



*Voting is the cornerstone of the democratic system. It is the principal means by which the people make known their will with respect to the public policy that should prevail in society and with respect to which persons should formulate and implement it. Through the vote, the citizenry expresses its opinion and its desire as to who should be the rulers of the country and how the main aspects of public life should be handled.*

Jaime Fuster Berlinger

Fundamental Rights and Civic Duties of Persons

## **2024 Electoral Processes**

### **Special Report Resolution No. 2024-001**

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Note Translation by DeepL

## I. Introduction

The Civil Rights Commission, hereinafter referred to as the Commission, is a public agency created by virtue of Act No. 102 of June 28, 1965, as amended. Its main function is to educate the people as to the significance of fundamental rights and the means to respect, protect and enhance them. The Commission investigates possible human rights violations on its own initiative.

The Civil Rights Commission has independent judgment and is a sui generis institution with the authority to evaluate the policies and practices of government agencies from the perspective of the rights recognized in the Constitution of Puerto Rico, the Federal Constitution, and federal and state laws. The law creating the Civil Rights Commission includes, among the functions and powers delegated to it, that of "[h]aving studies and investigations on the observance of human rights and the strict compliance with the laws that protect those rights. See Art. 2(c) of Act No. 102, supra. Pursuant to this power, the Civil Rights Commission determines the reports and studies it sanctions.

The Civil Rights Commission is charged with the responsibility of safeguarding the rights of citizens. The Commission's reports have been endorsed and cited with deference by the Supreme Court of Puerto Rico in the cases of *Leyra v. Aristud*, 132 DPR 489 (1993), regarding police intervention; *Noriega v. Governor*, 130 DPR 919 (1992), related to the practice of carpeteo; *El Vocero v. ELA*, 131 DPR 356 (1992), regarding freedom of the press; and Adolfo Castro, Ombudsman, Ombudsman, Ombudsman, *ELA, 131 DPR 356 (1992), regarding freedom of the press; and Adolfo de Castro, Ombudsman, Ombudsman, v. ELA, 131 DPR 356 (1992), regarding freedom of the press. ELA, 131 DPR 356 (1992), concerning freedom of the press; and Adolfo de Castro, Ombudsman v. Cordero*, 130 DPR 376, 399 (1992), concerning administrative investigations. In addition, they have served

as a basis for the development of important legislation and public policies for the protection of human rights.

Based on this legislative mandate, we initiated an investigation on the exercise of the right to vote in the electoral processes en route to the 2024 general elections. This report analyzes the events that took place and presents recommendations on the electoral system. We seek to contribute to the reestablishment of a system that guarantees the full exercise of the right to vote, a fundamental and constitutional right.

## **II. The importance of processes**

Voting is an essential element for the dignity of the people insofar as it recognizes the possibility of electing those who best represent their visions, aspirations and the exercise of the capacity to influence collective decisions that affect their daily lives. Voting allows the realization of the values of the system related to democracy: freedom, equality and political pluralism. It is the basis of freedom because it is the expression, manifested in an autonomous and voluntary manner, of the personal option on the way in which the political organization of the social system should be developed; it represents the universal principle of equality because the same value is attributed to all acts of participation of all persons, as a consequence of the identical value of all options, which in turn is directly related to political pluralism, which is defined as the guarantee of the existence of different ways of understanding the organization of political power within society. Thus, democracy is realized and the autonomy of the political process with respect to other processes that take place within the social system is ensured, an autonomy that is fundamental for the legitimization of the elected authorities through transparent processes.

The function of the electoral process, as a manifestation of the right to vote, is the source of legitimacy of how government is organized. Elections are the legal way to settle the delegation of political authority.

Much has been said about the importance of electoral processes and the participation of citizens at the polls within democracy. Elections are one of the key instruments in the designation of rulers, the political participation of citizens, the control of the government by them and the interaction between political parties. Modern democracy could not function without electoral processes. The recognition of the right of all individuals to participate must be based precisely on their status as subjects of the system and, consequently, on the abstraction of any other personal, economic or social circumstance.

The attribution of universal suffrage in both constitutional texts and international treaties means that in the articulation of electoral processes any personal, social, cultural, cultural, economic or political circumstance shall be disregarded in order to delimit the condition of suffrage holder.

Along these lines, the Supreme Court of the United States considers that there are certain apparently neutral norms that become discriminatory due to the disproportionate impact that their application has on racial or sexual minorities or historically relegated and disadvantaged groups. Our law, by the way, even provides for economic disadvantage (poverty) as a factor of discrimination. Thus, it can be affirmed that the state policy that prevents the exercise of the right to vote to those persons who are convicted directly impacts on a sector of the population composed in a provenly preponderant way by individuals belonging to economically and socially relegated groups, whose situation of vulnerability has already been aggravated by the State itself. This justifies considering the State's practice as discriminatory treatment, which reinforces the inequality that these individuals suffer with respect to the rest of the population.

The State Elections Commission is responsible for managing the electoral processes, guaranteeing electoral rights and guarantees in Puerto Rico. Its function is not limited to guaranteeing equal access to exercise the right to vote in a free,

direct and secret manner, but also to ensure that the votes are duly counted with the rigor and transparency mandated by law.

### III. Right to vote

The Constitution of Puerto Rico, in its Art. II, Sec. 2, expressly recognizes the right to "universal, equal, direct and secret suffrage...". It thus marks the indelible imprint of the major postulate embodied in the Preamble, which emphasizes the democratic character of our society where political power emanates from the People and is exercised in accordance with the will manifested at the ballot box. It is therefore one of the fundamental guarantees of our democratic system of government, through which the people exercise their sovereign power and express their will. Complementing this mandate are the provisions on equal protection of the laws and the safeguard against discrimination on political grounds. Also of constitutional lineage is the broad power of the Legislature to regulate the electoral process. PSP v. State Elections Commission, 110 D.P.R. 400 (1980).

Within that margin, we have recognized as lawful and compelling objectives any regulation that, without unnecessarily hindering the vote, tends to the realization of a fair, orderly, fraud-free, honest and integral electoral process. P.S.P., P.P.D. and P.I.P. v. Romero Barceló, 110 D.P.R. 248 (1980).

In achieving these goals, the establishment of uniform norms and rules that promote stability, confidence and certainty as to the correct adjudication of all ballots is essential<sup>1</sup>. The Supreme Court of Puerto Rico has reiterated that this express recognition in our Constitution emphasizes the democratic character of our society in which political power emanates from the people and is exercised in accordance with the will expressed at the ballot box.

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<sup>1</sup> P.P.D. v. Barreto Pérez, 110 D.P.R. 376 (381)(1980).

The aforementioned Article II, Section 2 of the Constitution of Puerto Rico provides that the people have the right to "express their will by universal, equal, direct and secret suffrage". This expression is inspired by the Universal Declaration of Human Rights. Under this provision, in Puerto Rico, the intention of the persons exercising the right to vote must be imposed at the time of adjudicating the ballots. The analysis of the votes cast at the time of adjudication is designed so that the will of the person exercising the right to vote is imposed and he is given all possible legal guarantees so that his vote is counted "in the form and manner in which it is cast." 16 LPRA 4002

Article VI, Section 4 of the Constitution of Puerto Rico provides that "No person shall be deprived of the right to vote for not knowing how to read or write...". This Constitutional provision obligates the State to make the election process accessible to all persons, as well as to make it accessible to persons with functional diversity of all kinds and to those who cannot read or cannot read. The Supreme Court of Puerto Rico has interpreted this provision and has expressed that: "In its correct dimension, this postulate may entail, in its various manifestations, a prohibition to nullify the vote because the voter does not follow instructions that only minimally affect the legislative interest that seeks to recognize the true will of the voter". See P.S.P. v. State Comm. of Elections, 110 DPR 400 (1980).

The right to exercise universal suffrage is a fundamental right with legal characteristics. Voting is the principal means by which the people make known what their will is with respect to the public policy that should prevail in society and with respect to which persons should formulate and implement it. Through the vote, the citizenry expresses its opinion and its desire as to who should be the people who govern the country and how the main aspects of public life should be managed.

The constitutional text establishes that general elections shall be held every four years on the day of the month of November determined by the Legislative Assembly. The broad power of the Legislative Assembly to regulate electoral processes within

the framework of constitutional protections is recognized. This electoral event is held for the purpose of having a simple majority of the electorate elect the candidate who will occupy the office of Governor and Resident Commissioner. Likewise, through this event, the mayors of the 78 municipalities are elected, as well as the persons who will occupy the offices of the Senate and the House of Representatives of Puerto Rico.

The federal HAVA Act ("Help America Vote Act") of 2002 42, USC Ch 146 ss 15301 et seq) requires jurisdictions to take steps to modernize and facilitate the voting and canvassing processes. HAVA created mandatory "minimum" standards in several key areas of election administration and provides funding to help states meet these standards and improve voting and election administration systems.

The Puerto Rico Electoral Code of 2020 provides for the creation of the State Elections Commission to guarantee all voters their right to exercise their right to vote in all electoral processes, in an equal, secret, direct, free and democratic manner, as enshrined in the Constitution of Puerto Rico, through a transparent and efficient process that reaffirms the credibility of our people. As published on its web page, its mission is "[t]o guarantee all voters their right to exercise their vote in an equal, secret, direct, free and democratic manner, through a transparent and efficient process that reaffirms the credibility of our people. This is our *raison d'être*."

