LEGAL NOTICE NO. 137

THE TEACHERS SERVICE COMMISSION CODE OF CONDUCT AND ETHICS

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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 for the officers and employees of the Teachers Service Commission.

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.

Teachers and officers and 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.

PART I - PRELIMINARY

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

2. In this Code, unless the context otherwise requires —
“public officer” means a public officer to whom this Code applies under rule 3;

“school” includes pre-primary and post-secondary institutions;

“student” includes students at pre-primary and post-secondary institutions.

Application of Code.

3.(1) This Code applies with respect to —

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

(b) officers and employees of the Teachers Service Commission.

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

PART II – REQUIREMENTS

Compliance with General Code.

4.(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.

Human rights, etc.

5.(1) In carrying out his duties, a public officer shall respect, protect and promote the human rights and freedoms of students 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 in an organization that he knows promotes or practices discrimination on a basis set out in paragraph (1).

Professionalism.

6.(1) A public officer who is in a profession shall maintain his professional competence.
(2) A public officer shall not convey, or allow others to convey, the impression that anyone is in a position to improperly influence him.

7.(1) A public officer shall 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 and with due decorum.

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

8.(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 fairly and without cheating.

9.(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.

(3) A public officer shall not flirt with a student.

10.(1) A public officer shall not supply pornography to a student, expose a student to pornography or assist a student in obtaining access to pornography.

(2) A public officer shall use his best efforts to ensure that any school he works in is free of pornography.

11.(1) A public officer shall not supply illicit drugs to a student, expose a student to illicit drugs or assist a student in obtaining access to illicit drugs.
(2) A public officer shall use his best efforts to ensure that any school he works in is free of illicit drugs.

12. 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. 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.(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.(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. 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.(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, becomes a judgement debtor or against whom proceedings are taken in
bankruptcy shall forthwith report the matter to the Secretary of
the Teachers Service Commission:

18.(1) A public officer shall, to the extent that he is involved in the receipt and administration of donations for school 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 purposes have not been kept; or

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

19.(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 to 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 public officer shall not accept a gift, including a gift from his school, that is given as a reward for, or in recognition of, the performance of students unless the gift is a non-monetary gift whose value does not exceed 5,000 shillings.

(4) 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. For the purposes of section 25 of the General Code of Conduct and Ethics set out in the Appendix to this Code, the appropriate authority to whom a public officer shall report a matter under that section is the Secretary of the Teachers Service Commission.

21.(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.

(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 may be punished by imprisonment, other than in default of payment of a fine.

22. 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 otherwise be reported.

23. 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.
APPENDIX (Rule 4(2))

PART III - GENERAL CODE OF CONDUCT AND ETHICS

7. This Part sets out a general Code of Conduct and Ethics for public officers.

8. A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

9. A public officer shall—

(a) carry out his duties in a way that maintains 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 organisation;

(d) if a member of a professional body, observe the ethical and professional requirements of that body;

(e) observe official working hours and not be absent without proper authorization or reasonable cause;

(f) maintain an appropriate standard of dress and personal hygiene; and

(g) discharge any professional responsibilities in a professional manner.

10. (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. (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 be affected by the carrying out, or not carrying out, of the public officer’s duties;

(ii) carries on regulated activities with respect to which the public officer’s organisation has a role; or

(iii) has a contractual or similar relationship with the public officer’s organisation;

(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 information that is acquired in connection with the public officer’s duties and that is not public.

(3) A public officer may accept a gift given to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer’s organisation.

(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. (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 of other body, directly or through another person, if holding those shares or having that interest would result in the public officer’s personal interests conflicting with his official duties.

(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 or relative;

(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.

(6) In this section, “personal interest” includes the interest of a spouse, relative or business associate.
13.(1) A public officer shall not—

(a) use his office or place of work as a venue for soliciting or collecting harambees; 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.

(2) In this section, "collection", "collector" and "promoter" have the same meanings as in section 2 of the Public Collections Act.

14.(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, organisation or individual.

(2) For the purposes of this section—

(a) an individual is foreign if the individual is not a citizen of Kenya;

(b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisations or individuals.

15.(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.(1) A public officer shall not, in or 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. A public officer shall not practice nepotism or favouritism.

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

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

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

(2) In subsection (1), "sexually harass" includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome —

(a) making a request or exerting pressure for sexual activity or favours;

(b) making intentional or careless physical contact that is sexual in nature; and
(c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

22. A public officer shall practice and promote the principle that public officers should be —

(a) selected on the basis of integrity, competence and suitability; or

(b) elected in fair elections.

23. A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.

24.(1) A public officer contravenes the Code of Conduct and Ethics if—

(a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or

(b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.

(2) Subsection (1)(b) does not apply with respect to anything done without the public officer’s knowledge or consent if the public officer took reasonable steps to prevent it.

25. 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 1st August, 2003.

IBRAHIM HUSSEIN,
Chairman,
Teachers Service Commission.