committees in relation to campaign expenses;
- c) set spending limits and enforce compliance with such limits;
- d) verify sources of contributions to a candidate, a political party or a referendum committee;
- e) monitor and regulate campaign expenses;
- f) provide a framework for the reporting of campaign expenses;
- g) advise a candidate, a political party or a referendum committee on any matter relating to campaign expenses; and
- a) receive expenditure reports from candidates, political parties and referendum committees.

Elections Campaign Financing Act Regulations, 2016

These regulations seek to control the means by which election campaign resources are raised and spent. They institute spending limits for the different elections, nature of contribution and donations in which contributions may be made, monitoring and supervision of parties and candidates; procedures for disclosure of the amount of contribution made to a candidate or a party; mechanisms and procedures for reporting; manner in which records shall be prepared and maintained; and procedures for the determination of claims and objections

Leadership and Integrity Act, 2012

The primary purpose of this Act is to ensure that State Officers respect the values, principles and requirements of the Constitution. State Officers are to conduct themselves in a manner that:

- demonstrates respect for the people;
- brings honor to the nation and dignity to the office that they serve; and
- promotes public confidence in the integrity of the office that they serve.

Further, the Act requires every candidate contesting an election to complete a Self-Declaration Form and submit it to the Commission.

The National Cohesion and Integration Act, 2008

The National Cohesion and Integration Act, 2008 provides for the establishment of the National Cohesion and Integration Commission (NCIC). The Act prohibits a person from discriminating against another person on the basis of their ethnicity and makes hate speech an offence. This is important especially during the election period.

Supreme Court (Presidential Election Petition) Rules, 2013

These rules have been developed under the Supreme Court Act, 2011, to provide for the process of filing a petition against a person declared to be the winner of a presidential election and the timelines for hearing and determination of Presidential election petitions under Article 140 of the Constitution.

Nomination Guidelines

The Commission has the mandate, under Article 88(4) (d), to regulate the process by which political parties nominate candidates for elections. To this end the Commission has developed nomination guidelines that specify the key democratic principles that need to be followed during nomination of candidates.

Legal Basis for Appointment of Observers

The Commission accredits observers of Kenyan elections under the powers conferred on it by Section 42 of the Elections Act, 2011, and the plenary powers available to the Commission under the Constitution and the IEBC Act. Election observers work under the superintendence, control and discipline of the Commission beginning from the date of their appointment until the process of election is completed. Section 42 (Accreditation of Observers, Agents, Reporters, etc.) of the Elections Act 2011 states that the Commission may at any election accredit –

- a) any person as an observer, an agent or media representative; or
- b) any person or institution to report on an election.

Under section 109 (1) (y), the Commission may write regulations to provide for the conduct of election observers, the media, monitors and evaluators and organisations carrying out civic and voter education.

Section Three

ACCREDITATION OF ELECTION OBSERVERS

Introduction

- 3.1.1 Accreditation is the process by which the Commission verifies and formally authorises organisations to participate in election observation.
- 3.1.2 Accreditation confers official recognition that observers meet the requirements of the Commission and are therefore allowed to access venues where voter registration, voting, counting, collation, tallying and announcement of results take place. Normally, the Commission sets up an Election Observers Accreditation Centre during the electioneering period.

Types of Observers

There are generally two main categories of observers: (1) domestic and (2) international.

Eligibility for Accreditation

The right to observe the electoral process is safe guarded by law. However, this right is exercised through registration and accreditation for observation by the IEBC. Those who may apply for accreditation include:

- i. Inter-Governmental Organisations
- ii. Governmental bodies whether regional, continental or International Organisations
- iii. Representatives of foreign missions
- iv. Domestic and International NGOs
- v. Kenyan organisations including but not limited to Civil Society Organisations, Faith-Based Organisations, Community Based Organisations
- vi. Any other body deemed to be qualified by IEBC.