The Electoral Code establishes the rights and prerogatives of the voter, and was enacted to guarantee impartiality, uniformity, purity, transparency and justice; the right to vote, equal, free, direct and secret, the right to vote in full, mixed vote, vote by candidacy, direct nomination of persons, all of these under conditions of equality; free emission of the vote and to have it counted and adjudicated in the manner it is emitted. It guarantees the supremacy of individual electoral rights over the rights and prerogatives of parties, candidates and political groups. The Code provides for accessibility without barriers and without onerous procedural conditions; a modern and technologically advanced electoral system with options that facilitate the



realization of electoral transactions and the exercise of the vote remotely and in real time.

The Electoral Code establishes the guidelines to regulate the electoral processes, to provide for the structures and terms within the framework of constitutional protections. There is no doubt that the Legislature, through a long legislative history, has clearly established the responsibility of the State Elections Commission to watch over, protect and safeguard the will of the voters in the electoral processes it administers, as set forth in the Constitution of Puerto Rico. It is the responsibility of the SEC to protect the right to vote, to provide certainty and accuracy to the processes from the preparation to the scrutiny.

The issue of the exercise of the right to vote has been present in the interventions of the Civil Rights Commission. We have appeared in multiple instances before the Legislative Assembly in the discussion of measures to improve the conditions for the full exercise of this fundamental right. In October 2016, this Commission issued a special report related to electronic canvassing when that new modality was inserted in our electoral process. On that occasion we issued specific recommendations and highlighted the importance of citizen education processes. In the year 2022 we published a report in which we identified the gaps in the electoral processes that occurred in the primaries and in the general elections of 2020. In that report we issued specific recommendations. Once again, we are faced with an outrageous process that damaged the country's confidence in one of the fundamental institutions of our democracy

#### **IV. Planning and infrastructure**

The Electoral Code imposes the responsibility on the State Elections Commission to establish an adequate planning for the electoral processes to be carried out as provided by law. It requires a work schedule to ensure the effectiveness and efficiency of the electoral process. Through this code, electronic processes were established: an Electronic Register of Voters (eRE or eRE System), an Electronic

Endorsement System (SIEN or SIEN System), and an Electronic *Poll Book*. These changes were intended to facilitate registration and electoral transactions in order to reduce the number of Permanent Registration Boards. In this way, voters could carry out their registration and other electoral transactions through the system remotely. These processes were to be available as of July 1, 2022. However, it was not until the beginning of the electoral cycle that the system began to operate.

The State Elections Commission had to plan and work with great precision and with sufficient time to be prepared to face the electoral process. The Code clearly set forth a timetable that had to be observed to ensure the electoral processes, including the adoption of regulations for the primaries and general elections; for the establishment electoral registries; for the printing of ballots; and for the identification and establishment of polling places. The law redistributed administrative responsibilities to speed up the processes. The legislative intent was to provide speed and security in the electoral processes and to provide the Commission with the capacity and agility to establish its work plans.

During this electoral cycle, the State Elections Commission did not comply with the electoral calendar set forth in the Electoral Code. Neither did they create the conditions established to ensure, especially everything related to early voting, nor were work plans established and executed to ensure an optimal operation of the SEC. Additional failures in the processes were documented at in the delay in the accuracy tests of the electronic canvassing machines. Just two days before the event, the machines were not reading the marks on the ballots and a new instruction had to be established. Nor was a mock election held, as usual. This would have identified the problems and the implementation of corrective actions prior to the event.

The lack of planning created multiple difficulties. From lack of voter education, not having trained work teams with clear goals and guidelines, to causing a bottleneck in electoral transactions.

In the implementation of the actions mandated by the Electoral Code, multiple difficulties were identified, which, if they had been properly planned and executed, would have been better overcome, including the validation processes.

Efficiency, agility and transparency are fundamental in the electoral processes. All the processes starting with the planning, the primaries, the management of the electoral registry, the delay in the approval of the regulations required by the Electoral Code, the advance voting in jails and hospitals, the scrutiny and recount were plagued with imprecision, with multiple changes and guidelines, which caused criticism and many differences among the Electoral Commissioners, causing uncertainty among the voters. Multiple instructions were revoked and amended causing more confusion and delaying the processes. The Commission did not have the capacity to resolve the controversies and differences that arose, so the Court had to be the one to issue the necessary determinations to complete the processes. Many lawsuits filed in the courts drained the capacities of the parties and did not allow progress to be made in the processes leading up to the elections. This resulted in tense and charged environments, delays in the processes and greater distrust from the citizenry.

During the process, multiple groups complained about failures in the communication between the SEC and the public, which contributed to generate more uncertainty and distrust during the processes.

## **V. Historical Role of the CDC as an Observer of Electoral Processes**

As part of our duty to evaluate the actions of the government, since the 1980 General Election, when the right to vote was initially recognized for persons in confinement through absentee voting, the Civil Rights Commission has participated as an observer in the electoral processes in penal institutions. We promote that the results reflect the faithful and accurate intention of the voter. We ensure the integrity of the

process, documenting that people vote freely and without coercion, and offer timely recommendations to improve the processes.

Our historical participation has included the integration of people who, on a voluntary basis and after receiving the corresponding training and after the necessary coordination, with strict adherence to the established security protocols, appear to observe in prisons and other places where electoral processes are carried out.

On September 6, 2024, the Board of Commissioners of the Civil Rights Commission unanimously adopted Resolution 2024-001, in which they stated:

*The Civil Rights Commission, in the discharge of its duties and functions, will be vigilant in taking care, defending and promoting the principles that should govern the electoral processes such as transparency, certainty, legality and the exercise of the right to universal and secret voting in the elections to be held on November 5, 2024.*

*The Civil Rights Commission will deploy Observers at different stages of the election process to ensure the full exercise of the civil rights of all persons (Annex I).*

The Alternate President and the Electoral Commissioners of the parties represented in the State Elections Commission, among other officials, were immediately notified (Annex II).

Through a citizen call, the Observers Academy was activated so that those volunteers who wished to serve as observers, both for the early voting that takes place in the correctional system on Sunday, November 3, 2024; and for the day of the general election event on Tuesday, November 5, 2024, could register and be trained to participate as part of the mandate of the Board of Commissioners.

We established an Observation Protocol to be used in correctional institutions, and another to be used on the day of the general elections. We offered 3 trainings with high citizen participation. In total, we trained 185 people to participate as observers

of the election process. Each of the people who participated in the observation process committed to follow the processes established by the CDC.

Our historical participation in observing the advance voting has allowed us to document the processes inside the prisons, achieving the incorporation of strategies that allow for greater transparency.

## **VI. Complaints received related to the right to vote**

On September 11, 2024, we received a complaint from the Electoral Commissioner of the Movimiento Victoria Ciudadana (hereinafter, MVC), Lilian Aponte Dones. In summary, she stated that officials of the New Progressive Party had visited the *Miramar Living* aegis to process the advance vote.

We immediately began the investigation. On September 18, 2024, we received at the CDC the MVC Election Commissioner, the Alternate Commissioner and the San Juan Precinct 1 Commissioner. The Alternate Commissioner reported having been an eyewitness of an event that occurred on September 5, 2024 at the long duration/égida *Miramar Living* center where she noticed that the NPP San Juan Commissioner was taking information on a form from the mayoral candidate of that party. That the form included all the questions necessary to create an account in the e.R.E. system to request the advance vote, including reference to the documents that must be attached.

His concern was that with the information any holder could access the voter's e.R.E. account, change his address or request any change to his electoral registry without the person necessarily knowing it. That the information requested is broader than that required to process the advance vote. He informed that in that meeting the Commissioner of San Juan was dressed in a manner that made him appear to be an official of the CEE. He was wearing a polo shirt with the CEE logo, with his name on it and he had an ID on his collar very similar to the one issued by the CEE, on a ribbon with the CEE logo. He indicated that the older adults who arrived appeared

to be disoriented as if they did not know why they were there or that they had not requested this service. He perceived that the activity was coordinated because there was an area prepared to receive and attend to the people. When the PNP Commissioner arrived, he addressed the person in charge of the place in a very cordial manner.

On September 24, 2024 we visited *Miramar Living* to learn about the processes for coordinating these events for seniors. The long-term home is the former Hotel Las Americas. It consists of 50 suite rooms and 25 single rooms. There are 82 residents, 6 married couples living there. We were informed that every four years representatives of the parties come to process the advance vote. That all the parties usually communicate with each other to process the advance vote. That the activity is completely voluntary for those who want to vote by mail, on this occasion about 25 residents, since others like to vote in person and their families pick them up the day of the event and go to their respective villages. On the mental state of his residents he acknowledged that the people on the higher floors of the housing have some kind of memory loss or dementia. That these do not participate in the elections, although they are not judicially incapacitated.

We conclude the research by highlighting the need to establish uniform processes for voter registration in long-term care facilities that include uniform forms, instructions and warnings, so that the voter can be assured that his or her information will be handled properly.

## **VII. 2024 Primaries**

The purpose of the Primaries is to define the persons who will represent the political parties that participate in this process in the general elections for the different positions. It is with the exercise of the vote during the election event of the Primaries, that the official candidacies are defined and determined.

