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Chapter 20

Crimes Related to Election

This guideline applies to adult offenders (nineteen years of age or older) who committed any offenses of Corrupt Practices and Inducement by Interest (Public Official Election Act, Article 230 excluding paragraph 5), Corrupt Practices and Inducement by Interest for Economic Benefits (Public Official Election Act, Article 231), Corrupt Practices and Inducement by Interest Toward Candidates (Public Official Election Act, Article 232 excluding paragraph 3), Corrupt Practices and Inducement by Interest Toward Elected Officials (Public Official Election Act, Article 233), Corrupt Practices for Unlawful Use of Broadcasts or Newspapers (Public Official Election Act, Article 235), Publication of False Facts (Public Official Election Act, Article 250), Slanders Against Candidates (Public Official Election Act, Article 251), Violating Prohibition of False Criticism and Report (Public Official Election Act, Article 252, paragraph 1; Article 96, paragraph 2), Publishing or Reporting Falsified Outcomes of a Public Opinion Poll (Public Official Election Act, Article 252, paragraph 2, Article 96, paragraph 1), Violation During Election Campaign Period (Public Official Election Act, Article 254), Unlawful Election Campaign (Public Official Election Act, Article 255, excluding paragraph 4 and 5), and a Violation of Prohibition and Restriction on Contribution (Public Official Election Act, Article 257, excluding any person who received any contribution under paragraph 2 and paragraph 3).

※ This guideline also applies to cases where provisions of the Public Official Election Act apply under the Local Education Autonomy Act, Article 49, paragraph 1.

▶ **Abbreviations**

Public Official Election Act: Act on Electing Public Officials



PART A — TYPES OF OFFENSES AND SENTENCING PERIODS

01 | CORRUPT PRACTICES AND INDUCEMENT BY INTEREST

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Corrupt Practices Concerning Intra-Party Competition	- 8 mos. 5 Hundred Thousand Won - 5 Million Won	4 mos. - 1 yr.	8 mos. - 2 yrs.
2	General Corrupt Practices, Corrupt Practices Concerning Candidate Recommendation by Political Party	- 10 mos. 1 Million Won - 15 Million Won	6 mos. - 1 yr. 4 mos.	10 mos. - 2 yrs. 6 mos.
3	General Corrupt Practices by Candidate, etc.	4 mos. - 1 yr. 1 Million 5 Hundred Thousand Won - 20 Million Won	8 mos. - 2 yrs.	1 yr. - 3 yrs.
4	Corrupt Practices for Economic Benefits, Corrupt Practices Toward Candidates	6 mos. - 1 yr. 4 mos. 5 Million Won - 25 Million Won	10 mos. - 2 yrs. 6 mos.	2 yrs. - 4 yrs.
5	Corrupt Practices Toward Elected Persons	8 mos. - 1 yr. 6 mos.	1 yr. - 3 yrs.	2 yrs. 6 mos. - 5 yrs.

- ▷ For cases where the corrupt practices for unlawful use of broadcasts or newspapers by general citizens (Article 235, paragraph 1) falls within Type 2, offenses of corrupt practices for unlawful use of broadcasts or newspapers by candidates or persons related to the election(Article 235, paragraph 2) falls within Type 3.
- ▷ Within Type 2, for cases where the corrupt practices concerning candidate recommendation in a political party and inducement by interest, and the crime of directing, persuading, requesting, and mediating such conduct (Article 230, subparagraph 6), impose a fine that is triple of the minimum recommended sentencing range.
- ▷ Within Type 2, for corrupt practices of unlawful use of broadcasts or newspapers by general citizens, and the crime of receiving or giving, soliciting, demanding, and promising money from the operator and other's broadcast, newspaper, or others(Article 235, paragraph 1), impose a fine of $\frac{1}{3}$ of the maximum recommended sentencing range.
- ▷ Within Type 3, for corrupt practices of unlawful use of broadcasts or newspapers by candidates and others, impose a fine of $\frac{1}{2}$ of the maximum recommended sentencing range.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> • Offender's passive participation resulting from outside pressure • Cases where the amount of money, valuables, or benefits provided or received is very insignificant • Passive yielding to the recipient's active demand • Providing or receiving an insignificant amount of money, valuables, and the like only to compensate actual expenses of the election campaign or to provide comfort • Cases where the offense ended with an expression of intent or a promise only 	<ul style="list-style-type: none"> • Cases where the amount of money, valuables, or benefits provided or received is substantial • Instruction, solicitation, demanding, or commissioning • Premeditated or organized crime • Crime against unspecified multiples of victims or prolonged and repeated commission of the crime
Special Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> • Those with hearing and speaking impairments • Voluntary surrender to investigative agencies, and cases of whistleblowing of corruption 	<ul style="list-style-type: none"> • Criminal history of the same type of offense (including fines)
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> • Offender's passive participation 	<ul style="list-style-type: none"> • Offense committed by using social status or influence • Offense committed even after receiving a warning from the election commission • Violations of the Public Official Election Act, Article 230, paragraph 1, subparagraph 2 and 3, and Article 235
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> • Expresses sincere remorse • No prior criminal history • Voluntary resignation or declining to run for office 	<ul style="list-style-type: none"> • Escaping, concealing or attempting to conceal evidence after committing the crime • Repeated offenses of the different type under the Criminal Act



