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THE TEACHERS SERVICE COMMISSION ACT

(No. 20 of 2012)

THE TEACHERS SERVICE COMMISSION (CODE OF CONDUCT
AND ETHICS FOR TEACHERS) REGULATIONS, 2015.

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THE TEACHERS SERVICE COMMISSION ACT

(No. 20 of 2012)

IN EXERCISE of the powers conferred by section 48 of the Teachers Service Commission Act, (No. 20 of 2012) and section 37 (1) as read together with section 52(1) of the Leadership and Integrity Act, 2012, the Teachers Service Commission makes the following Regulations:—

THE CODE OF CONDUCT AND ETHICS FOR TEACHERS, 2015

PART I—PRELIMINARY

1. This Code may be cited as the Code of Ethics for Teachers, 2015. Citation.

2. In this Code, unless the context otherwise requires— Interpretation.

“Act” means the Leadership and Integrity Act, 2012;

“asset” means a thing, tangible or intangible, owned, whether wholly or in part, or controlled by a teacher, which has an actual or determinable economic value and can be sold, exchanged or otherwise used or applied to meet an obligation or acquire something else in return;

“bid rigging” refers to a benefit that is given or received for not submitting a tender, proposal, quotation or bid; or withdrawing or changing a tender, proposal, quotation or bid; or submitting a tender, proposal, quotation or bid with a specified price or with any specified inclusions or exclusions;

“conflict of interest” refers to instances when a teacher’s personal interest clashes with his or her official duties;

“client” means a person to whom services are rendered by a teacher and includes learners, parents and other members of the public;

“employer” means a person, institution or entity that engages the services of a teacher;

“harmful sexual activity” means any act of a sexual nature that may cause physical, emotional or psychological torture which includes but not limited to flirtation, sodomy, sexual intercourse, lesbianism, defilement, indecent touching, rape, sexual assault;

“learner” means a person undergoing instruction in an educational institution;

“pornography” means explicit depiction of sexual subject matter electronically or otherwise;

“pornographic materials” includes but not limited to material such as literature, photography, or other printed or visual material depicting sex organs or sexual activity in a way that is designed to arouse sexual excitement, erotic stimulation rather than education;

“teacher” means a person who has been trained as a teacher as provided for in law and registered as a teacher;

“unethical behaviour” refers to any action or omission that contravenes the provisions, spirit and tenor of this Code;

“values” refers to norms, principles and standards of behaviour expected of a teacher as amplified by Articles 10 and 232 of the Constitution of Kenya and the Commission’s core values;

“Secretary” refers to the Chief Executive Officer of the Teachers Service Commission appointed pursuant to Article 250 (12) of the Constitution of Kenya;

“sex toy” means an object or device that is primarily used in facilitating human sexual pleasure;

“Sexual harassment” refers to an act by a teacher who persistently makes any sexual advances or requests including gestures, cat calls, jokes or comments including innuendos, regarding another person’s sexuality if the person doing it knows or ought to know or has reasonable grounds to know, are unwelcome;

“subversive activity” means any act which by its nature, upsets public order, peace and security and shall include anything done to endanger, undermine or is detrimental to public policy and interest; and

“vacancy” means an existing and available post for recruitment, transfer and promotion at the Commission.

3. This Code shall apply to all registered teachers.

Application.

PART II—REQUIREMENTS

4. (1) Every teacher has a responsibility to comply with the provisions of this Code.

Compliance.

(2) All teachers shall in addition, comply with the provisions of the General Leadership and Integrity Code set out in Part II of the Act.

(3) The General Leadership and Integrity Code in paragraph (2) shall form part of this Code.

(4) All teachers shall abide by the guiding principles of Leadership and Integrity set out under Chapter Six of the Constitution.

5. (1) A teacher shall respect and abide by the Constitution and the law.

Rule of law.

(2) A teacher shall carry out the duties of his or her office in accordance with the law.

6. A teacher’s position is of public trust and the authority and responsibility vested in his or her office shall be exercised in the best interest of the learners, institution and members of the public.

Public trust.

7. (1) Every teacher shall respect and uphold the personal rights and freedoms of all persons as guaranteed in Chapter 4 of the Constitution.

Fundamental rights and freedoms.

(2) Notwithstanding the generality of the provisions in Paragraph (1), a teacher in the performance of his duty shall not discriminate directly or indirectly against any person on any ground including, race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.

8. A teacher shall not while performing his duty practice nepotism, favoritism, tribalism, cronyism, religious bias or engage in corrupt or unethical practices.

Nepotism or favoritism.

9. (1) A teacher shall be entrusted with the duty of care of a child, including a child with special needs and shall take all reasonable steps to ensure the child is protected from abuse, neglect, harmful cultural practices, all forms of violence, discrimination, inhuman treatment, corporal punishment and exposure to hazardous or exploitative labour.

Duty to protect children.

(2) A teacher shall not deny learning materials or remedial teaching services to a learner on account of their natural abilities.