On June 2, 2024, the primaries were held as recognized by the Electoral Code to elect the candidates for different positions of the New Progressive Party (NPP) and the Popular Democratic Party (PDP). This primary event was held after the historic primaries of 2020 where serious deficiencies in the process were identified and documented.

The issues related to the calendar for the preparation of the primaries of this electoral cycle were the subject of much public discussion. Delays were documented in the preparation process, in the updating of the voter registry and issues related to early voting applications. For the primaries held in June 2024, more than 6,000 voting machines were used. At the conclusion of the primaries, both parties reported hundreds of ballots with inaccurate results and criticized the operation of the State Elections Commission. During the primary voting process, there were multiple problems in several voting centers, mainly due to the lack of electric service and problems with the electronic canvassing machines.

The report of the Mission of Observers of the Inter-American Union of Electoral Organizations included observations and recommendations related to the voting centers, and long lines in the process, which caused significant crowding of people, lack of signage at the polling stations, and difficulty for voters in the use of the counting machines.

Press reports highlighted multiple problems confronting the State Elections Commission on the night of the primary. One of the issues that dominated the discussion was the downtime of the SEC's external web page. Also of concern was the fact that the results were displayed using the 2011 electoral map without the 2022 electoral redistricting.

The explanations offered by the State Elections Commission pointed out that the problems were due to the digital files used by Dominion to export the results from the machines.

In the face of multiple public questionings about the inefficiency of the CEE, President Alterna publicly announced that she would begin an internal evaluation process to be ready for the general elections. Once again, the need to establish mechanisms for the direction and supervision of the preparatory processes for the primaries was documented.

#### **VIII. Significant notes related to the proceedings with the State Elections Commission and the Department of Corrections and Rehabilitation.**

Since the conclusion of the primaries in June 2024, the CDC began sending communications to the Alternate President of the SEC and to the Electoral Commissioners of all the parties in route to the 2024 General Elections. As soon as the Board of Commissioners approved the Resolution establishing that the Commission would observe the election process, it was notified to both the SEC Alternate President and the Electoral Commissioners of all parties. None of the communications were answered.

As part of the processes we have been carrying out for years, we sent a first communication to the Secretary of the Department of Corrections and Rehabilitation, Hon. Ana Escobar Pabón, regarding our determination to participate as observers of the advance vote to be held in the prisons on November 3, 2024. (Annex III) It is important to emphasize once again that this has been the same process that has been carried out for the past four decades.

On October 15, 2024, we sent a follow-up communication, which was answered on October 16, 2024. (Annex IV) In the letter, Secretary Escobar stated that and we quote:

*Pursuant to the regulations of the Independent Observer Protocol of the State Elections Commission, it is required that any request to be an observer of the General Election and Plebiscite process to be held in November 2024 shall be referred to the Commission. It is incumbent upon the Commission to initially evaluate your request in accordance with said protocol. Once the Commission approves your request, the Department shall determine, in accordance with*



*applicable and current security regulations, the conditions that must be fully complied with in order to participate in this process.*

In multiple instances we attempted to establish communication with the Office of the Alternate Presidency of the CEE. We were only able to communicate our concerns through the clerical staff. On the afternoon/evening of October 17, 2024, the SEC forwarded to us the *Protocol for Authorized Independent Observers in the 2024 General Election, Canvass or Recount* (hereinafter "Protocol") approved by the SEC that same afternoon. (Attachment V).

We immediately sent a communication to the Alternate President in response, presenting our interpretation of the document (Annex VI). That communication, hand delivered, was forwarded to the attention of all the Election Commissioners. From that moment on, every day we tried to obtain information on the determination of the CEE for the coordination of our observation function. Although we requested to speak with an aide to the Alternate Chairperson or legal counsel, all communication was limited to clerical personnel in the Office of the Alternate Chairperson and the SEC Secretary.

The SEC insisted on applying a protocol to the CDC that limits our capabilities, powers and duties. In addition, the protocol does not include any language regarding its applicability to the CDC or any other government agency.

In the absence of information, on October 25, 2024, we filed a motion for the Auxilio de Jurisdicción before the Court of First Instance, Superior Chamber of San Juan. After the procedural steps, on October 28, 2024, a hearing was held. The Court ordered that the list of colleges in the DCR institutions be delivered to us and that the request for background evaluation of the observers be complied with. Within 24 hours we were provided with the information related to the colleges that would be set up in the prisons and we were subsequently informed that only one person had not successfully passed the criminal background check. We immediately informed

them and began the delivery of the materials and IDs that would be used during the observation process.

On Sunday, November 3, 2024, we began to experience serious difficulties in gaining access to several prison institutions. In the three institutions in Arecibo, nor in the Guerrero Institution in Aguadilla did the information from the CDC Director appear. Around noon, two (2) observers in Aguadilla and Guayama were denied entry, alleging that they were not on the list and that only one person would enter. It is important to note that in Aguadilla 14 polling places were set up. At the time our observers were denied entry, there were no other observers in our representation. In the case of Guayama, the advance voting took place in 3 institutions with a total of 10 polling places.

In the case of the CDC Director, after a conversation with the personnel in charge of the Arecibo institutions, it was possible for him to enter. In Aguadilla, the director was forced to make a phone call to Tania Fernandez, Legal Advisor of the Department of Justice to gain access to the prison.

In the Guayama institutions, problems were encountered with several observers and with a legal advisor of the CDC. They claimed that there was already an observer inside the institutions and there was no room for more people. None of the voting stations in the prisons had all the officials representing the 5 parties, so the justification of lack of space was not real. Given the lack of access, at around 11:00 a.m. the CDC again appealed to the court in Auxilio de Jurisdicción.

The court immediately issued an order for the observers' access under penalty of contempt of court. At 1:30 pm, having been notified of the order, the CDC still could not get the agency's legal advisor to enter any of the Guayama prisons. We emphasize that at that time there was only one observer for the 3 Guayama institutions. Given the lack of access, we filed a petition for contempt for failure to comply with the order issued by the Court, which was withdrawn 30 minutes later.

Upon filing the petition and serving it, DCR personnel allowed our legal counsel to enter. Subsequent to these incidents, we did not face any other problems with access to penal institutions.

## **IX. Observation Process**

### **a. Observation in correctional institutions**

We were able to train 52 observers to observe the advance voting in correctional institutions. On the day of the advance voting we had the participation of 30 observers. We had at least one observer at in each correctional facility, including juvenile facilities. Thirty-six minutes of the observations were documented.

It is important to note that the election process within prison institutions is a particular and very complex one. It is necessary to review the background of the officials who will participate on behalf of the political parties in order to be able to give them access to the institutions. In addition to the rigorousness of the process, due to the number of people involved, this process takes several days or even weeks. It requires the establishment of a registry that is sent to each of the institutions with the information of all the people authorized to participate as officials. A security protocol must be completed before accessing the institutions. It should be noted that each institution applies the protocol differently. In some they use the canine unit. In others, only physical searches are performed.

Delays were observed in all institutions. In none of the institutions did the process begin at the scheduled time. In the case of Ponce, the process ended after 11 pm.

In all the institutions we identified that the political parties did not have the necessary staff for the election process. We highlight that in almost all the

schools the only party that had all the officials was the PNP. Neither the PIP, PD nor the MVC had enough officials.

The main observations on the challenges at polling stations in prison institutions are:

1. few school officials
2. lack of ballots
3. slow process
4. inmates who needed someone else to insert the ballot because of hand restraints
5. lack of voting booths for people in wheelchairs
6. inmates who withdrew due to long waiting period
7. machines that were not used in many of the schools.
8. machines presented problems reading the marks on the ballots
9. homophobic and transphobic expressions by RCD personnel
10. difficulty in inserting ballots in the ballot boxes due to the folds in the ballot boxes.
11. inmates who voted without identification, only by correctional officer's ID
12. inappropriate and very small spaces where the schools were established
13. inmates who voted added by hand because they did not appear on the electoral register

The lack of knowledge of the polling station officials who represented the political parties about the processes at the polling stations was documented. They were also unaware of the requirements to vote. In several cases of legal permanent residents of Dominican nationality, they did not know if they could vote.

Most of the records documented good treatment of the correctional population by the custody officers. It was also noted that there were sufficient security personnel in the institutions to attend to the process. An interesting fact is that different security protocols were applied to the people who participated as observers, depending on the correctional institution.

#### **b. Observation in psychiatric hospitals**

On Monday, November 4, 2024 we observed the advance voting process at the psychiatric hospitals and the Alcohol and Substance Detoxification Unit (UDAS), all of the Health and Addiction Services Administration (ASSMCA). We observed the processes at the Forensic Psychiatric Hospital of Ponce; the Forensic Psychiatric Hospital of Río Piedras and the Psychiatric Hospital of Río Piedras, Dr. Ramón Fernández Marina.

The main concern was to determine whether patients had the capacity to exercise their right to vote freely, without coercion. In the observations carried out, we validated that the patients knew what they were doing and for whom they wanted to vote, or at least, they understood what voting was, as well as the positions to be elected.