When to apply for Accreditation

- 3.2.1 All organisations willing to become observers should apply for accreditation at the IEBC Head Office in Nairobi, after the Commission issues a notice of election or when the Commission invites observers to apply.
- 3.2.2 The notice of election and calls for applications are made in national daily newspapers and on the website of the Commission.

How to Apply for Accreditation

Application for accreditation as an observer should be in the prescribed form. The application forms are available on the IEBC website (<http://www.iebc.or.ke>), IEBC headquarters and IEBC Constituency Offices.

The forms are:

- i. IEBC/ ACOB-01;
- ii. IEBC/ ACOB/ -02/ and
- iii. IEBC/ ACOB-03.

Applicants for accreditation must ensure that their duly completed application form, accompanied by all required information, is returned to the correct address before the deadline set by the Commission.

Application for accreditation as an Observer

The following procedures shall apply when an organisation seeks accreditation as an observer from the Commission:

a) Application for accreditation

An application for full registration must be in writing using the forms provided by the Commission and must be signed by authorised officials of the institution.

b) Documents to accompany application

The application for accreditation must be accompanied by the following documents/information:-

- i. a copy of the registration certificate of the organisation as a legal entity in Kenya, or in their country of origin;
- ii. A certified copy of the organisations constitution;
- iii. the organisation's profile to demonstrate its financial and logistical capacity to carry out the intended election observation;
- iv. a deployment plan of the observer mission;
- v. a signed authorisation form for two contact persons, preferably officials, accompanied by copies of their national identity cards (IDs) or passports, telephone numbers and physical address;
- vi. a list of the proposed names, passport/ID numbers, email addresses (where possible) and cell phone numbers of each observer in the mission;
- vii. a signed declaration form of each of the observer together with a photocopy of observers' ID cards or passport;
- viii. soft copies of passport sized photos (Size 1.5 cm x 2 cm) of each observer, well labelled to reflect their name, ID/Passport number and name of the observer group;
- ix. an undertaking and firm commitment that the organisation, its officials and proposed election observers shall maintain impartiality and non-partisanship with regard to political contestants and political issues and views throughout the election period; and
- x. affirmation that the organisation, its officials and election observers nominated by it will comply with lawful instructions issued by the Commission or its election officials from time to time.

NB: Assistants to International Observers, whether local or international, must also be accredited.

Acceptance/rejection of application of observers

- i. The Commission shall scrutinise carefully all applications for accreditation with reference to the criteria set out in the guidelines and upon the evaluation of an organisation's suitability for accreditation accept or reject the application.
- ii. The Commission may reject an application for accreditation submitted by an observer organisation if its Chief Executive or a member of its Board of Directors, or a member of any of its management committees, by whatever name called, is or has in the last six months preceding the date of application, been an active member or associate of any political party or independent candidate or is a candidate or an activist for any candidate seeking public office in an election during the period and within the geographical area for which accreditation is being sought.
- iii. The Commission may publish a notice requesting for any objection to any organisation's accreditation in newspapers of national circulation.
- iv. If no objection is received from any quarter upon publication of such notice, the Commission shall grant accreditation to such parties within two days from the last date fixed for filing objections to the Commission.
- v. If the Commission receives any objection with regard to any organisation, it shall direct the parties concerned for a hearing at the Commission.
- vi. Upon hearing the parties, the Commission shall grant its final decision.

Validity of Accreditation

An organisation may be accredited as short-term or long-term observers. Short-term accreditation will be valid for a period of three (3) months while long-term accreditation will be valid for a period of one (1) year from its date of issuance, unless revoked earlier.

Revocation of Accreditation

IEBC may revoke the accreditation of any observer in the event that the observer:

- i. violates the code of conduct for observers;
- ii. obstructs or interferes with the electoral process;
- iii. violates any electoral laws of the country.

