

THE TEACHERS SERVICE COMMISSION CODE OF CONDUCT AND ETHICS

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PART III

ANNEX

THE PUBLIC OFFICER ETHICS ACT, 2003 (No. 4 of 2003)

IN EXERCISE of the powers conferred by section 5(1) of the Public Officer Ethics Act, 2003, The Teachers Service Commission establishes the following Teachers Service Commission Code of Conduct and Ethics:

THE TEACHERS SERVICE COMMISSION CODE OF CONDUCT AND ETHICS

Preamble

The Education System of the Republic of Kenya is charged with the responsibility of nurturing the growth of the whole person through integrated development of physical, intellectual, moral and spiritual attributes and abilities. The teacher is a key person in imparting knowledge, skills and attitudes that are necessary for the development of the country. The Teaching Service is a noble calling which demands sacrifice and selflessness.

The code is intended to establish standards of ethical conduct and behaviour for teachers and officers **employed by** the Teachers Service Commission. **It seeks to create awareness on shared values and principles that should govern attitude and behaviour. The code also seeks to guide members of staff on how to handle conflict of interest and personal conduct including interpersonal relations at the workplace.**

This code contains rules of conduct and ethics to be observed so as to maintain the integrity, dignity and nobility of the teaching profession. The Code does not in any way replace the Code of Regulations for Teachers or the laws and rules relating to the officers and employees of the Teachers Service Commission. Those laws and rules and all other applicable laws must be obeyed.

Employees of the Teachers Service Commission should adhere to this Code so as not to bring ridicule and dishonour to the Commission and the teaching profession. ***This is in line with its Vision: "To be an Institution of Excellence in the Provision of Efficient Service for Quality Teaching"***

PART I
PRELIMINARY

1. Citation

This Code may be cited as the Teachers Service Commission Code of Conduct and Ethics.

2. Definitions and Interpretations

In this Code, unless the context otherwise requires: -

“Act” means the Public Officers Ethics Act, 2003.

“Collection”, “collector” and **“promoter”** have the same meanings as in section 2 of the Public Collections Act, Cap. 106.

“Confidential Information” means that information acquired in connection with the Public Officer’s duties and that which is not public.

“Conflict of Interest” means instances when a Public Officer’s personal interest conflicts with his official duties.

“Day” means a calendar day and **“year”** means 365 days.

“Harambee Money” means money raised by way of fundraising.

“Pornography” refers to the explicit depiction of sexual subject matter with the sole intention of sexually exciting the viewer.

“Public Officer” means a public officer to whom this Code applies under Rule 3.

“School” includes pre-primary, primary, secondary and tertiary institutions;

“Sex toy” refers to an object or device that is primarily used in facilitating human sexual pleasure.

“Sexual activity” includes but is not limited to: flirtation, sodomy, carnal knowledge, penile knowledge, homosexuality, lesbianism, defilement, indecent touching, rape.

“Sexually harass” includes doing any of the following;

- (a) making a request or exerting pressure for sexual activity or favours;
- (b) making intentional or **inappropriate** physical contact that is sexual in nature; and

(c) Making gestures, noises, jokes or comments, including innuendoes, regarding another person's sexuality if the person doing it knows or ought to know that it is unwelcome;
if the person doing it knows or ought to know that it is unwelcome.

“**Student**” includes students at pre-primary, primary, secondary and tertiary institutions.

“**The appropriate authority**” referred to in Rule 25 shall mean the Secretary of the Teachers Service Commission.

“**The Commission**” means the Teachers Service Commission.

“**Vacancies**” refers to available posts for transfer, recruitment and promotion.

Words indicating gender include all genders.

Words indicating the singular also include the plural and words indicating the plural include the singular.

3. Application of Code

(1) This Code applies with respect to: -

- (a) public officers who are teachers registered under the Teachers Service Commission Act; and
- (b) Employees of the Teachers Service Commission

(2) For greater certainty, the employees referred to in paragraph (1) (b) do not include the **Commissioners** of the Teachers Service Commission.

PART II

REQUIREMENTS

4. Compliance with General Code

(1) A public officer shall comply with all the requirements of the General Code of Conduct and Ethics set out in Part III of the Act.

(2) The General Code of Conduct and Ethics set out in part III of the Act is set out in the Appendix to this Code and shall form part of this Code.

5. Fundamental Rights and Freedoms

(1) In carrying out his duties, a public officer shall respect, protect and promote the **fundamental rights**, and freedoms of **persons** without discrimination on the basis of race, tribe, political opinions, colour, creed, sex, disability, social status or culture.

(2) A public officer shall not be a **member of** an organization that he knows promotes or practices discrimination on a basis set out in paragraph (1).