At Fernandez Marina Hospital we observed that hospital staff, including nurses and administration staff, accompanied and assisted patients in terms of mobility. Many of the patients expressed the need for assistance in voting. Although we cannot conclude that there was undue influence, it is necessary to ensure that the electoral processes are in charge of the officials representing the political parties. In some cases it was hospital officials who clarified patients' doubts. The allegations for this is that the patients trust the employees of the institutions and the officials of the political parties were outsiders.

During the observation process in the psychiatric hospitals, we documented the lack of knowledge of the officials representing the political parties, for example, about the requirements to vote and the processes to be followed. We also documented that the minority parties did not have all the election officials, which resulted in the process being led by the two major parties. All voters in psychiatric hospitals were added by hand.

**c. General election observation**

On Tuesday, November 5, 2024, the day of the general elections, we had 39 observers around the Island. We were able to observe polling stations in 27 municipalities.

1. Aguada
2. Aguadilla
3. Bayamón
4. Cabo Rojo
5. Caguas
6. Canóvanas
7. Carolina
8. Cayey
9. Fajardo
10. Guayama
11. Guaynabo
12. Gurabo
13. Humacao
14. Las Piedras
15. Luquillo
16. Manatee
17. Maricao
18. Mayagüez
19. Naguabo

20. Ponce
21. San Juan
22. San Lorenzo
23. Toa Alta
24. Toa Baja
25. Trujillo Alto
26. Vega Alta
27. Yabucoa

Sixty-eight minutes were documented with observations on the processes. Among the observations made, the main challenges were:

1. Limited parking spaces in the areas surrounding the polling centers;
2. very few parking spaces for people with functional diversity; people in wheelchairs faced difficulties in gaining access to the voting centers;
3. There was a lack of information tables at the entrances to the polling centers, which caused voters to not know which polling place they should go to;
4. little signage;
5. many people per polling place;
6. crowds at the entrances and entrances to the polling centers;
7. few school officials, in some schools not all school officials were complete;
8. officials lacking in training;
9. slow process;
10. schools did not open on time;
11. Several machines presented problems in their operation, reading the marks on the ballots and adjudicating the votes, causing the process to stop;
12. we did not see replacement machines in those schools where there were problems with them.

## X. Counting and Tallying Process

The scrutiny and recount were plagued by discussions, accusations and errors. The delay in the beginning, the slowness in the processes and more than 1000,000 early votes that were not counted on the day of the event marked the course for the certifications of those who were elected to be issued on the last day of the year.

Public reports pointed to widespread disorganization. Lack of order, inconsistent instructions, unjustified delays and the absence of clear and precise instructions were the order of the day. During these processes, the challenges facing electoral matters and the need for a solid administrative structure were exposed. The main issues identified were:

- a. lack of management preparedness;
- b. confusing guidelines;
- c. slowness in decision making and notification to work teams;
- d. continuous changes in the rules;
- e. delays in the canvass: the canvass was affected by delays, especially in advance and mail-in ballots. The State Elections Commission (SEC) noted that the volume of these votes, which was considerably higher compared to previous elections, contributed to the slowness of the count. The delay in starting the early vote count and the determination to stop the count at 5:00pm on the day of the event caused a further delay.



## **XI. Certification of the election**

The certification of results in any electoral process is crucial to ensure that the results accurately reflect the will of the people. In addition, is indispensable for their recognition and validation by the citizenry.

The multiple delays faced by the canvass and recount process caused the final election certifications to be issued on December 31, 2024.

## **XII. Conclusions**

The right to exercise universal suffrage is enshrined in the Fourteenth Amendment to the Constitution of the United States, as well as in our Constitution. It is a fundamental right with legal characteristics. The right to vote is enshrined as one of the fundamental guarantees of our democratic system of government. It is the basis of freedom, because it reflects the expression, expressed in an autonomous and voluntary manner, of the personal option on the way in which the political organization of the social system should be developed.

The right to vote makes the universal principle of equality a reality because equal value is attributed to the participation of those who vote, regardless of social, economic or political differences.

We have pointed out the complexities involved in the election processes. Since the beginning of the preparatory processes for the 2024 elections, failures in the planning, coordination and execution of the electoral process have been documented.

The right to vote must be effective for all populations, including persons deprived of liberty, persons in health institutions and elderly residents of long-term centers.

Long-term centers are more susceptible or vulnerable to their residents being influenced to vote in one way or another. As in any place where people live in community or clusters, education about reading processes is critical. In the center that was the subject of a complaint, residents are free to come and go and read and watch whatever they like whenever they like. We are more concerned about those facilities that control the access and information of their residents, such as hospitals or penal institutions. It is recommended that guidelines be issued to administrators of institutions or centers that house or where people reside. These manuals should include practices to avoid manipulating the exercise of the right to vote of their residents and to ensure that the vote is exercised in a private and independent manner, free from undue influence or intervention of third parties, whether political parties or the administration of the centers.

The regulation used by the CEE to attend to the advance voting in hospital institutions is the Manual for the Hand Added College in the Hospital General Elections 2024, approved on October 9, 2024. We note that its approval was late. This manual makes no distinction between hospitals and psychiatric hospitals. The only requirement is that the person must be hospitalized on November 4, 2024 and must not have voted by any other means. It does not speak of the capacity of the voter. Due to the nature of the population in psychiatric hospitals, we believe it is pertinent to develop a manual exclusively for these institutions.

The media in Puerto Rico covered the 2024 elections extensively. There were multiple press reports during the primary cycle. The deficiencies and failures identified in the general elections, the problems and advances in the canvassing process were also widely discussed, highlighting the concerns of

the citizenry, the claims of the political parties and the expressions of the CEE to handle the issues in order to guarantee the integrity of the process.

The CEE's inefficiency in approving rules and processes on time, establishing plans and testing on time, the late mailing of ballots and the lack of adequate preparation for the election event was the result of the lack of capacity and planning of the agency and the officials called upon to administer the electoral process.

As we have already highlighted in this report, there were multiple failures. Less than two days before voting began at the polling stations and having received more than 200,000 votes, new instructions were issued for the markings on the ballots when problems were noticed in the electronic adjudication of the votes. At the closing of the polling stations, more than 100,000 votes that had been cast by mail, contrary to the provisions of the Electoral Code, remained uncounted. All this delayed the counting and tallying processes.

Once the canvass was completed, questions remained about the programming of the canvassing machines. This accumulation of inefficiencies and

### **XIII. Recommendations**

The State Elections Commission is responsible for managing the electoral processes, guaranteeing and ensuring the electoral processes in Puerto Rico. Its function is not limited to guaranteeing equal access to exercise the right to vote in a free, direct and secret manner, but also to ensure that the votes are duly counted with the rigor and transparency mandated by law.

As we have outlined in this report, the 2024 election process was one full of stumbles, accusations and discrepancies. This affects public faith in the institutions and in the foundations of transparency, a fundamental element that sustains democratic will. Multiple deficiencies were identified in the electoral processes of the past cycle, from the lack of planning and preparation, lack of

officials representing the political parties, to the erratic actions of the Alternate President in her functions as provided by law. All this aggravated the problems we already had such as limited resources, the intransigence of the Fiscal Oversight Board for the necessary budget allocations and its delay in the availability of resources, obsolete technology and a culture where the sense of urgency was not present.

We strongly condemn the lack of diligence and indifference shown by the SEC's Alternate President in disregarding the responsibilities of that entity to promote transparency and facilitate the oversight that the Civil Rights Commission has exercised for more than 40 years in the oversight of electoral processes on behalf of the people of Puerto Rico.

We strongly condemn the lack of diligence and indifference shown by the Department of Corrections and Rehabilitation in hindering the functions of this Commission on the day of early voting in correctional institutions. We recognize the exceptional efforts made by the majority of DCR staff and officials representing the political parties to complete the early voting processes.

As has been discussed in this report, in order to ensure the full exercise of the right to vote, it is necessary that those who are called upon to administer the process that makes the exercise of this right viable guarantee adequate, agile and clear processes within a framework of total transparency. The democratic system of government can only be legitimized by a fair, honest and pure process. *PNP v. CEE III*, 196 DPR 706 (2016). Restoring confidence in electoral processes is fundamental to legitimize governance processes.

In order to prevent these problems from continuing to recur and to avoid a worsening of distrust in the processes, this Commission recommends:

To the Governor:

- a. appoint a President and an Alternate President during the first year of his/her term of office;
- b. identify resources to modernize the election processes; including the payment of a stipend of not less than minimum wage, to a maximum of three officials for each political party at each polling place on the day of the general election and on the day of the early voting at each facility where early voting takes place, not limited to correctional institutions, hospital centers or any other polling place.

