

A 10-point report

ELECTORAL REGULATIONS FOR THE 2021 ELECTION

GRUPO VALENTÍN

ELECTORAL REGULATIONS FOR THE 2021 ELECTION

On September 29 and 30, 2020, the Jurado Nacional de Elecciones (National Jury of Elections, JNE by its Spanish acronym) published seven resolutions regulating different aspects of the 2021 General Election, from the schedule and internal elections to the publicity prohibited during the electoral campaign.

The Legal Affairs Team of Grupo Valentín shares the following 10-point report.

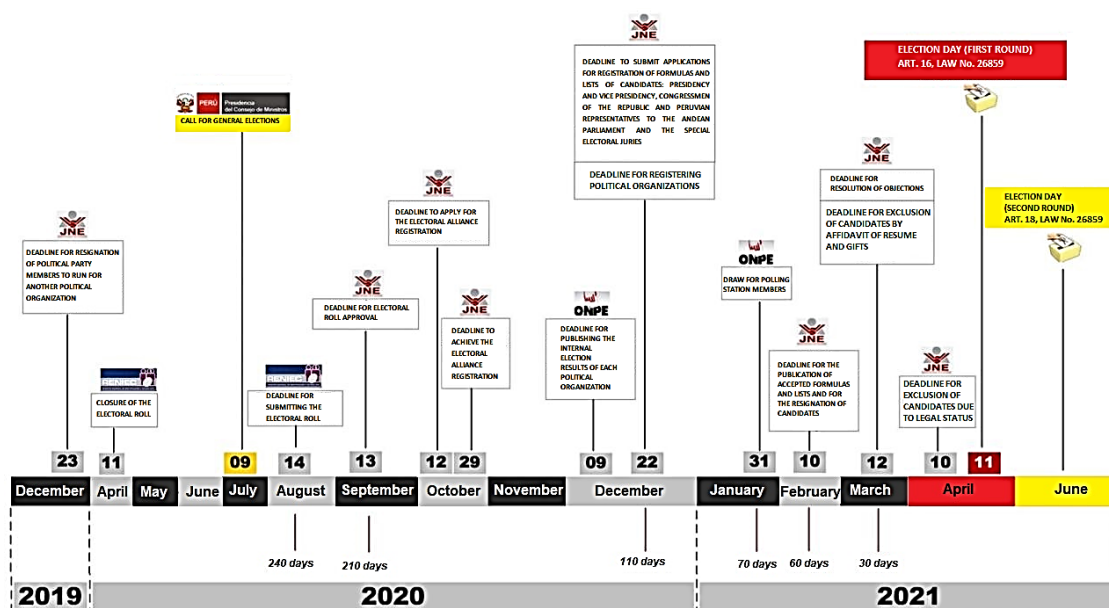
1. ON THE ELECTORAL SCHEDULE

Resolution No. 0329-2020-JNE approves the 2021 General Election schedule, setting the deadlines and closing dates for each stage.

Political parties may publish the results of their internal elections until December 9, 2020. Candidates can submit their registration until December 22.

February 10, 2021, will be the deadline for the withdrawal of candidates.

The **first and second rounds** will be held each day, the first on April 11, 2021, and the second in June.



2. GUIDELINES FOR LISTS AND ALLIANCES

Each political party shall elect its candidates for President and Vice Presidents of the Republic, as well as at least 4/5 of the lists of candidates for the Congress of the Republic and the Andean Parliament through:

- i. Elections with universal, individual voting.
- ii. Elections through the delegates, according to their statute.

The remaining fifth of the lists to the Congress and the Andean Parliament may be designated among its affiliates and non-affiliates by direct designation.

The political parties may participate in an **electoral alliance** as long as they request their constitution before the National Directorate of Registration of Political Organizations of the JNE until October 12, 2020.

3. GENDER PARITY AND ALTERNATION

50% of the lists for the Congress and the Andean Parliament must be made up of men or women, registered as such according to their National Identification Card (DNI), and will be on the list alternately.

At least one man or woman must be included in the candidates' formula for the presidency and vice-presidencies of the Republic, and they must be placed alternately (man/woman/man or woman/man/woman).

4. REGISTRATION OF FORMULAS AND LISTS

To access the National Jury of Elections' different computer systems, single user code and password will be given to each organization's official representative.

All fees must be paid in Banco de la Nación.

The application for registration of the list of candidates must include the Affidavit of Resume of each candidate, which is registered online.

Such information is subsequently controlled by the National Jury of Elections and the Special Electoral Juries (JEE, by its acronym in Spanish) through the National Directorate of Electoral Processes and Control.

The procedure consists of four stages:

1. The JEE verifies the fulfillment of each candidate's requirements and determines whether or not the application is admitted within 3 days. If the requirements cannot be corrected, the application is declared inadmissible.
2. A period of 2 days is granted to rectify the inadmissible application.
3. The resolution accepting the formula or list is published in the institutional electronic portal of the JNE and in the JEE's board the next calendar day after the resolution is issued.
4. If no objection has been made or if it is rejected, the formula or list of candidates is registered.

Any citizen may submit objections within three calendar days of the formula or list publication before the JEE processes the registration.

5. LISTS AND REPLACEMENT, WITHDRAWAL AND EXCLUSION OF CANDIDATES

Political organizations may request the **replacement** of candidates nominated and presented to the JEE until the deadline for submitting applications (December 22).

On the other hand, through an official representative, the organization may request the withdrawal of one or more candidates until February 10, 2021. The same deadline applies to the resignation of the candidates.