Section Four

OVERVIEW OF KENYA'S GENERAL ELECTIONS

General Elections

- 1.1.8 In Kenya, General Elections are held every fifth year at the lapse of the term of the President, Members of Parliament, County Governor and Members of the County Assembly. However, a presidential re-run may be occasioned, thirty (30) days after a General Election, if no presidential candidate gets more than half of all the votes cast and at least 25% of the votes cast in each of more than half of the counties.
- 1.1.9 The candidates in the presidential re-run are limited to the top two candidates who scored the highest and the second highest votes, respectively.

Elective Positions in Kenya

There are six elective positions in Kenya; namely:

- i. President, elected by registered voters in the entire country;
- ii. Member of National Assembly, elected by registered voters in a Constituency;
- iii. Member of the County Assembly elected by registered voters in a Ward.
- iv. Senator, elected by registered voters in a County;
- v. County Woman Member to the National Assembly, elected by voters in a County;
- vi. County Governor, elected by registered voters in a County.

Allocation of Seats through Political Party Lists

The Constitution provides for elections by Party Lists. This system is meant to ensure fair representation of marginalised and minority groups. Each party submits to the Commission a list of persons who stand elected if the party were entitled to all the seats in the National Assembly, Senate and County Assembly on the basis of proportional representation as follows:

The National Assembly

Twelve people are nominated to the National Assembly, which is a House of Parliament. The twelve members are nominated by Parliamentary Political Parties according to their proportion of members of the National Assembly in the elections. They represent special interests, including the youth, persons with disabilities and workers.

The Senate

Political parties nominate sixteen women members to the Senate, which is a House of Parliament. The nomination is done according to their proportion of elected Members of Senate. Among these nominated Senators, two members – one man and one woman – represent the youth. Another two members – one man and one woman – represent persons living with disabilities.

The County Assembly

The number of special seat members necessary to ensure that no more than two-thirds of the membership of the assembly is of the same gender. These numbers of special seats should ensure representation of marginalised groups, including persons with disabilities, women, minorities and the youth as prescribed by Law.

Section Five

POLLING PROCEDURES IN KENYA

Introduction

This section summarises the procedures that are followed during the polling process. It also contains some general information about polling.

The Commission's registration and polling centres are manned by Registration/Presiding Officers. A polling station stream is expected to handle a maximum of 700 voters.

Pre- poll Activities

Some of the key activities in the pre-election process include but are not limited to:

- (i) Mapping and gazetting of polling stations, including those in the diaspora;
- (ii) Preparation of the register of voters;
- (iii) undertaking intensive voter education across all platforms;
- (iv) undertaking intensive stakeholder engagement;
- (v) identifies and recruits polling officials including but not limited to voter educators, clerks and POs
- (vi) gazetting of; date of resignation by public officers, notice of election date, resignation of political parties by independent candidates, submission of signatures of political parties signatories and lists of candidates to the Commission and gazetting of 290 Constituency and 47 County Returning Officers.,
- (vii) briefing of security officers, agents, observers and Media
- (viii) inspection of polling stations and testing of ERTS

NB: The polling stations outside the countries are within the Kenyan embassies or consulates.

Polling Stations

At the level of a polling station the Commission engages one Presiding Officer, and one Deputy Presiding officer, six (6) Polling Clerks and two Security Officers as electoral officials.

Most of the polling stations are located in public facilities like schools, churches, mosques etc.

Polling Process

During polling the Kenya Integrated Electronic Management Systems (KIEMs) shall be used to identify voters. Nonetheless, voting in Kenya is still manual in all polling stations.

Polling Steps

Each polling centre has a Presiding Officer, Polling Clerks and Police Officers.

The voter is expected to go through the following steps at the polling station:

Step One: Polling Station queuing clerk

The Polling Station queuing clerk ensures that voters maintain order outside the polling place, checks that voters have brought their identification documents which they used to register as voters and directs voters to the correct voting place/queue.