02¹ VIOLATIONS OF PROHIBITIONS AND RESTRICTIONS ON CONTRIBUTIONS

CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
Contributions	5 Hundred Thousand Won - 3 Million Won	- 10 mos. 1 Million Won - 5 Million Won	8 mos. - 2 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> • Customary or formal conducts other than those prescribed in the Public Official Election Act, Article 112, paragraph 2 • Offender's passive participation resulting from outside pressure • Cases where the amount of money, valuables, or benefits provided or received is very insignificant • Passive yielding to the recipient's active demand • Cases where the offense ended with an expression of intent or promise only 	<ul style="list-style-type: none"> • Date the offense committed is close to the election day • Cases where the amount of money, valuables, or benefits provided or received is substantial • Premeditated or organized crime • Offense committed by the candidate, candidate's spouse, lineal ascendant, lineal descendant, or persons related to the election • Crime against unspecified multiples of victims or prolonged and repeated commission of the crime • Instigating the subordinate person to commit the crime
Special Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> • Those with hearing and speaking impairments • Voluntary surrender to investigative agencies, cases of whistleblowing of corruption 	<ul style="list-style-type: none"> • Criminal history of the same type of offense (including fines)
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> • Offender's passive participation • Offenses committed through coincidental forming acquaintance relationship 	<ul style="list-style-type: none"> • Offense committed by using social status or influence (This excludes the case of instigating the subordinate person to commit the crime) • Offense committed even after receiving a warning from the election commission

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> • Expresses sincere remorse • No prior criminal history • Voluntary resignation or declining to run for office 	<ul style="list-style-type: none"> • Escaping, concealing or attempting to conceal evidence after committing the crime • Repeated offenses of the different type under the Criminal Act

03 | PUBLICATION OF FALSE FACTS AND SLANDERS AGAINST CANDIDATES

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Slander Against Candidates	5 Hundred Thousand Won - 1 Million 5 Hundred Thousand Won	- 8 mos. 1 Million Won - 3 Million Won	6 mos. - 1 yr. 2 Million 5 Hundred Thousand Won - 4 Million Won
2	Publication of False Facts for Success in the Election	7 Hundred Thousand Won - 3 Million Won	- 10 mos. 2 Million Won - 8 Million Won	8 mos. - 2 yrs. 5 Million Won - 10 Million Won
3	Publication of False Facts for Defeat in the Election	- 8 mos. 3 Million Won - 6 Million Won	6 mos. - 2 yrs. 5 Million Won - 10 Million Won	1 yr. - 3 yrs.

- ▷ The offense of publication of false facts concerning intra-party election (Article 250, paragraph 3) falls within Type 2, the offense of prohibition of false criticism or report on broadcast, newspapers, and others (Article 252, paragraph 1), falls within Type 3.
- ▷ The offense of publishing or reporting falsified outcomes of a public opinion poll (Article 252, paragraph 2) falls within Type 2, but the mitigating factor's imposing of a fine shall be twice the minimum of the recommended sentencing range.



CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Offender's passive participation resulting from outside pressure Extent of publication of false facts or slander against candidates is slight Offense committed toward only a few people or the low possibility of dissemination Possession of propaganda documents for distribution Publication of false facts to win the intra-party election 	<ul style="list-style-type: none"> False facts or slanderous material is an important factor for the voters to assess the candidate Date the offense committed is close to the election day Offense committed toward only a large crowd or high possibility of dissemination Malicious method of the crime Offense committed by using social status or influence (This excludes the case of instigating the subordinate person to commit the crime) Instigating the subordinate person to commit the crime
Special Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> Those with hearing and speaking impairments Those with mental incapacity (cases where the offender cannot be held liable) Voluntary surrender to investigative agencies The victim opposes punishment before the election (including genuine efforts to reverse the harm) 	<ul style="list-style-type: none"> Criminal history of the same type of offense (including fines)
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Offender's passive participation 	<ul style="list-style-type: none"> Offense committed even after receiving a warning from the election commission Offense committed while using vulgar expression including slangs and the like
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> Expresses sincere remorse No prior criminal history Voluntary resignation or declining to run for office Victim opposes punishment after the election 	<ul style="list-style-type: none"> Offense committed by the candidate, candidate's spouse, lineal ascendant, lineal descendant, or persons related to the election Escaping, concealing or attempting to conceal evidence after committing the crime Repeated offenses of the different type under the Criminal Act

04 | VIOLATIONS OF ELECTION CAMPAIGN PERIOD AND UNLAWFUL ELECTION CAMPAIGNS

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Violation of Election Campaign Period	3 Hundred Thousand Won - 9 Hundred Thousand Won	7 Hundred Thousand Won - 1 Million 5 Hundred Thousand Won	- 8 mos. 1 Million Won - 3 Million Won
2	Violation of Election Campaign Method	5 Hundred Thousand Won - 9 Hundred Thousand Won	7 Hundred Thousand Won - 2 Million Won	4 mos. - 1 yr. 1 Million Won - 4 Million Won
3	Election Campaign Conducted by Using Public Official Position	- 10 mos.	8 mos. - 1 yr. 6 mos.	1 yr. - 3 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Offender's passive participation resulting from outside pressure Extent of violation of election campaign method is slight Extent of recognition of the illegality is very slight 	<ul style="list-style-type: none"> Date the offense committed is close to the election day Premeditated and organized crime Offense committed by using social status or influence (This excludes Type 3 offenses and cases of instigating the subordinate person to commit the crime) Offense committed toward unspecified persons or multiples of victims or prolonged and repeated commission of the crime Instigating the subordinate person to commit the crime
Special Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none"> Those with hearing and speaking impairments Those with mental incapacity (cases where the offender cannot be held liable) Voluntary surrender to investigative agencies 	<ul style="list-style-type: none"> Criminal history of the same type of offense (including fines)



CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Determinant	Conduct	<ul style="list-style-type: none">• Offender's passive participation	<ul style="list-style-type: none">• Offense committed even after receiving a warning from the election commission• Offense committed while using vulgar expression including slangs and the like
General Sentencing Determinant	Actor /Etc.	<ul style="list-style-type: none">• Expresses sincere remorse• No prior criminal history• Voluntary resignation or declining to run for office	<ul style="list-style-type: none">• Offense committed by the candidate, candidate's spouse, lineal ascendant, lineal descendant, or persons related to the election• Escaping, concealing or attempting to conceal evidence after committing the crime• Repeated offenses of the different type under the Criminal Act

DEFINITION OF OFFENSES

▶ CORRUPT PRACTICES AND INDUCEMENT BY INTEREST

01 | TYPE 1 — CORRUPT PRACTICES CONCERNING INTRA-PARTY ELECTION

- This means offenses with the following elements of offenses as prescribed in the applicable law (This applies to all offenses).