To the Legislative Assembly:

- a. in conjunction with the Governor to identify resources to modernize the election processes
- b. legislate the payment of a stipend of not less than the minimum wage, to a maximum of three officials for each political party at each polling place on the day of the general elections and on the day of the early voting at each facility where early voting takes place, not limited to correctional institutions, hospital centers or any other polling place;
- c. Evaluate the possibility of amending the Puerto Rico Electoral Code of 2020 to establish conditions for political parties that, in order to be eligible for the electoral fund, they must certify at least one polling place official based on the number of polling places qualified in the last general election;
- d. to revise the Puerto Rico Electoral Code of 2020 on the appropriateness of the President and Alternate President having to be judges;
- e. revise the Puerto Rico Electoral Code of 2020 regarding the competencies and academic preparation that the management officials of the SEC must have;
- f. study the feasibility of any voter being able to request a vote by mail ballot and the processes adopted in other jurisdictions for this purpose;

- g. identify and study measurement mechanisms in other jurisdictions on the performance of officials in charge of electoral processes;
  - h. evaluate the possibility of amending the Puerto Rico Electoral Code of 2020 in order to establish a mandatory accountability mechanism for the terms set forth in the code, including notification to the Secretary of Justice of Puerto Rico and the United States Attorney for the District of Puerto Rico no later than 24 hours after each occurrence of noncompliance as set forth in the Electoral Code
  - i. To amend the Puerto Rico Electoral Code of 2020 for the purpose of adjusting the order of the canvass and recount when the difference in votes is less than .5% so that when such margins are present, the canvass and/or recount shall begin with the offices in that situation.
3. To the State Election Commission:
- a. establish mechanisms for the assertive planning of the primaries and general elections, including a public calendar with accountability;
  - b. to establish mechanisms for the management and supervision of the preparatory processes for the electoral processes, including primaries
  - c. Establish training strategies for all officials involved in the administrative processes leading to the election process, including the primaries;
  - d. review the terms set forth in the Electoral Code regarding the dates for complying with the electoral cycle, including the closing of the electoral registry, certification of candidates, printing of ballots, assembly of ballot boxes, transmission tests, delivery of electoral material and the scrutiny and recount processes;
  - e. to broaden the participation of observers to improve citizen confidence in the system;
    - i. approve separate manuals to address the processes in:

1. aegis
  2. long-term centers
  3. psychiatric hospitals;
  - f. develop uniform forms, with instructions and warnings, for the use of political parties in the processes of registration, updating of electoral information, advance voting or absentee voting;
  - g. establish security guarantees in the use of the machines for vote counting;
  - h. Establish a work schedule for the accuracy testing of the counting machines and allow interested organizations to observe the process;
  - i. Establish a work schedule with drills that allows for the participation of interested organizations
  - j. evaluate the design and configuration of the Commission's web page so that it can be navigated much more easily; that the results of all electoral events can be easily identified: including primaries, general elections, presidential primaries, referendums and plebiscites
  - k. Conduct meetings with representatives of the Civil Rights Commission prior to each election process.
4. To the Supervisory Board
- a. diligently attend to the requests of the State Elections Commission to ensure the necessary funds and that the processes are carried out within the times set forth in the Electoral Code.
5. To the Department of Corrections and Rehabilitation
- a. Establish work plans to limit the mobility of the population in confinement who have requested to vote, as of the closing date of the electoral registry, so that their participation includes mayoral, chamber and senatorial representation;
  - b. Conduct meetings with representatives of the Civil Rights Commission prior to each election process.

6. To the Office of Court Administration:
  - a. to talk to judges in their role as Presidents of the Local Election Commissions.
  
7. To political parties:
  - a. maintain a process of permanent training of its bases on electoral processes.

#### **XIV. Thanks to observers**

We appreciate the collaboration of all the people who participated as observers of the electoral process.

#### **XV. Dissemination of the Report**

This Report shall be forwarded to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Plenary of the Supreme Court, the Alternate President of the State Elections Commission, the Election Commissioners, the Secretary of the Department of Corrections and Rehabilitation, the Presidents of the Political Parties, the media of the country, the libraries of the Law Schools in Puerto Rico, the Library of the Supreme Court of Puerto Rico, and the persons who participated as observers of the electoral process.

In San Juan, Puerto Rico, this 28 day of February, 2025.

Andrés L. Córdova Phelps, Esq.  
President

Dr. Adi Martínez Román  
Vice President

Doel R Quiñones Núñez, M.D.  
Secretary Commissioner

Kenneth D. McClintock-Hernandez



I certify correct,

Ever Padilla-Ruiz, Esq.  
Chief Executive Officer

Annexes



ESTADO LIBRE ASOCIADO DE PUERTO RICO  
COMISIÓN DE DERECHOS CIVILES

AÑO 2024



NÚMERO 001

Anejo I

RESOLUCIÓN

- POR CUANTO:** La Comisión de Derechos Civiles, en adelante la Comisión, es un organismo público creado en virtud de la Ley Núm. 102 de 28 de junio de 1965, según enmendada. Su función principal es educar al pueblo en cuanto a la significación de los derechos fundamentales y los medios de respetarlos, protegerlos y enaltecerlos.
- POR CUANTO:** La Comisión realiza estudios e investigaciones sobre la vigencia de los derechos en Puerto Rico y atiende querellas presentadas ante su consideración, del mismo modo investiga posibles violaciones de derechos humanos por iniciativa propia.
- POR CUANTO:** La Comisión de Derechos Civiles cuenta con independencia de criterio, es una institución sui generis con autoridad para evaluar las políticas y prácticas de las agencias gubernamentales desde la perspectiva de los derechos reconocidos en la Constitución de Puerto Rico, en la Constitución Federal, en las leyes federales y estatales.
- POR CUANTO:** El derecho fundamental al voto está consagrado en la Décimo Cuarta enmienda de la Constitución de Estados Unidos, y en el Artículo II, Sección 2 de la Constitución de Puerto Rico. Es una de las garantías fundamentales de nuestro sistema democrático de gobierno, mediante el cual el Pueblo ejerce su poder soberano y expresa su voluntad.<sup>1</sup>
- POR CUANTO:** El derecho al ejercicio del sufragio universal es un derecho fundamental con características jurídicas. El voto es el medio

principal por el cual el pueblo hace saber cuál es su voluntad con respecto a la política pública que debe imperar en la sociedad y con respecto a qué personas han de formularla y aplicarla. A través del voto, la ciudadanía expresa su opinión y su deseo en cuanto a quiénes deben ser las personas que gobiernen el país y en cuanto a cómo deben manejarse los aspectos principales de la vida pública.<sup>2</sup>

**POR CUANTO:** El Tribunal Supremo de Puerto Rico, ha reiterado que este reconocimiento expreso en nuestra Constitución enfatiza el carácter democrático de nuestra sociedad en el que el poder político emana del Pueblo y se ejerce con arreglo a la voluntad manifiesta en las urnas.

**POR CUANTO:** Las Elecciones Generales de Puerto Rico, son un evento consagrado en nuestra Constitución. Este evento eleccionario es celebrado cada 4 años, el primer martes después del primer lunes de noviembre. El mismo, se lleva a cabo con el propósito de que la mayoría simple del electorado elija el candidato que ocupará el cargo de Gobernador o Gobernadora y de Comisionado o Comisionada Residente. De igual forma, a través de este evento se eligen los alcaldes y alcaldesas de los 78 municipios, y las personas que ocuparán los cargos al Senado y a la Cámara de Representantes de Puerto Rico.

**POR CUANTO:** El Código Electoral de Puerto Rico, dispone la creación de la Comisión Estatal de Elecciones para garantizarle a todos los electores su derecho a ejercer el voto en todos los procesos eleccionarios, en forma igual, secreta, directa, libre, voluntaria y democrática, según se consagra en la Constitución de Puerto Rico, mediante un proceso transparente y eficiente que reafirme la credibilidad de nuestro pueblo.

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<sup>1</sup> *Remírez de Ferrer v. Mari Brás*, 144 D.P.R. 141 (1997); *P.P.D. v. Barreto Pérez*, 111 D.P.R. 199, 207 (1981).

<sup>2</sup> *Fuster, Jaime B. Derechos fundamentales y deberes cívicos de las personas*; Comisión de Derechos Civiles. (2013).

**POR CUANTO:** Históricamente, la Comisión de Derechos Civiles ha participado como observadora de los procesos eleccionarios particularmente en los procesos relacionados con el voto adelantado de las personas privadas de libertad. Asimismo, ha publicado informes especiales sobre el alcance del derecho al voto, el escrutinio electrónico y los procesos primaristas.

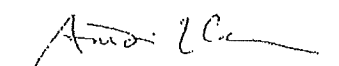
**POR TANTO:** La Comisión de Derechos Civiles, en el descargo de sus deberes y funciones estará vigilante procurando cuidar, defender y promover los principios que deben regir los procesos electorales como: la transparencia, certeza, legalidad, y el ejercicio al derecho al voto universal y secreto en los comicios electorales a llevarse a cabo el 5 de noviembre de 2024.

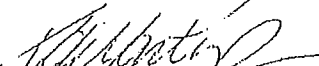
**POR TANTO:** La Comisión de Derechos Civiles destacará Observadores en distintas etapas del proceso eleccionario para garantizar el ejercicio pleno de los derechos civiles de todas las personas.

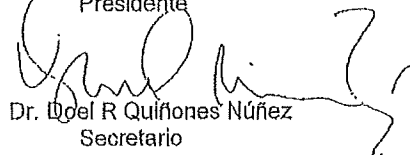
**REGÍSTRESE Y NOTIFÍQUESE A:**

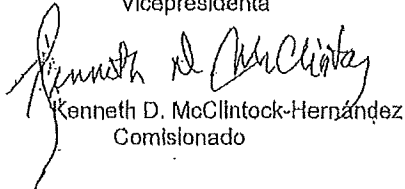
- Gobernador de Puerto Rico
- Presidente del Senado
- Presidente de la Cámara de Representantes
- Comisionada Residente de Puerto Rico en Washington
- Presidenta Alternativa de la Comisión Estatal de Elecciones
- Comisionados de los partidos políticos ante la CEE
- Presidentes de los partidos políticos

En San Juan, Puerto Rico hoy a los 6 días del mes de septiembre de 2024.