Step Two: Voter identification

- (i) The presiding officer shall allow one voter at a time to access the polling station.
- (ii) The name and the number of the voter will be called out loudly
- (iii) The clerk will place the biometrics (fingerprint) of the voter on the device so as to be identified electronically. Once positively identified the voter will be checked in and given a ballot paper for each of the six (6) elections. In the event the electronic device fails, the elections

officials will fall back to the complementary mechanisms to identify the voters

Step Three: Voter Register Clerk

The Voter Register Clerk confirms that the document presented by the voter for identification to vote is the same document that he/she used to register as a voter, checks the name of the voter in register, calls out the name and cancels out the particulars except elector's number and directs the voter to the ballot issuing clerks. If a name of a voter is missing from the register the clerk alerts the Presiding Officer.

Step Four: Ballot Issuance

Three clerks are involved at this stage:

i. Ballot Issuing Clerk One

Ballot Issuing Clerk One detaches Presidential and Member of National Assembly election ballots from booklet, stamps the ballot papers on the back, pre-folds and unfolds the ballot and issues the ballot to the voter instructing the voter to mark each ballot once for the candidate of his or her choice and directs the voter to second ballot issuing clerk.

ii. Ballot Issuing Clerk Two

Ballot Issuing Clerk Two detaches Member of County Assembly and Senator Ballot papers from the booklets designed for Member of County Assembly and Senator Member respectively, stamps each of the ballot papers on the back pre-folds and unfolds each ballot and issues the ballots to the voter instructing the voter to mark each ballot once for the candidate of his/ her choice and directs the voter to third ballot paper issuing clerk.

iii. Ballot Issuing Clerk Three

Ballot Issuing Clerk Three detaches County Woman Member of the National Assembly and County Governor's ballot papers from each of the two ballot booklets designed for County

Woman Member of the National Assembly and County Governor respectively, stamps each of the ballot papers on the back, pre-folds and unfolds each ballot and issues the ballots to the voter instructing voter to mark each ballot once for the candidate of their choice and directs the voters to the polling booth.

Step Five: Marking the ballot

The voter marks the ballot in secrecy hidden by the polling booth. He/she marks each ballot once using a pen or any other method that will be predetermined by IEBC, (if marked by thumbprint, voter must wait for a while for the mark to dry before folding the ballot) folds the ballot and proceeds to the ballot box to cast the ballots.

Step Six: Ballot Box Controller/Inking Clerk

The Ballot Box Controller/Inking Clerk guides voters on which ballot to place in which ballot box and ensures that no voter leaves the polling place without placing the ballots in the respective ballot boxes. After casting the ballot, the voter shall be marked with the indelible marker on the small finger or between index finger and the middle finger (chill sign) in case of cutex or henna.

The presiding officer or the DPO shall lead the voter out of the polling station.

Step 7: Result Tallying and Transmission

Results tallying are done at four levels:

- i. Polling station level
The polling station level caters for results of all the six (6) elective positions of individual candidates. The tallied results are then taken to the Constituency Returning Officer manually. At the same time, the results are transmitted electronically via KIEMs to hit the server and screen of Constituency, County and National Tallying

Centre. Legally, the transmitted results are provisional while the manually tallied and signed copies are the final official results.

ii. Constituency Tallying Centre

At this level the polling centre results are consolidated to become constituency results. The Constituency Returning Officer announces the results and declares the winner of the two elective posts namely: County Assembly Member and Member of Parliament. The tallied results of each candidate of the post of Senator, County Woman Member of the National Assembly, and Governor are forwarded to the County Returning Officer while the tallied results for the Presidential ballot are taken to the National Tallying Centre.