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCE
Corrupt Practices and Inducement by Interest Concerning Intra-Party Election	Public Official Election Act, Article 230, paragraph 7	Imprisonment Not Exceeding three years or Fine Not Exceeding 10 Million Won
Instructing, Soliciting, Demanding, Commissioning of Corrupt Practices and Inducement by Interest Concerning Intra-Party Election	Public Official Election Act, Article 230, paragraph 8	Imprisonment Not Exceeding five years or Fine Not Exceeding 30 Million Won

02 | TYPE 2 — GENERAL CORRUPT PRACTICES, CORRUPT PRACTICES CONCERNING CANDIDATE RECOMMENDATION IN A POLITICAL PARTY

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCE
Corrupt Practices and Inducement by Interest by General Citizen	Public Official Election Act, Article 230, paragraph 1	Imprisonment Not Exceeding 5 years or Fine Not Exceeding 30 Million Won
Instruction, Solicitation, Demand or Commissioning of Corrupt Practices and Inducement by Interest Concerning Intra-Party Election	Public Official Election Act, Article 230, paragraph 3	Imprisonment Not Exceeding 7 Years or Fine Not Exceeding 50 Million Won
Carrying of Money for Distribution During the Election Campaign Period	Public Official Election Act, Article 230, paragraph 4	Imprisonment Not Exceeding 5 years or Fine Not Exceeding 30 Million Won



ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCE
Corrupt Practices and Inducement by Interest Concerning Candidate Recommendation in a Political Party, Instructing, Soliciting, Demanding, Commissioning of Such Conduct	Public Official Election Act, Article 230, paragraph 6	Imprisonment Not Exceeding 5 years or Fine Not Exceeding 30 Million Won and Minimum Fine of 5 Million Won
Corrupt Practices for Unlawful Use of Broadcast or Newspaper by General Citizen and Receiving, Soliciting, Demanding or Promises Money by a Person Who Operates a Broadcasting Media or Newspaper	Public Official Election Act, Article 235, paragraph 1	Imprisonment Not Exceeding 5 years or Fine Not Exceeding 10 Million Won

03 | TYPE 3 — GENERAL CORRUPT PRACTICES BY CANDIDATES

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCE
Corrupt Practices and Inducement by Interest by a Candidate, and Instructing, Soliciting, Demanding, Commissioning of Such Conducts	Public Official Election Act, Article 230, paragraph 2, paragraph 3	Imprisonment Not Exceeding 7 Years or Fine Not Exceeding 50 Million Won
Corrupt Practices for Unlawful Use of Broadcasting Media or Newspaper by a Candidate	Public Official Election Act, Article 235, paragraph 2	Imprisonment Not Exceeding 7 Years or Fine Not Exceeding 20 Million Won

04 | TYPE 4 — CORRUPT PRACTICES FOR ECONOMIC BENEFITS, AND CORRUPT PRACTICES TOWARD CANDIDATES

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCE
Corrupt Practices and Inducement by Interest for Economic Benefits	Public Official Election Act, Article 231, paragraph 1	Imprisonment Not Exceeding 7 Years or Fine Not Exceeding 50 Million Won and Minimum fine of 3 Million Won
Corrupt Practices and Inducement by Interest for Economic Benefits and Instructing, Soliciting, Demanding, and Commissioning of Such Conducts	Public Official Election Act, Article 231, paragraph 2	Imprisonment Not Exceeding 10 Years or Fine Not Exceeding 70 Million Won and Minimum Fine of 5 Million Won

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCE
Corrupt Practices and Inducement by Interest Toward Candidates	Public Official Election Act, Article 232, paragraph 1	Imprisonment Not Exceeding 7 Years or Fine Not Exceeding 50 Million Won and Minimum Fine of 5 Million Won
Corrupt Practices and Inducement By Interest Toward Candidates and Instructing, Soliciting, Demanding, and Commissioning Of Such Conducts	Public Official Election Act, Article 232, Paragraph 2	Imprisonment Not Exceeding 10 Years or Fine Not Exceeding 70 Million Won And Minimum Fine Of 5 Million Won

05¹ TYPE 5 — CORRUPT PRACTICES TOWARD ELECTED CANDIDATES

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCE
Corrupt Practices and Inducement by Interest Toward Elected Candidates	Public Official Election Act, Article 233, paragraph 1	More than 1 year and less than 10 years of Imprisonment
Corrupt Practices for Unlawful Use of Broadcasting Media or Newspaper by a Candidate	Public Official Election Act, Article 233, paragraph 2	More than 1 year and less than 10 years of Imprisonment



▶ VIOLATION OF PROHIBITION AND RESTRICTION ON CONTRIBUTION

- This means offenses with the following elements of offenses and as prescribed in the applicable law (This applies to all offenses).