Also, until March 12, 2021, the JEE may **exclude** a candidate for omitting information or adding false information in his/her Resume Affidavit.

Until the day before the elections (April 10, 2021), the JEE shall exclude a candidate when it is known that a consensual sentence, a sentence at first instance for an intentional crime, and a sentence of disqualification or interdiction by a consensual or executed court decision has been imposed.

6. RESIGN THEIR POSITIONS TO RUN FOR ELECTION

Resolution N° 0331-2020-JNE states that the regional governors, vice-governors, and mayors who wish to run for President, Vice President, candidate to the Congress of the Republic or representative to the Andean Parliament, must tender their resignation by October 12, handing the position over to the JNE on October 19.

The senior officials mentioned in paragraphs a, b, and c of Article 107 and in sections a, b, and c of Article 113 of Law No. 26859, Organic Law of Elections, who wish to participate as candidates for the elections, must also tender their **resignation on October 12**. The position must be handed over to the National Jury of Elections when the political organization requests the registration of the candidacy.

Members of the Armed Forces and the National Police who wish to run as candidates must cease by October 12 at the latest, and submit the resolution of cessation when the party requests the registration of the candidacy.

Workers and officials of the public authorities and government institutions and companies must apply for a leave without pay to participate as candidates for the positions of congressman of the Republic or Peruvian representatives before the Andean Parliament in the 2021 General Elections. The application for a leave without pay must expressly indicate that it will be granted from March 12, 2021, and must be attached to the application's registration.

7. INTERNAL ELECTIONS

By Administrative Decree No. 000310-2020-JN/ONPE, each Political Organization shall have a permanent Central Electoral Body, whose members may not run for any candidacy. This body must submit to the ONPE the list of candidates for the internal elections and an Affidavit indicating that there are no pending disputes within the party about the origin of this list.

The National Identification and Civil Status Register Office (RENIEC, by its acronym in Spanish) will carry out voters' register for each political organization, which will serve to designate its polling station members (3 polling station officials and 3 official substitutes).

The political organization must inform its pooling station to the ONPE to organize the elections, with all the biosecurity measures. No pooling station may have more than 800 people.

Election day will last 12 hours, from 7 AM to 7 PM. Election results must be issued following the criteria of parity and alternation.

8. JNE COMPETENCIES IN THE INTERNAL ELECTIONS

According to Resolution No. 0328-2020-JNE, the National Jury of Elections has competence in three main matters during the internal elections.

First, by establishing general deadlines in the schedule of internal elections. It should be noted that this schedule contemplates two dates for internal elections, one for elections under the universal voting modality and another for elections under the delegated voting modality. Each political organization is responsible for calling and advertising internal elections.

Second, JNE resolves disputes in the court. In this sense, it knows the observations made to the minutes and the challenges to the results of internal elections, as long as they are submitted under numerical support. Similarly, it knows the challenges against the result by the central body of the political organization, provided that the appeal is submitted within two calendar days.

The contestant must sign the appeal, including the election fee and the authorization of a qualified lawyer.

Finally, through the National Direction of Inspection and Processes, JNE audits the electoral day and submits a report. It should be noted that the inspectors may go to any office to gather information and must be given the information they require before, during, and after Election Day.

Additionally, the National Jury of Elections approves the electoral register for the internal elections, which is approved independently for each political organization, no later than October 29.

9. SUPERVISION AND SANCTION OF PROHIBITED ELECTORAL ADVERTISING

Resolution No. 0332-2020-JNE specifies that the National Directorate of Inspection and Electoral Processes must inspect a complaint.

It is observed:

(i) If the conduct was carried out after the candidate's registration, (ii) the existence of evidence of the conduct and date, (iii) that the conduct was carried out by a candidate or a third party by their mandate and with their resources or the political organization, (iv) that what was delivered or promised cannot be considered electoral advertising, and (v) That the value is more significant than 0.3% of the Applicable Tax Unit (UIT, by its acronym in Spanish).

Within 3 calendar days, a report will be made and sent to the JEE for a qualification within 1 day by the audit. If a possible violation is considered, a sanctioning procedure is initiated, granting 3 days to the alleged offending candidate for his/her discharges.

If a violation is found, a fine may be imposed, or immediate exclusion may be granted if the goods delivered or promised exceed 2 Applicable Tax Units. If a fine is set and the violation is repeated, the exclusion penalty will be applied.

The candidates or their representatives are jointly responsible for the political advertising they make. However, the responsibility of political organizations cannot be presumed, but must be proven beyond doubt.

The decision may be appealed through an action filed within 3 calendar days, starting from the day following the disputed decision's notification. The appeal must be justified, specifying the grievances, and signed by a qualified lawyer.

10. FINAL COMMENTS

It is recommended that political parties and their leaders be clear about the actions and deadlines for taking such actions not to endanger the candidacy, as happened in the previous national electoral process.

Particular care in internal democracy processes, registration, designation, and selection of candidates, consultation of bases, accountability, etc. This review should be carried out before, during, and after the campaign, with coordination and presence in the territory (in each committee at least at the regional level).

Authorities and election authorities should pay the utmost attention to carrying out this process with due transparency. Use the responsible press and organized society to spread the message of your actions.

The citizenry must be clear that we are all committed to the country's future in this election.



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This report by the Legal Affairs Team is intended to inform the domestic and foreign public about the most recent changes in the election regulations that will govern the 2021 election process, which is already underway.

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