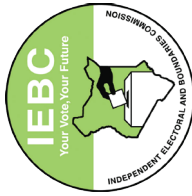
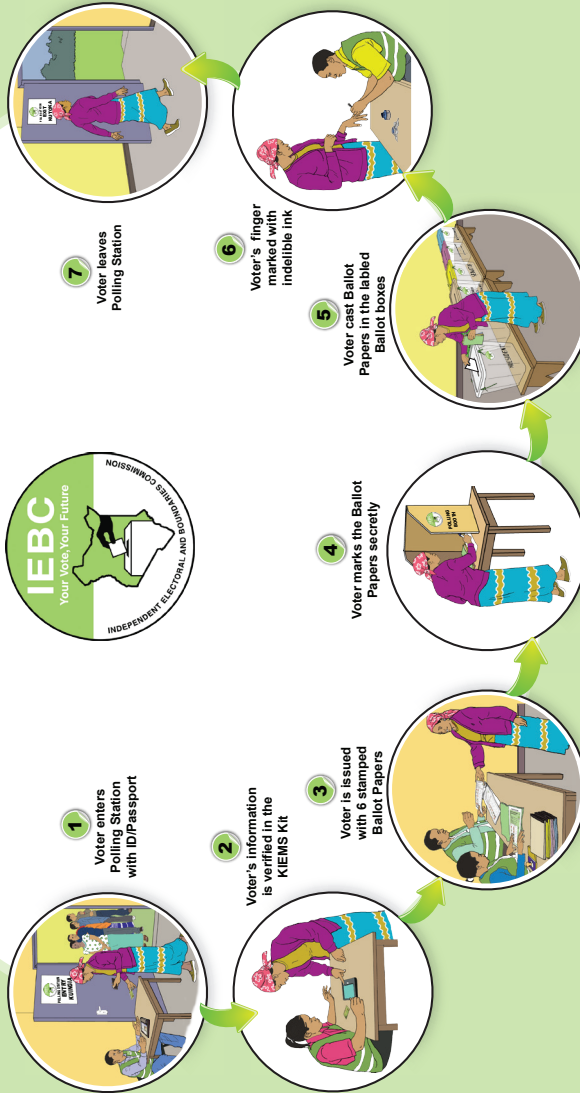
iii. County Tallying Centre

The Returning Officer at this level tallies all the results coming from the constituencies and announces results and winner for the positions of Governor, Senator and County Woman Member of the National Assembly.

iv. National Tallying Centre

The centre receives, tallies and announces Presidential results from Constituencies. It also receives all the official results for the six elective positions. The Chairman of the Commission is responsible for announcing the Presidential elections results. In addition, the National Tallying Centre coordinates all activities, including emergency response and intervention to any reported occurrence from the field. Further, this tallying centre operates a Call Centre, Media Centre and an operational center where logistics are coordinated.

VOTING PROCEDURE



INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)
 National Office: P.O. Box 43371 - 00100 G.P.O., Nairobi, Kenya. Tel: 27169000 Email: info@iebc.or.ke Website: www.iebc.or.ke

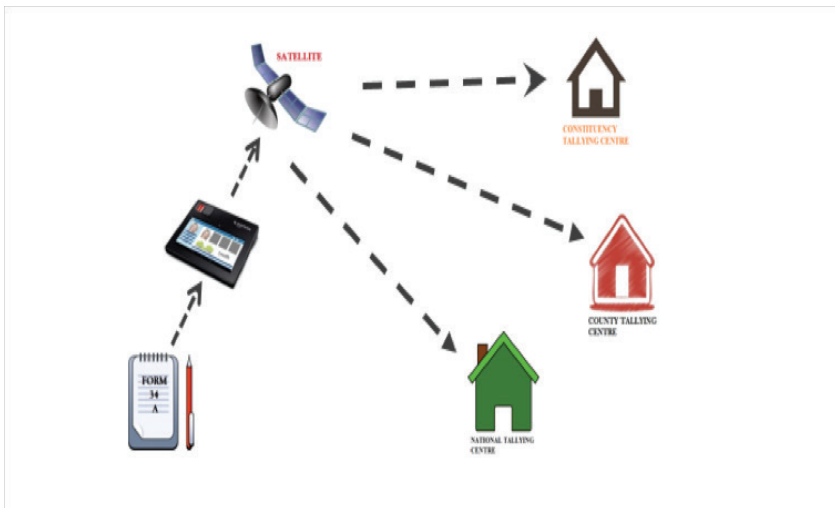
#IEBCKenya
 IEBCKenya
 IEBCKenya

Your Vote. Your Future.