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCE
Contribution Violating Prohibition and Restriction on Contribution	Public Official Election Act, Article 257, paragraph 1	Imprisonment Not Exceeding five years or Fine Not Exceeding 10 Million Won
Instruction, Solicitation, Demand or Commissioning of Contributions	Public Official Election Act, Article 257, paragraph 2	Imprisonment Not Exceeding three years or Fine Not Exceeding 5 Million Won

▶ PUBLICATION OF FALSE FACTS AND SLANDERS AGAINST CANDIDATES

01 | TYPE 1 — SLANDERS AGAINST CANDIDATES

- This means offenses with the following elements of offenses as prescribed in the applicable law (This applies to all offenses).

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCE
Slanders Against Candidates	Public Official Election Act, Article 251	Imprisonment Not Exceeding 3 years or Fine Not Exceeding 5 Million Won

02¹ TYPE 2 — PUBLICATION OF FALSE FACTS TO WIN THE ELECTION

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCE
Publication of False Facts to Win the Election	Public Official Election Act, Article 250, paragraph 1	Imprisonment Not Exceeding 5 years or Fine Not Exceeding 30 Million Won
Publication of False Facts to Win the Intra-Party Election	Public Official Election Act, Article 250, paragraph 3	Imprisonment Not Exceeding 3 years or Fine Not Exceeding 6 Million Won
Publication of False Facts to Defeat in the Intra-Party Election	Public Official Election Act, Article 250, paragraph 3	Imprisonment Not Exceeding 5 years or Fine Not Exceeding 10 Million Won
publishing or reporting falsified outcomes of a public opinion poll	Public Official Election Act, Article 252, paragraph 2	Imprisonment Not Exceeding 5 years or Fine Not Exceeding 20 Million Won and Minimum Fine of 3 Million Won

03¹ TYPE 3 — PUBLICATION OF FALSE FACTS TO DEFEAT THE ELECTION

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCE
Publication of False Facts to Defeat the Election	Public Official Election Act, Article 250, paragraph 2	Imprisonment Not Exceeding 7 Years or Fine Not Exceeding 30 Million Won and Minimum Fine of 5 Million Won
prohibition of false criticism or report on broadcast, newspapers, and others	Public Official Election Act, Article 252, paragraph 1	Imprisonment Not Exceeding 7 years or Fine Not Exceeding 30 Million Won and Minimum Fine of 5 Million Won



▶ VIOLATION OF ELECTION CAMPAIGN PERIOD AND UNLAWFUL ELECTION CAMPAIGN

01 | TYPE 1 – VIOLATION OF ELECTION CAMPAIGN PERIOD

- This means offenses with the following elements of offenses as prescribed in the applicable law (This applies to all offenses).

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCE
Election Campaign Conducted on Election Day	Public Official Election Act, Article 254, paragraph 1	Imprisonment Not Exceeding 3 years or Fine Not Exceeding 6 Million Won
Election Campaign Conducted Prior to Commencing of the Election Campaign Period	Public Official Election Act, Article 254, paragraph 2	Imprisonment Not Exceeding 2 Years or Fine Not Exceeding 4 Million Won

02 | TYPE 2 – VIOLATION OF ELECTION CAMPAIGN METHOD

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCE
Violation of Public Official Election Act, Article 255, paragraph 1	Public Official Election Act, Article 255, paragraph 1	Imprisonment Not Exceeding 3 years or Fine Not Exceeding 6 Million Won
Violation of Public Official Election Act, Article 255, paragraph 2	Public Official Election Act, Article 255, paragraph 2	Imprisonment Not Exceeding 2 Years or Fine Not Exceeding 4 Million Won

03 | TYPE 3 – ELECTION CAMPAIGN CONDUCTED BY USING PUBLIC OFFICIAL POSITION

ELEMENTS OF OFFENSE	APPLICABLE LAW	SENTENCE
Violation of Prohibition on Election Campaign (including Intra-Party Election) by Using Public Official Position	Public Official Election Act, Article 255, paragraph 3	Less than 5 years of Imprisonment

DEFINITION OF SENTENCING FACTORS

▶ GENERAL TAX EVASION/TAX EVASION UNDER AGGRAVATED PUNISHMENT ACT

01 | OFFENDER'S PASSIVE PARTICIPATION RESULTING FROM OUTSIDE PRESSURE

- Cases where the offense is committed from an employment relationship, and thus, the offender could not refuse the superior's instructions.
- Other cases with comparable factors.

02 | CASES WHERE THE AMOUNT OF MONEY, VALUABLES, OR BENEFITS PROVIDED OR RECEIVED IS VERY INSIGNIFICANT

- The amount of money, valuables, or benefits provided or received is very insignificant in that it did not have any particular influence on the outcome of the election.
- The offender provided or received the amount of money, valuables, or food concerning the election campaign that was of diminutive value.
- Other cases with comparable factors.

03 | PASSIVE YIELDING TO THE RECIPIENT'S ACTIVE DEMAND

- The offender provided the money, valuables, or benefit to meet the recipient's active demand, which means cases where one or more following factors apply:
 - The offender passively yielded not to mere requests but an active demand of money, valuables, and the like by the elector, volunteer, or election campaigner. As a result, offered money, valuables, and the like



- The offender provided money, valuables, and the like to the person who looked as if that person would disclose facts that could significantly influence the election's outcome
- Other cases with comparable factors

04 | PROVIDING OR RECEIVING AN INSIGNIFICANT AMOUNT OF MONEY, VALUABLES, AND THE LIKE ONLY TO COMPENSATE ACTUAL EXPENSES OF THE ELECTION CAMPAIGN OR TO PROVIDE COMFORT

- Cases where the offender offered or received the usual compensation and a small amount of money to reward actual expenses spent on the campaign. (This does not take into account whether the person is reported as the campaign manager to the election commission or not.)
- However, this does not apply to cases where election campaigners received money or valuables from a candidate to commit corrupt practices or contributions toward electors, candidates, and the like.
 - * This factor does not apply to cases where the amount of money, valuables, or benefits provided or received is very insignificant.