6. Professionalism

(1) A public officer who is in a profession shall maintain his professional **competence and ethics**.

(2) A public officer **shall not conduct himself in a manner likely to suggest that he can be improperly influenced**.

7. Conduct of duties

(1) A public officer shall in **conducting his duties** be efficient and punctual and shall meet his deadlines.

(2) A public officer shall ensure that his official duties take precedence over his other activities.

(3) A public officer shall take reasonable steps to ensure that the activities he carries out or supervises are conducted in an orderly manner, with **integrity** and due decorum.

(4) A public officer shall be patient, dignified and courteous to students, colleagues and members of the public.

8. Evaluation of students

(1) A public officer who evaluates students shall do so honestly and only on the basis of their performance.

- (2) A public officer shall use his best efforts to ensure that examinations are conducted **in the proper manner** and without cheating.

9. Sexual relations with students

- (1) A public officer shall not engage in any sexual activity with a student regardless of whether the student consents.
- (2) A public officer shall not make a request to, or exert pressure on, a student for sexual activity or favours.

10. Pornography

- (1) A public officer shall not supply pornography to a student, expose a student to pornography, **sexual toys** or assist a student in obtaining access to the same.
- (2) A public officer shall use his best efforts to ensure that any school or **office** he works in is free of pornography **and sexual toys**.

11. Illicit drugs

- (1) A public officer shall not supply illicit drugs, **cigarettes or alcohol** to a student, expose a student to illicit drugs **cigarettes and alcohol** or assist a student in **obtaining** access to the same.
- (2) A public officer shall use his best efforts to ensure that any school or **office** he works in is free of illicit drugs, **cigarettes and alcohol**.
- (3) A public officer shall not report to work while under the influence of illicit drugs or alcohol or consume the same while on duty.**

12. Political Activities

A public officer shall not stand for election as a member of the National Assembly or a local authority or hold a political office.

13. Canvassing for favours in service

A public officer shall not canvass or lobby, either directly or indirectly, for any favours in the Teaching Service or, if the public officer is an officer or employee of the Teachers Service Commission, for any favours relating to his employment with the Commission.

14. Private affairs - outside activities

- (1) While a public officer should not be isolated from the society of which he is a part, he shall ensure that his non-official activities do not

interfere with his official duties or affect the dignity of his office and that the risk of conflict with his official duties is minimized.

- (2) A public officer shall not engage in private business during official working hours.

15. Private teaching work

- (1) A public officer shall not –

(a) charge or accept any fee for tuition of a student, even if the tuition is given outside official working hours;

or

(b) Establish or retain an interest in a private school or work at such a school.

- (2) Paragraph (1)(a) does not apply with respect to tuition fees that are lawfully charged by a school.

16. Endorsing private activities

A public officer shall not use or lend the prestige of his office to sanction or endorse his own private activities or the private activities of any other person.

17. Private affairs - financial dealings

- (1) A public officer shall live within his means and avoid incurring any financial liability that he cannot satisfy.

- (2) A public officer who becomes bankrupt or against whom proceedings are taken in bankruptcy shall forthwith report the matter to the Secretary of the Teachers Service Commission.

18. Dealing with donations

- (1) A public officer shall, to the extent that he is involved in the receipt and administration of donations for school **or office** purposes, ensure that proper records are kept of the donations and that they are used for the purposes for which they were given.

- (2) A public officer shall inform the Secretary of the Teachers Service Commission or another appropriate authority if the public officer has reasonable grounds for believing –

(a) that proper records of any donations for school **or office** purposes have not been kept, or have not been kept properly; or

(b) that any donations for school **or office** purposes have not been used for the purposes for which they were given.

19. Gifts

- (1) If a public officer is given a gift described in paragraph (2), then, even if the gift is not deemed, under section 11(3) of the General Code of Conduct and Ethics set out in the Appendix to this Code, to be a gift to the public officer's organization –
 - (a) the public officer shall report the matter to the Secretary of the Teachers Service Commission who shall direct the appropriate mode of disposal of the gift; and
 - (b) the public officer shall comply with such direction.
- (2) The gifts referred in paragraph (1) are –
 - (a) a gift from a person described in subparagraph (i), (ii) or (iii) of section 11(2)(a) of the General Code of Conduct and Ethics set out in the Appendix to this Code; or
 - (b) a gift given to the public officer on a public or ceremonial occasion.
- (3) A gift that a public officer is otherwise allowed to accept from a relative or friend because it is given on a special occasion recognized by custom shall not be accepted by the public officer in a public office.