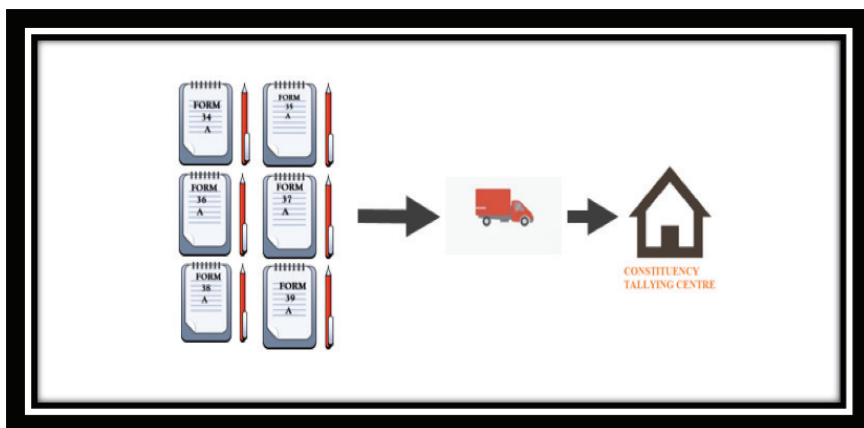
PERSONS ALLOWED AT POLLING STATION COUNTING

- i. IEBC Officials
- ii. Presiding Officer (PO)
- iii. Deputy Presiding Officer (DPO)
- iv. Voting/Counting Clerks
- v. Accredited Political Party/Candidate Agents
- vi. Accredited Media Personnel
- vii. Accredited Observers
- viii. Any other person authorized in writing by the IEBC

POLLING STATION ELECTRONIC PRESIDENTIAL RESULT TRANSMISSION

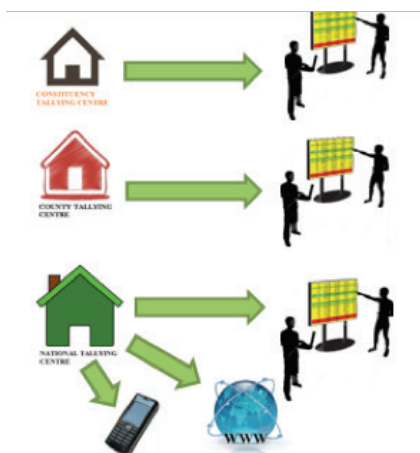


Polling Station Results Delivery to Constituency Tallying Centre

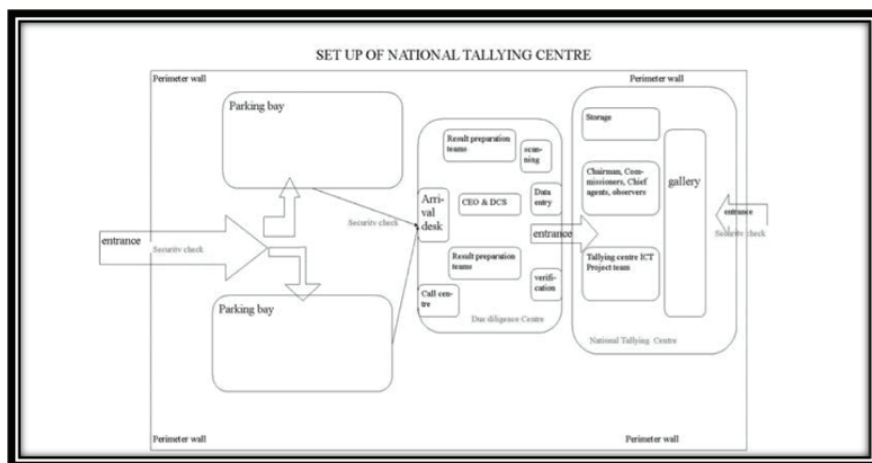


Display of Elections Results

- Member of National Assembly
- Member of County Assembly Ward
- Senator
- County woman Representative to the National Assembly
- Governor
- Presidential
- Member of National Assembly
- Member of County Assembly Ward
- Senator
- County Woman Representative to the National Assembly
- Governor