05 | AMOUNT OF MONEY, VALUABLES OR BENEFIT PROVIDED OR RECEIVED IS SUBSTANTIAL

- The amount of money or benefit provided is substantial according to social norms, or it directly influenced the election or was provided with the intent to influence the election.
- Other cases with comparable factors.

06 | PREMEDITATED OR ORGANIZED CRIME

- The means and methods for the commission of the offense were meticulously done in advance.

- Multiple persons were involved in an organized manner for the purpose of committing the offense.
- Other cases with comparable factors.

07 | CRIMINAL HISTORY OF THE SAME TYPE OF OFFENSE (INCLUDING FINES)

- This means the criminal history of imprisonment or fine by violating Public Official Election Act or Political Funds Act, Article 45 and 49.

08 | OFFENDER'S PASSIVE PARTICIPATION

- This indicates cases in which the nature of participation in the commission of the offense was passive or the offender had a limited role.
- However, this is not applicable in cases in which the offender had an active role in the commission of the offense by causing another person to commit the offense.

09 | OFFENSE COMMITTED BY USING SOCIAL STATUS OR INFLUENCE

- The offender, a prominent figure in the local community who influences public opinions or a public official who is required to be politically neutral in an election, uses social status or influence to commit the offense.
- The offender committed the offense by using social status to extend substantial influence on the candidate's recommendation in the political party.
- Other cases with comparable factors.



10 | OFFENSE COMMITTED EVEN AFTER RECEIVING A WARNING FROM THE ELECTION COMMISSION

- The offender committed the offense even after recognizing the violation by receiving documented warning or notice from the election commission
- Other cases with comparable factors.

▶ VIOLATION OF PROHIBITION AND RESTRICTION ON CONTRIBUTION

01 | CUSTOMARY OR FORMAL CONDUCTS OTHER THAN THOSE PRESCRIBED IN THE PUBLIC OFFICIAL ELECTION ACT, ARTICLE 112, PARAGRAPH 2

- The offender committed the offense by carelessly performing routine duties conducted by a former person-in-charge or other public officials.
- The offender committed the offense by sponsorship or scholarship donations or the like that was routinely paid.
- Other cases with comparable factors.

02 | OFFENDER'S PASSIVE PARTICIPATION RESULTING FROM OUTSIDE PRESSURE

- This includes cases in which the offense is committed from an employment relationship, where the offender could not refuse the superior's instructions.
- Other cases with comparable factors.

03 | CASES WHERE THE AMOUNT OF MONEY, VALUABLES, OR BENEFITS PROVIDED OR RECEIVED IS VERY INSIGNIFICANT

- The amount of money, valuables, or benefits provided or received is very insignificant in that it did not have any particular influence on the outcome of the election.
- Other cases with comparable factors.

04 | PASSIVE YIELDING TO THE RECIPIENT'S ACTIVE DEMAND

- The offender provided the money, valuables or benefit to meet the recipient's active demand, which means cases where one or more following factors apply:
 - The offender passively yielded not to mere requests but to an active demand of money, valuables, and the like by the elector, volunteer, or election campaigner, and as a result, offered money, valuables, and the like
 - The offender provided money, valuables, and the like to the person who looked as if that person would disclose facts that could significantly influence the outcome of the election
 - Other cases with comparable factors

05 | AMOUNT OF MONEY, VALUABLES OR BENEFIT PROVIDED OR RECEIVED IS SUBSTANTIAL

- The amount of money or benefit provided is substantial according to social norms, or it directly influenced the election or was provided with the intent to influence the election.
- Other cases with comparable factors.



06 | OFFENSE COMMITTED BY THE CANDIDATE, CANDIDATE'S SPOUSE, LINEAL ASCENDANT, LINEAL DESCENDANT, OR PERSONS RELATED TO THE ELECTION

- An offense committed by the candidate (including a person who wishes to be a candidate), his family, campaign manager, head of an election campaign liaison office, campaign member, accounting officer in charge, and speech persons.

07 | CRIMINAL HISTORY OF THE SAME TYPE OF OFFENSE (INCLUDING FINES)

- This means the criminal history of imprisonment or fine by violating the Public Official Election Act or the Political Funds Act, Article 45, and 49.

08 | OFFENDER'S PASSIVE PARTICIPATION

- This indicates cases in which the nature of participation in the commission of the offense was passive or the offender had a limited role.
- However, this is not applicable in cases in which the offender had an active role in the commission of the offense by causing another person to commit the offense.

09 | OFFENSES COMMITTED THROUGH COINCIDENTAL FORMING ACQUAINTANCE RELATIONSHIP

- The offender committed the offense by using social status to extend substantial influence on the candidate recommendation in the political party. The offender came to commit the crime of contribution for the personal relationship after attending a meeting lead by the third party by chance.
- Other cases with comparable factors.

10 | OFFENSE COMMITTED BY USING SOCIAL STATUS OR INFLUENCE

- The offender, a prominent figure in the local community who influences public opinions or a public official who is required to be politically neutral in an election, uses social status or influence to commit the offense.
- Other cases with comparable factors.

11 | OFFENSE COMMITTED EVEN AFTER RECEIVING A WARNING FROM THE ELECTION COMMISSION

- The offender committed the offense even after recognizing the violation by receiving documented warning or notice from the election commission
- Other cases with comparable factors.



