

POLICY AND LEGAL FRAMEWORK ON INTEGRITY OF PUBLIC OFFICER/SERVANTS IN KENYA.

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LAY OUT OF THE PRESENTATION

- Introduction –Definition of a Public Officer/Servant/Public Service
- Areas calling upon observance of integrity
- Policy framework
- Legal Framework

INTRODUCTION

- Definition Article 260 of CoK201 and Section 2 of Public Officer Ethics Act

Public Officer/Servant

- Any State Officer
- A person other than a State Officer, who holds a public Office

Public Office

Means an office in the national, a county government or the public service, if the remuneration and benefits are payable directly from the consolidated Fund or directly out of money provided by Parliament .

Public Service

Means the collectivity of all individuals ,other than State Officers ,performing a function within a State organ

State Officer

- **Means a person holding a State Office . Examples are:**
- The President
- The Deputy President
- Cabinet Secretary
- Members of Parliament
- Judges and Magistrates
- The A-G
- DPP

AREAS CALLING UPON OBSERVANCE OF INTEGRITY INCLUDE

- Financial Management Systems and Procedures
- Information, Communication and Technology Systems (ICT)
- Procurement, Processes and Disposal of Stores
- Human Resources and Administration Areas
- Planning and Management of Projects
- Records Management
- Teaching and Conduct of Examinations
- Professional responsibilities and accountability

POLICY FRAMEWORK (NATIONAL POLICIES)

The Code of Conduct and Ethics for Public Universities 2003

- This Code is a shared statement of the University's commitment to uphold the highest ethical, professional and legal standards used as the basis for daily and long-term decisions and actions.
- University members are individually and collectively accountable for their actions and upholding of ethical standards of behavior.

➤ It prohibits:

- Dishonesty in the execution of public duty;
- Immoral conduct in professional and personal life;
- Lack of objectivity and impartiality;
- Corruption;
- Failure to disclose a conflict of interest;
- Failure to be accountable to the public for decisions or actions taken;
- Lack of discipline and commitment to public service;
- Lack of diligence AND neglect of duty ;

The University of Nairobi Code of Conduct and Ethics 2003

- Contains general rules of conduct to be observed by University employees so as to maintain integrity and uphold the dignity of self and that of the University.
- Calls upon every employee of the University to adhere to the rules of conduct
- Places great emphasis on some particular core values which distinguish the University from its competitors.
- Guide management and staff in making personal or financial decisions and in judging what is right and acceptable.

- Honesty is an important value especially for University Lecturers who as academic leaders are believed to be role models to both students and the wider community. As such, they are expected to adhere to the highest standard of honesty, not only in their professional practice, but also in scholarship.

- Trustworthiness, on the other hand inspires confidence for those who rely on the good intentions of others to perform services competently and in their best interest.

- Official working hours, orderly behavior, dress code and hygiene, professionalism, misuse of official information, chain of command etc.

Tom Ochieng Odhiambo v Kenya Literature Bureau [2014] eKLR

Claimant was seeking payment of terminal benefits and compensation for wrongful termination of employment. On 9th November 2011, the suppliers of paper delivered 200 reams. The delivery note indicated that they had delivered 250 reams. The Claimant signed the delivery note acknowledging receipt of 250 reams of paper.

From the totality of evidence, the Court is satisfied that the Claimant was grossly negligent in the performance of his duties.

The University of Nairobi Charter 2013

- Establishment and Functions of the University
- Membership and governance of the University
- Staff of the University
- Financial provisions

LEGAL FRAMEWORK

THE CONSTITUTION OF KENYA 2010.

- It is the supreme law of the land.
- It binds all persons and all state officers at all levels of government.
- Article 10-National Values and Principles of Governance.
- Right to access information-Article.
- Chapter thirteen-Values and Principles of Public Service

THE EMPLOYMENT ACT NO.11 OF 2007

- Declare and define the fundamental rights of employees
- Sect 14-Reasonably accessible documents or collective agreement permissible to an employee
- Reasonable opportunities of reading of records in the course of employment
- Sect 74-Employment Records inspection
- Sect-75-False entries in a material particular include knowingly producing or furnishing official documents to unauthorized person. It is offence punishable by a fine of KES.100K or Six months prison or both.

IN THE INDUSTRIAL COURT AT NAIROBI CAUSE
NUMBER 981 OF 2011

JAMES MUGERA IGATI **VERSUS** THE PUBLIC
SERVICE COMMISSION OF KENYA-ISSUE IN
DISPUTE: UNFAIR AND UNLAWFUL TERMINATION

PUBLIC OFFICER ETHICS ACT, NO 4 OF 2003 (POEA).

- Advance the Ethics of Public Officers by providing for code of Conduct and Ethics
- “Public officer” means any officer, employee or member, including an unpaid, part-time or temporary officer, employee or member, of any of the following-
 - (*f*) a public university;
 - (*g*) Any other body prescribed by regulation for the purposes of this paragraph;

- Requires financial declarations from certain public officers
- Part iii sets general code of conduct and ethics
- Performance of duties-effectively and honestly
- Professionalism
- Collection and harambees not allowed in public offices
- Conflict of interest not allowed

(On 11th March 2016 Mr. Stephen Ageso Musina, a procurement Officer at Pumuwani Maternity Hospital was sentenced two and a half years in jail for awarding a company in which he is a director a tender to supply surgical materials to the facility in 2010).

LEADERSHIP AND INTEGRITY ACT NO.19 OF 2012

- Gives effect to and establish procedures and mechanisms for the effective administration of chapter six of the Constitution.
- Guiding values and procedures-Sect 3 of the Act(Respect values, principles and the requirements of the Constitution-Articles 10,73,75,99(1)(b),175,193(1)(b),232).
- Gifts and benefits in Kind- Sect 14.
- Bank accounts outside Kenya-Public /State officers and conditionality's attached thereon. Sect 19.
- Leadership Education and training generally for all public officers.-Sect 53.

The Public Finance Management Act 2012

- It set out rules how the national and county governments can raise and spend money in accordance with the Constitution.

THE PUBLIC SERVICE (VALUES AND PRINCIPLES) ACT NO. 1 OF 2015

- Gives effect to Article 232 of the Constitution,
- Patriotism, National Unity Sharing and devolution of Power
- The Rule of Law, democracy and participation of the people,
- Human Dignity, equality,

•A public officer maintains high standards of professional ethics if that public officer-

(a) is honest;

(b) displays high standards of integrity in that officer's dealings;

(c) is transparent when executing that officer's functions;

(d) Can account for that officer's actions,

(e) is respectful towards others,;

(f) is objective;

(g) is patriotic,; and

(h) Observes the rule of law.

**END OF PRESENTATIONS,
QUESTIONS, COMMENTS AND
OBSERVATIONS**

THANK YOU