20. Reporting of charges against a public officer.

- (1) A public officer who is charged with an offence described in paragraph (3) shall forthwith report the matter to the Secretary of the Teachers Service Commission or cause the matter to be reported to the secretary of the Teachers Service Commission.
- (2) A public officer who discovers that a public officer under his supervision has been charged with an offence described in paragraph (3) shall either ensure that the matter is reported under paragraph (1) or report the matter to the Secretary of the Teachers Service Commission directly.
- (3) An offence referred to in paragraph (1) or (2) is an offence that is punishable by imprisonment without an option of a fine.

21. Declaration of vacancies

A public officer shall not knowingly and deliberately withhold information on available vacancies in the teaching service and Teachers Service Commission.

22. Breach of Code – reporting

(1) A public officer shall inform the Secretary of the Teachers Service Commission or another appropriate authority if the public officer knows that another public officer has breached this Code unless the public officer reasonably believes that the breach has been or will be reported.

(2) Information received by the Secretary of Teachers Service Commission from a public officer in respect of paragraph (1) above shall be treated with strict confidentiality with a view to protecting the source.

23. Breach of Code – action to be taken

(1) Where a public officer has committed a breach of this Code, appropriate action will be taken in accordance with the Act and other applicable laws.

(2) Where a public officer is called upon to exercise discretion, he shall do so having regard to professionalism, stipulated regulations and the rule of law

24. Investigations

(1) The Commission shall investigate or cause to be investigated any allegation of breach of the Code of Conduct and Ethics by a Public Officer so as to determine the veracity of the allegation.

(2) An investigation may be made on the Commission's own initiative or pursuant to a complaint by any person.

(3) The Commission may refer a matter to another appropriate body for investigation and that body shall investigate the matter within a reasonable time and submit a report to the Commission on its findings.

(4) An investigation may be conducted notwithstanding the fact that the individual being investigated has ceased to be a Public Officer.

PART III

GENERAL CODE OF CONDUCT AND ETHICS

7. Short Title

This part sets out the General Code of Conduct and Ethics.

8. Performance of duties

A public officer shall, to the best of his ability, carry out his duties and provide his services efficiently and honestly.

9. Professionalism

A public officer shall –

- (a) carry out his duties in a way that **upholds** public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organization;
- (d) if a member of a professional body, observe the ethical and **professional standards** of that body;
- (e) observe official working hours and not be absent without proper authorization or reasonable cause;
- (f) Dress appropriately and observe personal hygiene.**
- (g) Discharge any professional responsibilities in a professional manner.

10. Rule of law

- (1) A public officer shall carry out his duties in accordance with the law.
- (2) (In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

11. No improper enrichment

- (1) A public officer shall not use his office to improperly enrich himself or others.
- (2) Without limiting the generality of subsection (1), a public officer shall not: -
 - (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who –
 - (i) has an interest that may **affect** the carrying out of the public officer's duties;
 - (ii) regulates activities with respect to which the public officer's organization has a role; or
 - (iii) has a contractual relationship with the public officer's organization;
 - (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
 - (c) for the personal benefit of himself or another, use or allow the use of confidential information.
- (3) The Public Officer may accept a gift to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by **regulations**, such a gift shall be deemed to be a gift to the public officer's duties and that is not public.
(SPECIFY THE APPLICABLE REGULATIONS)
- (4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.
- (5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

12. Conflict of interest

- (1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.
- (2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if

holding those shares or having that interest **would result in conflict of interest.**

- (3) A public officer whose personal interests conflict with his official duties shall
 - (a) Declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and
 - (b) Refrain from participating in any deliberations with respect to the matter.
- (4) Notwithstanding any directions to the contrary under subsection(3)(a) a public officer shall not award a contract, or influence the award of a contract, to-
 - (a) himself;
 - (b) a spouse;
 - (c) a business associate; or
 - (d) a corporation, partnership or other body in which the officer has an interest.
- (5) [The **regulations** may govern when the personal interests of a public officer conflict with his official duties for the purposes of this section.
(SPECIFY THE APPLICABLE REGULATIONS)]
- (6) In this section, “personal interest” includes the interest of a spouse, a **close relation** or business associate.

13. Collections

- (1) A public officer shall not –
 - (a) use his office or place of work as a venue for soliciting or **collecting harambee money**; or
 - (b) either as a collector **or** promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

14. Acting for foreigners

- (1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organization or individual.
- (2) For the purpose of this section –

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organization is foreign if it is established outside Kenya or it is owned or controlled by foreign governments, organizations or individuals.