▶ PUBLICATION OF FALSE FACTS AND SLANDERS AGAINST CANDIDATES

01 | THE EXTENT OF PUBLICATION OF FALSE FACTS OR SLANDER AGAINST CANDIDATES IS SLIGHT

- Facts publicized are partially false but are only of secondary or minor issues that are not of significance.
- Violations under the Public Official Election Act, Article 64, paragraph 1 concerning writing educational background.
- Most of the facts publicized correspond to the truth (This excludes Type 1).
- The opponent explained his stance considerably on occasions such as debates.
- An offender merely quoted simple comments, news, or writings by others.
- Other cases with comparable factors.

02 | OFFENSE COMMITTED TOWARD ONLY A FEW PEOPLE OR THE LOW POSSIBILITY OF DISSEMINATION

- Cases where the offense is committed toward a small number of electors at a time that is not close to the day of the election.
- The duration of publication was extremely short, or the number of hits is very low.
- Other cases with comparable factors.

03 | FALSE FACTS OR SLANDEROUS MATERIAL IS AN IMPORTANT FACTOR FOR THE VOTERS TO ASSESS THE CANDIDATE

- An offense related to concrete facts about the candidate's misdeed such as infidelity, prostitution, speculation in real estate, or bribery.

- Facts that are related to a significant election offense concerning the candidate, such as distributing money during election campaigns.
- Other cases with comparable factors.

04 | OFFENSE COMMITTED TOWARD ONLY A LARGE CROWD OR HIGH POSSIBILITY OF DISSEMINATION

- An offense was committed through the media using the internet including SNS (Social Network Service) like Facebook, Twitter, etc., TV, radio, and the like.
- However, for dissemination through the internet, cases where the number of hits was very low, the publication duration was extremely short, or when the publisher used non-public message boards so that the range of dissemination was limited are excluded.
- Other cases with comparable factors.

05 | MALICIOUS METHOD OF CRIME

- This indicates cases in which one or more following factors apply:
 - The means and methods for the commission of the offense were meticulously done in-advance
 - Multiple persons were involved in an organized manner to commit the offense
 - An unlawful means such as falsified or forged document were used
 - A malicious intent such as statements to a personal attack with no ground or prolonged and repeated commission of the crime
 - Other cases with comparable factors

06 | OFFENSE COMMITTED BY USING SOCIAL STATUS OR INFLUENCE

- The offender, a prominent figure in the local community who influences public opinions or a public official who is required to be politically neutral in an election, uses social status or influence to commit the offense.



- The offender used their status as a journalist.
- Other cases with comparable factors.

07 | VICTIM OPPOSES PUNISHMENT BEFORE THE ELECTION (INCLUDING GENUINE EFFORTS TO REVERSE THE HARM)

- This indicates cases in which the offender expresses remorse for committing the crime, and the victim of the publication acknowledges this and objects to punishing the offender.
- This includes cases where the offender voluntarily took corrective measures such as withdrawing statements, deleting postings, or correcting news.
- However, this excludes cases where damage recovery is difficult because the object of punishment or corrective measures appeared immediately before Election Day or after the election.

08 | CRIMINAL HISTORY OF THE SAME TYPE OF OFFENSE (INCLUDING FINES)

- This means the criminal history of imprisonment or fine by violating the Public Official Election Act or the Political Funds Act, Article 45, and 49.

09 | OFFENDER'S PASSIVE PARTICIPATION

- This indicates cases in which the nature of participation in the commission of the offense was passive or the offender had a limited role.
- However, this is not applicable in cases in which the offender had an active role in the commission of the offense by causing another person to commit the offense.

▶ VIOLATION OF ELECTION CAMPAIGN PERIOD AND UNLAWFUL ELECTION CAMPAIGNS

01 | THE EXTENT OF VIOLATION OF ELECTION CAMPAIGN METHOD IS SLIGHT

- The number of visited households is very small.
- The established-similar institutions' size is relatively small.
- The quantity of illegally distributed documents is minimal.
- An offense committed toward party members of the offender.
- Other cases with comparable factors.

02 | THE EXTENT OF RECOGNITION OF THE ILLEGALITY IS VERY SLIGHT

- An offense was committed even after determining the illegality of certain acts through the election commission.
- An offense was committed after an incorrect interpretation of the law.
- Other cases with comparable factors.

03 | THE DAY THE OFFENSE WAS COMMITTED WAS CLOSE TO THE ELECTION DAY

- The offender violated each paragraph of the Public Official Election Act, Article 255, at a time very close to Election Day.
- The election campaign on Election Day was conducted in a manner, which is also forbidden during the election campaign period.



04 | OFFENSE COMMITTED BY USING SOCIAL STATUS OR INFLUENCE

- Cases where the offender worked in the educational, relational, or professional organization and campaigned toward its members, or used the offender's special authority against such businesses or subcontractors and its members to conduct election campaigns.
- Election campaigns are held by the head of the local community, members of the residents' association, apartment residents' committee executives, or national movement community executives, staff, or heads.
- An offense is committed through the use of the status of a journalist.
- Other cases with comparable factors.

05 | CRIMINAL HISTORY OF THE SAME TYPE OF OFFENSE (INCLUDING FINES)

- This means the criminal history of imprisonment or fine by violating the Public Official Election Act or the Political Funds Act, Article 45, and 49.

06 | OFFENDER'S PASSIVE PARTICIPATION

- This indicates cases in which the nature of participation in the commission of the offense was passive or the offender had a limited role.
- However, this is not applicable in cases in which the offender had an active role in the commission of the offense by causing another person to commit the offense.