SET UP OF THE NATIONAL TALLYING CENTER



Section Six

CODE OF CONDUCT OF OBSERVERS IN KENYA

Introduction

Due to the sensitivity of election observation, observers must conduct themselves responsibly. The Commission has therefore developed a Code of Conduct for accredited observers, both domestic and international, as they execute their mandate. The IEBC Code of Conduct for International Observers (hereinafter, the Code of Conduct for International Observers) highlights the internationally recognised standards of observation and defines the rights and duties of observers.

Code of Conduct for Election Observers

Election observers are required to:

Election observers are required to:

- a) **Respect sovereignty of the host country**
- b) **Respect and promote the** political rights and fundamental freedoms of the people
- c) **Respect the Laws of the Country including:**
 - i. Respecting the sovereignty of the Constitution of Kenya, laws, regulations and international obligations consistent with holding democratic elections;
 - ii. Becoming familiar with the election law, regulations and other relevant laws as directed by their observation mission;
 - iii. Following any lawful instruction from the country's government, security and electoral authorities;
 - iv. Maintain strict adherence to the principle of non-violence, call on all involved with the election process to do the same and take any practical steps possible to reduce the potentials for election-related violence.

d) Respect the Authority of the Commission including:

- i. Respecting the roles of the Commission at all levels and at no time interfere unlawfully or inappropriately in the administration of the elections;
- ii. Providing appropriate identification as provided by the election observation mission to electoral officials and other interested national authorities when requested;
- iii. Raising irregularities, fraud or significant problems to the attention of election officials on the spot, unless this is prohibited by law, in a non-obstructive manner;
- iv. Maintaining a respectful attitude toward electoral officials and other national authorities;
- v. Working diligently in cooperation with the Commission officials;
- vi. Obeying lawful instructions from Commission officials or other appropriate authorities concerning protection of electoral integrity.

e) Respect the integrity of their respective election observation mission including:

- i. Following this Code of Conduct, any written instructions (such as a terms of reference, directives and guidelines) and any verbal instructions from the observation mission's leadership;
- ii. Attending observation mission's briefings, trainings and debriefings;
- iii. Reporting any conflicts of interest they may have and any improper behaviour they see conducted by other observers that are part of the mission to the leadership of the observation mission.

f) Maintain strict political impartiality at all times, and be seen to do so, during the electoral process, including desisting from:

- i. Expressing or exhibiting any bias or preference in relation to those seeking public office, or those supporting or opposing any referendum initiative including national authorities, political parties, candidates, groups, movements, associations;
- ii. Conducting any activity that could be reasonably perceived as favouring or providing partisan gain for any political competitor in the country, such as wearing or displaying any partisan symbols, colours, banners or accepting anything of value from political competitors;
- iii. Rejecting all favours offered or threats issued by any of the political contestants or their agents; and
- iv. Asking voters to tell for whom or what party or referendum position they voted.

g) Observers must maintain accuracy of observations and professionalism in drawing conclusions. This includes:

- i. Basing their judgments on the highest standards of accuracy of information and impartiality of analysis, distinguishing subjective factors from objective evidence;
- ii. Ensuring that all of their observations are comprehensive, noting both positive and negative factors;
- iii. Distinguishing between significant and insignificant factors;
- iv. Identifying patterns that could have an important impact on the integrity of the election process;
- v. Basing all conclusions on factual and verifiable evidence and avoiding drawing premature

- conclusions; and
- vi. Keeping and submitting a well-documented record of where specific observations were made and other relevant information as required to facilitate verification of the reports.

h) Observers must refrain from making comments to the public or the media before their specific observer mission speaks