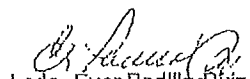
  
Ldo. Andrés L. Córdova Phelps  
Presidente

  
Dfa. Adi Martínez Román  
Vicepresidenta

  
Dr. Joel R. Quiñones Núñez  
Secretario

  
Kenneth D. McClintock-Hernández  
Comisionado

Certifico Correcto:

  
Ldo. Ever Padilla-Ruiz  
Director Ejecutivo



9 de septiembre de 2024

CEE PRES 9SEP'24 PN3117

Anejo II 


Hon. Jessika D. Padilla Rivera  
Presidenta Alternativa  
Comisión Estatal de Elecciones

Honorable Presidenta Alternativa:

La Comisión de Derechos Civiles de Puerto Rico es un organismo público creado por virtud de la Ley Núm. 102 de Junio de 1965, según enmendada (1 L.P.R.A. 151). Nuestra función primordial es educar al pueblo en cuanto a la significación de los derechos humanos y los medios de respetarlos, protegerlos y enaltecerlos. Tenemos la obligación de gestionar ante los individuos y ante las autoridades gubernamentales la protección de los derechos humanos y el estricto cumplimiento de las leyes que amparan tales derechos. Fomentamos la investigación y promovemos espacios de discusión sobre la vigencia de los derechos humanos en nuestro país. Investigamos las querrelas que recibimos relacionadas a violación de esos derechos y de la misma manera, comparecemos ante los tribunales como amigos de la corte en aquellos casos en los que puedan ser lacerados o vulnerados los derechos humanos. Además, participamos activamente en la discusión y desarrollo de políticas que públicas que impacten cualquier dimensión de los derechos humanos.

Históricamente, la Comisión de Derechos Civiles ha participado como observadora de los procesos electorarios. El pasado viernes, 6 de septiembre de 2024 la Junta de Comisionados de la CDC aprobó la Resolución que se adjunta. En atención a ello le solicitamos que designe a un funcionario o funcionaria de la CEE para coordinar nuestra participación como observadores del proceso electoral de noviembre de 2024 incluyendo, pero sin limitarnos, al voto adelantado de las personas privadas de libertad.

Cordialmente,

  
Ldo. Ever Padilla-Ruiz  
Director Ejecutivo

Anejo



30 de septiembre de 2024

Anejo III

**Hon. Ana Escobar**  
*Secretaria*  
**Departamento de Corrección y Rehabilitación**  
P.O. Box 71308  
San Juan, PR 00936


[aescobar@dcr.pr.gov](mailto:aescobar@dcr.pr.gov)

Reciba un cordial saludo. La Comisión de Derechos Civiles (en adelante, CDC) es un organismo público creado en virtud de la Ley Núm. 102 de 28 de junio de 1965, según enmendada (1 L.P.R.A. 151). Nuestra función primordial es educar al pueblo en cuanto a la significación de los derechos fundamentales de las personas y los medios de respetarlos, protegerlos y enaltecerlos. Tenemos la obligación de gestionar ante los individuos y ante las autoridades gubernamentales la protección de los derechos humanos y el estricto cumplimiento de las leyes que amparan tales derechos. De igual forma evaluamos las leyes, normas y actuaciones del gobierno, tanto estatal como municipal, velando que las mismas no laceren los derechos fundamentales de nuestro Pueblo.

El derecho al voto es una de las garantías fundamentales del sistema democrático de gobierno, mediante el cual el pueblo ejerce su poder soberano y expresa su voluntad. La CDC, en el descargo de sus deberes y funciones, ha participado reiteradamente como observadora en el proceso del voto adelantado en las instituciones penales procurando velar, cuidar, defender y promover los principios que deben regir los procesos electorales. Al igual que en años anteriores, es nuestra intención participar como observadores en el voto adelantado en las instituciones penales del país este próximo 3 de noviembre de 2024.

Mediante la presente, solicitamos la confirmación de cuántos colegios electorales correccionales están programados y en qué instituciones se ubicarán. Del mismo modo, solicitamos la designación de una persona contacto/enlace a quien enviarle la lista de participantes y las coordinaciones necesarias para nuestra participación.

Agradecido por su colaboración,

  
**Lcdo. Ever Padilla Ruiz**  
*Director Ejecutivo*  
[director@cdc.pr.gov](mailto:director@cdc.pr.gov)



GOBIERNO DE PUERTO RICO  
DEPARTAMENTO DE CORRECCIÓN Y REHABILITACIÓN

Anejo IV

16 de octubre de 2024.

Adelantada por correo electrónico: [director@cdc.pr.gov](mailto:director@cdc.pr.gov)

Lcdo. Ever Padilla Ruiz  
Director Ejecutivo  
Comisión de Derechos Civiles  
Apartado 192338  
San Juan, Puerto Rico 00919-2338

Estimado Director:

Reciba nuestro saludo. Hemos recibido las comunicaciones que nos remitiera fechadas el 1 y 15 de octubre, informando que la Comisión de Derechos Civiles participará como observador en el voto adelantado en las Instituciones penales del país a efectuarse el próximo domingo 3 de noviembre de 2024.

Conforme a las regulaciones del Protocolo de Observadores Independientes de la Comisión Estatal de Elecciones, se requiere que toda petición para ser observador del proceso de Elección General y Plebiscito a efectuarse en noviembre de 2024 se referirá a la Comisión. Le corresponde inicialmente a la Comisión evaluar su solicitud conforme a dicho protocolo. Una vez, la Comisión avale su solicitud, el Departamento determinará conforme a las regulaciones de seguridad aplicables y vigentes las condiciones que deberá cumplir cabalmente para participar de este proceso.

Todo dato peticionado relacionado al evento electoral tales como; cantidad de colegios electorales correccionales, cuantos solicitaron voto adelantado y estimado de electores por institución debe ser solicitado a la Comisión. Estaremos próximamente proveyéndole la totalidad de la población correccional por institución.

Podrá dirigirse a la Sra. Frances Ramos Ramírez, Coordinadora Interagencial para atender cualquier asunto relacionado a este evento. Puede contactarla a través de su dirección de correo electrónico [francesm@dcr.pr.gov](mailto:francesm@dcr.pr.gov) o, través del número telefónico 787 273-6464-ext. 2904.

Cordialmente,

Ana I. Escobar Pabón  
Secretaria

c. Hon. Jessika D. Padilla Rivera  
Presidenta Altern  
Comisión Estatal de Elecciones





COMISIÓN ESTATAL  
DE ELECCIONES  
DE PUERTO RICO

Anejo V

**PROCOLO DE LOS(AS) OBSERVADORES(AS)  
INDEPENDIENTES AUTORIZADOS(AS) EN LAS ELECCIONES  
GENERALES, ESCRUTINIO O RECUENTO DE 2024**

APROBADO: 17 de octubre de 2024

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## SECCIÓN 1- TÍTULO

Este documento se conocerá como "PROTOCOLO DE LOS(AS) OBSERVADORES(AS) INDEPENDIENTES AUTORIZADOS(AS) EN LAS ELECCIONES GENERALES, ESCRUTINIO O RECUENTO DE 2024" (en adelante, el Protocolo).

## SECCIÓN 2 – BASE LEGAL

Este Protocolo se adopta y promulga en virtud de los poderes conferidos a la Comisión Estatal de Elecciones de Puerto Rico (en adelante, Comisión o CEE), en los Artículos 3.2 (3), 4.9(5), entre otros, de la Ley 58-2020, según enmendada, mejor conocida como Código Electoral de Puerto Rico de 2020 (en adelante, Código Electoral).

## SECCIÓN 3 - APLICABILIDAD

Las disposiciones de este Protocolo se aplicarán a todos(as) los(as) Observadores(as) Independientes que así lo soliciten y sean autorizados (as) por la Comisión a participar en las Elecciones Generales, Escrutinio o Recuento de 2024.

## SECCIÓN 4 - DEFINICIONES

Se incorpora a este Protocolo, las definiciones contenidas en el Artículo 2.3 del Código Electoral que resultaren aplicables. Además, para efectos de este Protocolo, los siguientes términos tendrán los significados que se expresan a continuación:

1. **Bona Fide** — Entidad que cumple con criterios de legitimidad y autenticidad en sus operaciones y propósitos.
2. **Observadores(as) Independientes** — Representantes autorizados de cualquier organización, asociación o agrupación legítima ("bona fide") que hayan sido designados para actuar como observadores (as) en las Elecciones Generales y el Escrutinio General

de 2024. Su participación estará sujeta a la aprobación formal del pleno de la Comisión mediante un Acuerdo o Resolución específica que autorice su intervención en dicho proceso.