ASSESSING PRINCIPLES APPLICABLE TO SENTENCING FACTORS

01 | DETERMINING THE SENTENCING RANGE

- When determining the appropriate sentencing range, the court must consider only the special sentencing determinants.
- However, in cases involving more than two special sentencing determinants, the applicable sentencing range is adjusted after assessing the factors as set forth below:
 - ① The same number of conduct factors shall be considered with greater significance than the actor or other factors.
 - ② The same number of conduct factors reciprocally, or the actor, or other factors reciprocally shall be treated as the same.
 - ③ If the sentencing range applicable cannot be determined by the aforementioned principles in ① and ②, the court is to decide the sentencing range by a comprehensive comparison and assessment based on the principles set forth in ① and ②.
- It is recommended that when the assessment reveals greater aggravating factors to select the aggravated zone, the mitigating factors is greater to select the mitigating zone, and the same number of aggravating factors and mitigating factors to select the standard zone as a sentencing range.

02 | DETERMINING THE SENTENCE APPLICABLE

- In determining the sentence, the court should consider comprehensively both the general and special sentencing determinants that are within the sentencing range as assessed under above 1.



GENERAL APPLICATION PRINCIPLES

01 | SPECIAL ADJUSTMENTS TO THE SENTENCING RANGE

- ① When only two or more special aggravating factors apply, or the special sentencing determinant outnumber the special mitigating determinants by two or more, then increase the maximum level of the recommended sentencing range up to $\frac{1}{2}$.
- ② When only two or more special mitigating factors apply, or the special sentencing determinant outnumber the special aggravating determinants by two or more, then reduce the minimum level of the recommended sentencing range down to $\frac{1}{2}$.

02 | RELATION BETWEEN THE RECOMMENDED SENTENCING RANGE UNDER THE GUIDELINES AND THE APPLICABLE SENTENCING RANGE BY LAW

- When the sentencing range under this guideline conflicts with the range determined according to the aggravation and mitigation of the applicable law, the sentencing range prescribed by the applicable law shall govern.

03 | APPLICATION OF STATUTORY MITIGATING FACTORS AS DISCRETIONARY

- When the court declines to apply a permissive mitigating factor under applicable law as listed in this guideline's sentencing table, the factor shall be treated as a discretionary mitigating factor.

GUIDELINES ON SENTENCING MULTIPLE OFFENSES

01 | APPLICABLE SCOPE

- This section applies to concurrent crimes prescribed in the first part of Article 37 of the Criminal Act. However, when concurrent crimes under the first part of Article 37 of the Criminal Act involve an offense set forth in the sentencing guidelines, as well as an offense the sentencing guidelines do not cover, then the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.
- This section doesn't apply to crimes of being sentenced in accordance with Public Official Election Act, Article 18, paragraph 3 and concurrent crimes being sentenced separately from other crimes

02 | DETERMINING THE BASE OFFENSE

- The "base offense" indicates the most severe offense that results after selecting the penalty and determining the statutory aggravation and mitigation. However, in cases in which the maximum sentencing range is lower than that of the maximum sentencing range of the other offense as set forth in this guideline, the offense resulting in the concurrent crime becomes the base offense.

03 | CALCULATING THE SENTENCING RANGE

- To calculate the sentence of an offender convicted of multiple offenses that is not treated as a single offense under this guideline, the court shall apply the following principles:
 - ① In setting the sentencing range for an offender convicted of two offenses, the sentencing range should be the total sum of the maximum sentencing range of the base offense and the $\frac{1}{2}$ of the maximum sentencing range of the



second offense.

- ② In setting the sentencing range for an offender convicted of three or more offenses, the sentencing range should be the total sum of the following: (1) of the maximum sentencing range of the base offense, sum of $\frac{1}{2}$ of the maximum sentencing range of the offense with the highest sentencing range, and (2) $\frac{1}{3}$ of the maximum sentencing range of the remaining offense with the second-highest sentencing range.
- ③ For cases in which the minimum sentencing range of the other offense is higher than that of the base offense, the minimum sentencing range resulting from the multiple offense should be the minimum sentencing range of the other offense.

PART B — GUIDELINE ON SUSPENDING A SENTENCE

01 | CORRUPT PRACTICES AND INDUCEMENT BY INTEREST

CLASSIFICATION	ADVERSE	AFFIRMATIVE
<p>Primary Consideration Factor</p>	<ul style="list-style-type: none"> • Cases where the amount of money, valuables, or benefits provided or received is substantial • Instruction, solicitation, demanding, or commissioning • Premeditated and organized crime • Crime against unspecified multiples of victims or prolonged and repeated commission of the crime 	<ul style="list-style-type: none"> • Offender’s passive participation resulting from outside pressure • Cases where the amount of money, valuables, or benefits provided or received is very insignificant • Passive yielding to the recipient’s active demand • Providing or receiving an insignificant amount of money, valuables, and the like only to compensate actual expenses of the election campaign or to provide comfort • Cases where the offense ended with an expression of intent or by a promise only • Voluntary surrender to investigative agencies, cases of whistleblowing of corruption
<p>General Consideration Factor</p>	<ul style="list-style-type: none"> • Two or more criminal history on the suspension of sentence or for a greater offense • Offense committed by using social status or influence • Violations of the Public Official Election Act, Article 230, paragraph 1, subparagraph 2 and 3, and Article 235 • Obstructing tax investigation or destroying evidence or attempting to destroy evidence 	<ul style="list-style-type: none"> • Offender’s passive participation as an accomplice • Strongly established social ties • Expresses sincere remorse • Cases of elderly offenders • Physically ill offenders • Cases where the arrest of the offender would cause severe hardship to the offender’s dependent family member • No prior criminal history