- i. Observers must refrain from making any personal comments about their observations or conclusions to the news media or members of the public before the election observation mission makes a statement, unless specifically instructed otherwise by the observation mission's leadership;
- ii. Observers may explain the nature of the observation mission, its activities and other matters deemed appropriate by the observation mission and should refer the media or other interested persons to the individuals designated by the observation mission.

i) Cooperate with other election observers

Observers must be aware of other election observation missions, both international and domestic, and cooperate with them as instructed by the leadership of the election observation mission.

j) Observers must maintain proper personal behaviour and respect others, including:

- i. Exhibiting sensitivity for local cultures and customs;
- ii. Exercising sound judgment in personal interactions; and
- iii. Observing the highest level of professional conduct at all times, including during their leisure time.

Compliance with the Code of Conduct

- i. Observers must pledge to follow this Code of Conduct by signing the pledge as provided in the application form. The leadership of the observer mission is responsible for the compliance of their observers with this Code of Conduct.
- ii. In case of concern about the violation of this Code of Conduct, the election observation mission shall conduct an inquiry into the matter. If a serious violation is found to have occurred, the observer concerned may have their accreditation withdrawn or be dismissed from the election observation mission

ANNEXES

Annexe I

Election Observer Pledge

I, the undersigned, hereby pledge that:

- 1) **I will serve as a non-partisan election observer** in the forthcoming election period to observe the voter registration, candidate qualification, political party candidate selection, campaign activities, media coverage, voting or ballot counting and tabulation processes or in any other non-partisan observing capacity that I may agree to perform; I will not conduct any partisan activity to affect the choices that voters may make in this election and/or referendum, and I will respect the roles of the Independent Electoral and Boundaries Commission at all levels and at no time interfere unlawfully or inappropriately in the administration of the election and/or referendum;
- 2) **I am neither a candidate nor activist for any candidate**, political party, group, movement or other association that is seeking public office in the upcoming elections, nor am I an activist in support of or in opposition to any upcoming referendum, and I do not intend to become a candidate in this election nor to use any non-partisan election observation organisation as a basis for supporting my candidacy in any future election;
- 3) **I will maintain strict non-partisanship**, by remaining impartial in all activities concerning the election process, refraining from expressing publicly any preference for or against any candidate, political party, group, movement or other association seeking public office or in support for or opposition to a referendum initiative, and rejecting all

favors offered or threats issued by any of the electoral contestants or their agents;

- 4) **I will work in support of a genuine democratic election process**, without regard to who wins or loses, putting aside my personal views about those seeking public office or issues presented in a referendum, in order to promote a democratic process, except when I exercise my right to cast a ballot in the secrecy of a polling booth;
- 5) **I have no conflicts of interest and will refrain from having any**, be they personal, political, economic or otherwise, that would hinder me from fulfilling my non-partisan election observation or monitoring activities impartially, accurately and in a timely manner;
- 6) **I will respect and protect the integrity of the non-partisan election observation organisation**, including by following this Code of Conduct, any written instructions (such as observation protocols, directives and guidelines) and any verbal instructions from the organisation's leadership;
- 7) **I will refrain from making any personal comments about my observations** to the news media or members of the public before the election observation organisation makes a statement, unless specifically instructed otherwise by the organisation's leadership;
- 8) **I will attend all required domestic election observation training sessions**; I will strive to become familiar with the election law and regulations and other relevant laws as directed in the trainings, and I will fully adhere to the methodologies employed by the organisation and will act in all domestic election

observation and monitoring activities to the best of my abilities;

9) **I will report impartially,** accurately (including positive as well as negative factors) and as timely as possible on all events that I observe in my capacity as a non-partisan election observer; and

10) **I hereby vow that I have carefully read and fully understand the Code of Conduct** for Non-partisan Election Observers; I agree to promote its goals and principles and to comply with its requirements. I further vow to resign from my role as an election observer if I should develop any conflict of interest that would hinder me from fulfilling impartially, accurately and in a timely manner my non-partisan election observation activities, or if I should violate the requirements of this Code of Conduct.

.....
Signature Date

.....
Printed Name in Block Letters