#### SECCIÓN 5.- PROCEDIMIENTO PARA LA SOLICITUD Y AUTORIZACIÓN DE OBSERVADORES(AS) INDEPENDIENTES EN LAS ELECCIONES GENERALES, ESCRUTINIO O RECUESTO 2024

1. Cualquier organización, asociación o agrupación legítima ("bona fide") que desee participar como observadores(as) en las Elecciones Generales, Escrutinio General o Recuento de 2024 deberá presentar una solicitud formal ante el pleno de la Comisión.
2. La solicitud debe incluir la identificación de la organización, las áreas y/o modalidades de votación en las que participarán, así como cualquier documentación que acredite su legitimidad como grupo no afiliado a partidos políticos ni candidatos.
3. El pleno de la Comisión evaluará cada solicitud para asegurar que cumplan con los requisitos establecidos en este Protocolo.
4. Una vez evaluadas las solicitudes, se emitirá un Acuerdo o Resolución aprobando o rechazando la participación de la organización, asociación o agrupación legítima ("bona fide"), la cantidad de observadores(as) y las áreas de observación. La Comisión podrá requerir información adicional necesaria para poder emitir el Acuerdo o la Resolución.
5. La organización, asociación o agrupación legítima ("bona fide"), al menos veinticuatro (24) horas previo al evento, notificará a la Comisión una lista con los nombres de sus observadores.
6. La Comisión proporcionará una identificación oficial a los observadores(as), la cual deberán portar de manera visible en todo momento durante su participación.

## SECCIÓN 6- DEBERES Y RESPONSABILIDADES DE LOS OBSERVADORES (AS)

La organización, asociación o agrupación legítima ("bona fide") se asegurará que sus observadores(as):

1. Estén familiarizados con el Código Electoral, los reglamentos y los manuales aplicables al proceso electoral.
2. Conocer cuáles son sus funciones y roles establecidos para ellos mediante este protocolo, Acuerdo o Resolución de la Comisión.
3. Estar preparados para seguir los procesos de observación sin violar las normativas vigentes.
4. Actuar de manera estrictamente neutral y respetuosa hacia los funcionarios, los electores y el proceso electoral en su conjunto.
5. Llevar visible en todo momento la Identificación emitida por la CEE mientras esté en el área designada (compulsorio).
6. Podrán tomar notas sobre cualquier incidente relevante observado durante el proceso.
7. Realizar observaciones a la Junta de Colegio, Junta de Unidad o Subjunta de Unidad si detectan alguna irregularidad. Este acercamiento debe hacerse de forma respetuosa y prudente. Dicha observación deberá hacerse constar en el Acta de Incidencias.
8. La Comisión puede, si lo considera necesario, solicitar a los observadores(as) que presenten por escrito, en un plazo razonable, un informe detallando los incidentes observados. La información debe ser precisa y verificable antes de ser reportada.
9. Los observadores(as) podrán tomar fotografías, siempre y cuando no incluyan listas de electores ni los rostros de los funcionarios y electores, a menos que estos lo autoricen previamente. Bajo ningún concepto los observadores(as) podrán interferir con el proceso de votación.

### Los observadores no deberán:

1. Interferir directamente en las decisiones ni actividades de los funcionarios de colegio.
2. Hacer observaciones directas a los funcionarios de colegio si creen que algo no se ajusta a los procesos establecidos por el Código Electoral, reglamentos, manuales y/o resoluciones aplicables.
3. En ningún momento pueden intervenir ni paralizar los procesos. Además, no pueden participar en controversias dentro de los centros de votación o en el área de escrutinio, y si lo hacen, se les podrá pedir que abandonen el área.
4. No tendrán derecho a voz ni voto en las deliberaciones del Colegio, ni podrán manipular el material electoral o interactuar con los electores durante el proceso de votación.
5. Hacer uso de grabadoras, cámaras de video, teléfonos inteligentes o cualquier dispositivo electrónico durante el proceso de observación.
6. Entrevistar a los funcionarios mientras estén en el área de trabajo.
7. Los observadores(as) deben proporcionar su nombre, firma, hora de llegada y salida, así como cualquier otra información requerida relevante a sus roles por los funcionarios electorales para ser incluida en el Acta de Incidencias.
8. Si algún funcionario solicita la colaboración de los observadores para realizar funciones específicas, estos deben rechazar rotundamente la solicitud. No pueden interferir en la labor de los funcionarios ni afectar los procedimientos de las áreas donde se encuentren observando; su función es estrictamente de observación.
9. Los observadores(as) independientes no podrán votar en el Colegio de Votación donde estén asignados como observadores.
10. Una vez cerrado el Colegio de Votación, los observadores(as) no podrán abandonar el recinto hasta que terminen las labores de escrutinio y se certifiquen los resultados.

11. La Comisión podrá requerir requisitos adicionales a los observadores(as) conforme a Acuerdos, Resoluciones, Reglamentos o Manuales vigentes.

#### **SECCIÓN 7- PENALIDADES**

Toda persona que a sabiendas violare las disposiciones de este Protocolo, estará sujeta a las penalidades prescritas en el Capítulo XII del Código Electoral, según apliquen. Las querellas sobre posibles violaciones al ordenamiento electoral se tramitarán conforme a la reglamentación aplicable.

#### **SECCIÓN 8 - SALVEDAD**

Cualquier situación no contemplada en este Protocolo será atendida por la Comisión.

#### **SECCIÓN 9 - VIGENCIA**

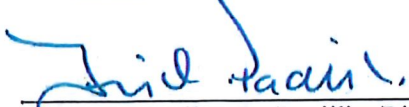
Este Protocolo entrará en vigor previa publicación, según dispone el Artículo 3.2, inciso (3) del Código Electoral y tendrá vigencia hasta tanto sea derogado o enmendado.


#### **SECCIÓN 10 - DEROGACIÓN**

Por la presente quedan derogadas todas las disposiciones de cualquier Reglamento, Manual y/o Resolución que en todo o en parte sea incompatible con éste, hasta donde existiera tal incompatibilidad.

Aprobado:


En San Juan, Puerto Rico a 17 de octubre de 2024.

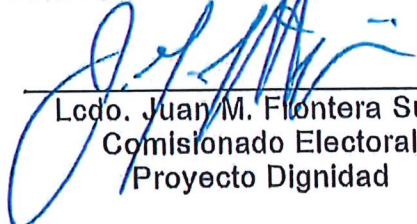
  
Hon. Jesslka D. Padilla Rivera  
Presidenta Alternativa

  
Lcdo. Anibal Vega Borges  
Comisionado Electoral  
Partido Nuevo Progresista

  
Lcda. Karla Angleró González  
Comisionada Electoral  
Partido Popular Democrático

  
Lillian Aponte Dones  
Comisionada Electoral  
Movimiento Victoria Ciudadana


  
Roberto I. Aponte Berríos  
Comisionado Electoral  
Partido Independentista Puertorriqueño

  
Lcdo. Juan M. Frontera Suau  
Comisionado Electoral  
Proyecto Dignidad

**CERTIFICO:** Que este PROTOCOLO DE LOS(AS) OBSERVADORES(AS) INDEPENDIENTES AUTORIZADOS(AS) EN LAS ELECCIONES GENERALES, ESCRUTINIO O RECUENTO DE 2024 fue aprobado por la Comisión Estatal de Elecciones el 17 de octubre de 2024.

Para que así conste, firmo y sello la presente, hoy 17 de octubre de 2024.



  
Lcdo. Rolando Cuevas Colón  
Secretario





18 de octubre de 2024 *lls* OCE.PDCEE

Hon. <sup>2024 OCT 18</sup> *lls* Jessika D. Padilla Rivera *lls* 4:05  
Presidenta Alterna  
Comisión Estatal de Elecciones  
205 Av. Arterial B  
San Juan PR 00918

MVC

*10/18/24*  
*Roberto*

Anejo VI

A LA MANO

COPY

*ve* **PIP**  
*18 Oct 24*  
*4:00pm*

Reciba un cordial saludo.

La Comisión de Derechos Civiles (en adelante, CDC) es un organismo público creado en virtud de la Ley Núm. 102 de 28 de junio de 1965 (1 L.P.R.A. 151). Su función primordial es educar al pueblo en cuanto a la significación de los derechos fundamentales de las personas y los medios de respetarlos, protegerlos y enaltecerlos. Tenemos la obligación de gestionar ante los individuos y ante las autoridades gubernamentales la protección de los derechos humanos y el estricto cumplimiento de las leyes que amparan tales derechos. De igual forma evaluamos las leyes, normas y actuaciones del gobierno, tanto estatal como municipal, velando que las mismas no laceren los derechos fundamentales de nuestro Pueblo.

Como le notificáramos el 9 de septiembre de 2024; el 6 de septiembre de 2024, el Pleno de la Comisión de Derechos Civiles, por unanimidad y en el ejercicio de los poderes y facultades dispuestos en la Ley Núm. 102, supra, acordó observar activamente de los procesos electorales, destacando Observadores en distintas etapas del proceso eleccionario para garantizar el ejercicio pleno de los derechos civiles de todas las personas. Copia de dicha Resolución le fue notificada a usted, a las y los Comisionados Electorales, a los partidos políticos, al Gobernador, y los presidentes de los cuerpos legislativos.

En comunicación con la Secretaria del Departamento de Corrección y Rehabilitación para coordinar los accesos a los colegios electorales del voto adelantado de las personas en confinamiento, nos informó que por instrucciones de su oficina debíamos cumplir con los requisitos del Protocolo de Observadores Independientes.