02¹ VIOLATIONS OF PROHIBITIONS AND RESTRICTIONS ON CONTRIBUTIONS

CLASSIFICATION	ADVERSE	AFFIRMATIVE
<p>Primary Consideration Factor</p>	<ul style="list-style-type: none"> • The offense was committed close to the election day • Cases where the amount of money, valuables, or benefits provided or received is substantial • Premeditated and organized crime • Crime against unspecified multiples of victims or prolonged and repeated commission of the crime 	<ul style="list-style-type: none"> • Customary or formal conducts other than those prescribed in the Public Official Election Act, Article 112, paragraph 2 • Offender's passive participation resulting from outside pressure • Cases where the amount of money, valuables, or benefits provided or received is very insignificant • Passive yielding to the recipient's active demand • Cases where the offense ended with an expression of intent or by a promise only • Voluntary surrender to investigative agencies, cases of internal whistleblowing
<p>General Consideration Factor</p>	<ul style="list-style-type: none"> • Two or more criminal history on the suspension of sentence or for a greater offense • Offense committed by using social status or influence • Offense committed even after receiving a warning from the election commission • Obstructing tax investigation or destroying evidence or attempting to destroy evidence 	<ul style="list-style-type: none"> • Offender's passive participation as an accomplice • Offenses committed through coincidental forming acquaintance relationship and others • Strongly established social ties • Expresses sincere remorse • Cases of elderly offenders • Physically ill offenders • Cases where the arrest of the offender would cause severe hardship to the offender's dependent family member • No prior criminal history

03 | PUBLICATION OF FALSE FACTS AND SLANDERS AGAINST CANDIDATES

CLASSIFICATION	ADVERSE	AFFIRMATIVE
<p>Primary Consideration Factor</p>	<ul style="list-style-type: none"> • False facts or slanderous material is an important factor for the voters to assess the candidate • The offense was committed close to the election day • Offense committed toward only a large crowd or high possibility of dissemination • Malicious method of the crime • Offense committed by using social status or influence 	<ul style="list-style-type: none"> • Offender’s passive participation resulting from outside pressure • Extent of publication of false facts or slander against candidates is slight • Offense committed toward only a few people or the low possibility of dissemination • Possession of propaganda documents for distribution • Voluntary surrender to investigative agencies • The victim opposes punishment before the election (including genuine efforts to reverse the harm)
<p>General Consideration Factor</p>	<ul style="list-style-type: none"> • Two or more criminal history on the suspension of sentence or for a greater offense • Offense committed by using social status or influence • Offense committed even after receiving a warning from the election commission • Obstructing tax investigation or destroying evidence, or attempting to destroy evidence 	<ul style="list-style-type: none"> • Offender’s passive participation as an accomplice • Strongly established social ties • Expresses sincere remorse • Cases of elderly offenders • Physically ill offenders • Cases where the arrest of the offender would cause severe hardship to the offender’s dependent family member • No prior criminal history



04¹ VIOLATIONS OF ELECTION CAMPAIGN PERIOD AND UNLAWFUL ELECTION CAMPAIGNS

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Consideration Factor	<ul style="list-style-type: none"> • Date the offense committed is close to the election day • Premeditated and organized crime • Offense committed by using social status or influence • Crime against unspecified multiples of victims or prolonged and repeated commission of the crime 	<ul style="list-style-type: none"> • Offender's passive participation resulting from outside pressure • Extent of violation of the election campaign method is slight • Extent of recognition of the illegality is very slight • Voluntary surrender to investigative agencies
General Consideration Factor	<ul style="list-style-type: none"> • Two or more criminal history on the suspension of sentence or for a greater offense • Offense committed even after receiving a warning from the election commission • Offense committed while using vulgar expression including slangs and the like • Obstructing tax investigation or destroying evidence, or attempting to destroy evidence 	<ul style="list-style-type: none"> • Offender's passive participation as an accomplice • Strongly established social ties • Expresses sincere remorse • Cases of elderly offenders • Physically ill offenders • Cases where the arrest of the offender would cause severe hardship to the offender's dependent family member • No prior criminal history • The victim opposes punishment after the election

DEFINITIONS OF FACTORS TO CONSIDER IN SUSPENDING A SENTENCE

- In cases in which the factors to consider in suspending a sentence and the sentencing factors are identical, refer to the definitions set forth in the *Definition of Sentencing Factors*.
- Determining Criminal History
 - Prior criminal history is calculated as follows: In cases that involve a suspension of the sentence, the prior criminal history is calculated from the date the defendant's suspension of the sentence was affirmed until the date of the commission of the offense. In cases that impose imprisonment, prior criminal history is calculated from the final date of the completion of the sentence up to the date the offense was committed.



ASSESSING PRINCIPLES APPLICABLE TO THE FACTORS TO CONSIDER IN SUSPENDING A SENTENCE

- In deciding whether the suspension of a sentence is appropriate in cases in which imprisonment is imposed, the court should give the primary consideration factor greater importance than the general consideration factors. The following principles should be considered:
 - ① In cases in which only two or more primary affirmative factors exist or when the primary affirmative factors outnumber the major adverse factors by two or more, it is recommended to suspend the sentence.
 - ② In cases in which two or more primary adverse factors exist or when the primary adverse factors outnumber the primary affirmative factor by two or more, imprisonment is recommended.
 - ③ In cases in which ① or ② apply, but the difference between the number of general adverse (affirmative) factors and general affirmative (adverse) factors is greater than the difference between the number of primary affirmative (adverse) factors and primary adverse (affirmative) factors, or in cases other than ① or ②, the court shall decide whether to suspend the sentence after comparing and assessing the factors listed under the suspension of sentence section comprehensively.