15. Care of property

- (1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.
- (2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

16. Political neutrality

- (1) A public officer shall not, in connection with the performance of his duties as such: -
 - a) act as an agent for, or so as to further the interest of, a political party; or
 - b) Indicate support for or opposition to any political party or candidate in an election.
- (2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.
- (3) This section does not apply to a member of the National Assembly or a councillor of a local authority.

17. Nepotism

A public officer shall not practice nepotism or favouritism.

18. Giving of advice

A public officer who has a duty to give **professional** advice shall give honest and impartial **professional** advice without fear or favour.

25. Misleading the public

A public officer shall not knowingly **or willfully** give false or misleading information to members of the public or to any other public officer.

26. Conduct of private affairs

- (1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.
- (2) A Public Officer shall not evade taxes.
- (3) A Public Officer shall not neglect his financial obligations or neglect to settle them.

21. Sexual harassment

- (1) A public officer shall not sexually harass a member of the public or a fellow public officer.

22. Selection, of public officers

A public Officer shall ensure that new Public Officers are selected on the basis of integrity, competence and suitability and in the case of an election; are elected in fair election.

23. Submitting of declarations

A public officer shall submit any declaration or clarification required under Part IV of *the Public Officer Ethics Act, 2003*, to be submitted or made by him.

24. Acting through others

- (1) A public officer contravenes the Code of Conduct and Ethics if –
 - a) he causes anything to be done through another person that would otherwise be a contravention of the code herein.
 - or
 - b) he allows or directs a person under his supervision or control to do anything that amounts to contravention of the Code of Conduct and Ethics.
- (2) Subsection (1) (b) does not apply to acts done without the public officer's knowledge or consent if the public officer took reasonable steps to prevent it.

25. Reporting improper orders

If a public officer considers that anything required of him is a contravention of the Code of Conduct and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.

Dated the

IBRAHIM HUSSEIN,
Chairman,
Teachers Service Commission

GABRIEL K. LENGIOIBONI,
Secretary/Chief Executive,
Teachers Service Commission

NOTES

- i. The declaration forms are issued free of charge by the Government of Kenya.***
- ii. It is compulsory for serving public servants to fill out the forms and return them once every two years to the Commission/Authorized Officer.***
- iii. Under section 32 of the Act, the penalty for incomplete or dishonest declarations is a fine of Kshs.1 million or imprisonment for a term of 1 year or both.***

POEA. 1

REPUBLIC OF KENYA
THE PUBLIC OFFICER ETHICS ACT, 2003
(No.4 of 2003)

Declaration of Income, Assets & Liabilities (section 26)

1. Name of public officer:

(Surname) (First name) (Other names)

2. Birth information:

a. Date of birth: _____

b. Place of birth: _____

3. Marital status: _____

4. Address:

a. Postal address: _____

b. Physical address: _____

5. Employment information:

a. Designation: _____

b. Name of employer: _____

c. Nature of employment (permanent, temporary, contract)

d. T.S.C. No: _____

e. School/Institution: _____

f. District: _____

6. Names of spouse or spouses

(i) (Surname) (First name)(Other names)

(ii) (Surname) (First name)(Other names)

(iii) (Surname) (First name)(Other name)

(iv) (Surname) (First name)(Other names)

(v) (Surname) (First name)(Other names)

(vi) (Surname) (First name)(Other names)

(vii) (Surname) (First name)(Other names)

7. Names of dependent children under the ages of 18 years:

(i) (Surname) (First name)(Other names)

(ii) (Surname) (First name)(Other names)

(iii) (Surname) (First name)(Other names)

(iv) (Surname) (First name)(Other names)

(v) (Surname) (First name)(Other names)

(vi) (Surname) (First name)(Other name)

(vii) (Surname) (First name)(Other names)

(viii) (Surname) (First name)(Other names)

(xi) (Surname) (First name)(Other names)

8. Financial statement for:

(A separate statement is required for the officer and each spouse and dependent child under the age of 18 years. Additional sheets should be added as required.)

a. Statement date:

(Statement date is the first day of the month proceeding the month in which the declaration is due.)

b. Income, including emoluments, for the period from

_____ to _____

(Including, but not limited to, salary and emoluments and income from investments. The period is from the previous statement date to the current statement date. For an initial declaration, the period is the year ending on the statement date.)

Description	Approximate amount

c. Assets (as of the statement date):

(Including, but not limited to, land, buildings, vehicles, investments and financial obligations owed to the person for whom the statement is made.)

Description (include location of asset Where applicable)	Approximate value

d. Liabilities (as of the statement date): -

Description	Approximate amount

9. Other information that may be useful or relevant:

I solemnly declare that the information I have given in this declaration is, to the best of my knowledge, true and complete.

Signature of officer: _____

Date: _____

Witness:

Signature: _____

Name: _____

Address: _____