OFICINA COMISIONADO ELECTORAL PPD  
COMISION ESTATAL DE ELECCIONES  
CORRESPONDENCIA RECIBIDA  
FECHA: *10/18/24* HORA: *3:57pm*  
FIRMA: *[Signature]*

*10/18/24*  
*[Signature]*

*[Signature]*  
OCE PRES 18OCT24 4:03:25

Ayer, a eso de las 5:42 pm recibimos un correo electrónico anejando el Protocolo de los Observadores Independientes Autorizados 2024 según fue aprobado minutos antes por el Pleno de la Comisión Estatal de Elecciones.

Hemos revisado y analizado tanto el Código Electoral como el referido protocolo y es necesario destacar que la CDC es un organismo público creado en virtud de Ley para, entre otras cosas, evaluar leyes, normas y actuaciones de los gobiernos estatal relacionadas con los derechos civiles para sugerir reformas en cuanto a las mismas. La CDC fue creada como una institución *sui generis* con amplias facultades investigativas e independencia de criterio para que pudiese emitir evaluaciones y recomendaciones imparciales y libre de influencia político partidista.

El derecho al voto es una de las garantías fundamentales del sistema democrático de gobierno, mediante el cual el pueblo ejerce su poder soberano y expresa su voluntad. A través del voto las personas expresan quienes para ellos deben ser las personas que los representan y dirijan el País en la implementación y formulación de las políticas públicas que afectan su entorno, su vida, su País. No hay responsabilidad ciudadana más vital en un sistema democrático que elegir a quien se le delega tan magna responsabilidad, por tanto, la integridad del proceso electoral es un ejercicio que debemos velar celosamente. A esos efectos, ante la preocupación colectiva ante las repetidas denuncias de posibles irregularidades durante el proceso, la desconfianza e incertidumbre por falta de aprobación de reglamentos por parte de la CEE y las múltiples reseñas de los medios de comunicación, entre otros, que ponen en entredicho la pulcritud del ejercicio la Junta de Comisionados de la Comisión de Derechos Civiles en pleno aprobaron la Resolución 2024-001, que le fuera notificada, donde establecieron:

La Comisión de Derechos Civiles, en el descargo de sus deberes y funciones, estará vigilante procurando cuidar, defender y promover los principios que deben regir los procesos electorales como la transparencia, certeza, legalidad y el ejercicio al derecho al voto universal y secreto en los comicios electorales a llevarse a cabo el 5 de noviembre de 2024.

La comisión de Derechos Civiles destacara Observadores en distintas etapas del proceso eleccionario para garantizar el ejercicio pleno de los derechos civiles de todas las personas.

Por tanto, se activó la Academia de Observadores mediante una convocatoria para aquellas personas voluntarias que quisieran fungir como observadores tanto para el día

del evento de las elecciones generales el martes, 5 de noviembre de 2024 como para el voto adelantado que se realiza en el sistema correccional el domingo, 3 de noviembre de 2024.

Es importantísimo destacar que, desde la década de los años 1980, cuando inicialmente se reconoció el derecho al voto a las personas confinadas mediante el voto ausente, la Comisión de Derechos Cíviles ha participado como observadora en los procesos de las instituciones penales como parte de su deber de evaluar las actuaciones del Gobierno velando que los resultados reflejen la intención fiel y exacta del elector; velando por la integridad del proceso y que las personas confinadas, dentro de su situación de estar bajo la custodia del Estado, voten libremente y sin coacción.

Como parte de los procesos que por décadas hemos realizado, le enviamos la primera comunicación a la Secretaría del Departamento de Corrección y Rehabilitación, Ana Escobar Pabon, sobre nuestra participación como observadores en el voto adelantado del 3 de noviembre de 2024. Esa comunicación no tuvo ninguna respuesta. Nuevamente cursamos una segunda comunicación en seguimiento, incluyendo la lista de observadores a participar el 3 de noviembre de 2024 en calidad de observadores para la revisión y aprobación de conformidad con los protocolos de seguridad del DCR.

En su respuesta del 17 de octubre de 2024, la Secretaria Escobar expresó que, y citamos:

*Conforme a las regulaciones del Protocolo de Observadores Independientes de la Comisión Estatal de Elecciones, se requiere que toda petición para ser observador del proceso de Elección General y Plebiscito a efectuarse en noviembre de 2024 se referirá a la Comisión. **Le corresponde inicialmente a la Comisión evaluar su solicitud conforme a dicho protocolo. Una vez, la Comisión avale su solicitud, el Departamento determinará conforme a las regulaciones de seguridad aplicables y vigentes las condiciones que deberá cumplir cabalmente para participar en este proceso. (Énfasis nuestro).***

Esta respuesta nos motivó a comunicarnos directamente con su oficina como Presidenta Alternativa de la CEE para clarificar las interpretaciones que han hecho sobre nuestra participación. Enfatizamos que en el descargo de nuestras responsabilidades, la Comisión en Pleno activó la función observadores como parte de las facultades delegadas en la Ley Núm. 102, supra.

El *Protocolo de los(as) Observadores(as) Independientes Autorizados(as) en las Elecciones Generales, Escrutinio o Recuento de 2024 de la CEE* no le es de aplicación a la CDC porque no somos ni una organización, ni una asociación, o agrupación legítima "bona fide" para que el pleno de la Comisión del CEE evalué para la consecuente aprobación o rechazo de nuestra participación en los procesos como observadores. La CDC es una agencia del Gobierno de Puerto Rico facultada en Ley para la gestión.

Es nuestro parecer que el *Protocolo de los(as) Observadores(as) Independientes Autorizados(as) en las Elecciones Generales, Escrutinio o Recuento de 2024* fue aprobado a destiempo. Luego de analizarlo entendemos que la base legal que lo justifica puede inducir a error. Claramente el Artículo 3.2(3) de la Ley 58-2020, según enmendada, Código Electoral de Puerto Rico de 2020 (en adelante, Código Electoral) establece:

(3) Aprobar las reglas y los reglamentos que sean necesarios para implementar las disposiciones de esta Ley. Estos reglamentos deberán ser publicados en la página cibernética de la Comisión en un término que no exceda de diez (10) días contados a partir de su aprobación.

(a) La Comisión deberá aprobar el Reglamento para todas las votaciones y sus papeletas en la Elección General y su Escrutinio General, y todo otro reglamento que se utilizará en dicho evento electoral, no más tarde de los seis (6) meses antes de la Elección General. Deberá publicarlos en la página cibernética hasta por lo menos los cinco (5) meses posteriores a cada Elección General. [...]

Es decir, que una reglamentación o protocolo creado a menos de 20 días de las Elecciones Generales de 2024 está completamente a destiempo. Por otro lado, citan como base legal el Artículo 4.9(5) del Código Electoral ". De la misma manera, en los casos que esta Ley autoriza la participación de Observadores, la Comisión Estatal reglamentará la acreditación de éstos y el alcance de sus funciones.". Al Artículo 2.3 del Código Electoral no definir lo que son *Observadores*, es necesario analizarlo a luz del resto del Código para entender el espíritu y significado. De una lectura del Código Electoral podemos colegir qué son funcionarios u observadores electorales y de colegio de votación a nivel local, según corresponda, refiriéndose a uno o más de los organismos directivos municipales de los partidos, candidatos independientes o agrupaciones

certificadas por la Comisión.<sup>1</sup> No es la intención de la Ley reglamentar los observadores independientes ni mucho menos una agencia con facultad en ley para ello.

Ahora bien, analizando la definición de Observador Independiente creada en la tarde de ayer por el Pleno de la CEE, dicha definición no incluye a la CDC. Aun así, no tenemos ningún reparo de facilitar aquella información que sea necesaria para la observación de forma ordenada.

Esta comunicación pretende ilustrar a la Comisión Estatal de Elecciones sobre las funciones que hemos descargado en cuatro décadas como observadora de los procesos electorales. Más que nunca, es necesario promover la transparencia en los procesos electorales que nos permitan alcanzar una sociedad más democrática.

Respetuosamente,



Lcdo. Ever Padilla Ruiz

Director Ejecutivo  
[director@cdc.pr.gov](mailto:director@cdc.pr.gov)

787-764-8686

- C
- Lcdo. Anibal Vega Borges -- Comisionado Electoral PNP
  - Lcda. Karla Angleró González - Comisionada Electoral PPD
  - Lcdo. Roberto Iván Aponte Berrios -- Comisionado Electoral PIP
  - Lilliam Aponte Dones -- Comisionada Electoral MVC
  - Lcdo. Juan Manuel Frontera Suau -- Comisionado Electoral PD

Anejos:

1. Comunicación a la Presidenta Alternativa CEE – 9 de septiembre de 2024
2. Resolución 2024-001
3. Notificación de Resolución a Comisionados Electorales – 9 de septiembre de 2024
4. Comunicación a Secretaría DCR – 30 de septiembre de 2024
5. Comunicación a Secretaría DCR en seguimiento con copia a la Presidenta Alternativa CEE – 15 de octubre de 2024

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<sup>1</sup> Ver Artículo 4.10. — Delegación de Facultad para Designar Funcionarios Electorales. — (16 L.P.R.A. § 4550) , Artículo 7.23. — Disposiciones Generales para Primarias. — (16 L.P.R.A. § 46), Artículo 8.15.a. — Comisión de Primarias Presidenciales. — (16 L.P.R.A. § 4655)