10. (1) A teacher shall carry out his or her duties with honesty and impartiality and shall not allow family, social, political or other relationships to influence his or her conduct or judgment.

Integrity.

(2) A teacher shall not use or lend the prestige of his or her office to advance his or her private interest or those of others and shall not knowingly convey or permit others to convey the impression that anyone is in a special position to influence him or her.

(3) A teacher shall not use his or her office to unlawfully or wrongfully enrich himself or any other person or accept a personal loan or benefit which may compromise the teacher in carrying out the assigned duties.

(4) A teacher shall not misappropriate public funds.

11. A teacher's assigned duties shall take precedence over all his or her other activities and in the performance of these duties, the following standards shall apply-

Conduct of duties.

- (1) maintainance of professional competence;
- (2) adherence to the provisions of the Code of Regulations for Teachers and this Code;
- (3) patience, dignity, and courtesy to all stakeholders with whom the teacher deals with in an official capacity;
- (4) prompt, efficient, lawful, reasonable and procedural fairness in the execution of responsibilities;
- (5) demonstration of honesty and impartiality in the conduct of public affairs;
- (6) non engagement in activities that amount to abuse of office;
- (7) accuracy and honesty in representation of information to the public;
- (8) non engagement in wrongful conduct in furtherance of personal benefit;
- (9) prudent management of public resources; and
- (10) maintenance of proper official records.

12. (1) A teacher shall ensure that his or her private and public conduct upholds the dignity and integrity of the teaching service. Professionalism.

(2) A teacher shall, at all times, be of good conduct whether or not on official duty and shall, in particular—

- (a) maintain a neat and decent standard of dressing which befits the dignity and image of the teaching service;
- (b) ensure that his or her appearance and personal hygiene is not offensive to workmates or those they serve;
- (c) observe official working hours, be punctual and meet deadlines;
- (d) not be absent from duty without proper authorization or reasonable cause;
- (e) develop and maintain relevant professional records to enhance efficient and competent performance of duty;
- (f) perform his or her duties in an efficient and competent manner;
- (g) exercise diligence, care and attention and seek to achieve high standards of professionalism in the delivery of services;
- (h) practice and promote adherence to merit in appointments to any position in the Commission with guiding principles being qualifications, merit, competence and experience; and
- (i) seek to contribute and enhance the standards of performance and level of professionalism in the teaching service.

(3) A teacher shall actively and personally promote a culture in the teaching service that aims at providing fast, friendly, responsive and efficient service and shall be courteous to all persons in the provision of such service.

(4) A teacher shall carry out his or her official duties in a manner that inspires public confidence and integrity of his or her office.

(5) A teacher who is a member of another professional body shall adhere, observe, and subscribe to the ethical and professional requirements of that body.

13. (1) A teacher shall avoid being in a position in which his or her personal interests conflict with his or her duties. Conflict of interest.

(2) A teacher shall neither participate in any tendering process where his or her personal or proprietary interests conflict with his or her duties and shall not award tenders to self, spouse, relatives, business associate nor be involved in bid-rigging.

(3) A teacher shall disqualify himself or herself from any matter where his or her impartiality might reasonably be questioned including but not limited to instances in which —

- (a) a teacher has a personal bias, prejudice or interest over the subject matter;
- (b) a teacher or his or her family or a close connection has a financial or any other interest that could substantially affect the outcome of the matter in issue; or
- (c) a teacher, or his or her spouse, or a person related to either of them or the spouse of such a person or a friend or a business associate is a party to the matter in issue.

(4) If any teacher is present at a meeting or any committee at which any matter is the subject of consideration and in which matter the person, the person's spouse, relative or business associate is directly or indirectly interested in a private capacity, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not take part in any consideration, discussion or proceedings touching on the matter in question.

(5) Notwithstanding paragraph (4), in cases where a teacher has prior knowledge of the existence of a personal interest in the matter, such a teacher shall declare his or her interest using the prescribed form to the relevant authority and refrain from participation in the deliberations with respect to the matter.

14. (1) A teacher shall ensure that confidential information or documents entrusted to his or her care are adequately protected from improper or inadvertent disclosure.

Confidentiality.

(2) A teacher shall follow the Commission's Regulations, procedures and directives for safeguarding information and documents and shall not disclose any information in contravention of such Regulations, procedures and directives.

15. (1) A teacher shall take all reasonable steps to ensure that public or institutional property in his or her custody, possession, or control is taken care of and is in good condition.

Care of public and institutional property.

(2) A teacher shall not use public or institutional property, funds or resources at his or her disposal for activities that are not related to his or her official work.

(3) A teacher shall surrender to the issuing authority all public or institutional property in his or her custody, possession, or control at the expiry of the teacher's appointment or upon transfer to another station.

16. (1) A teacher shall maintain political neutrality at all times and shall not act in a manner that may compromise or be perceived to compromise his or her neutrality.

Political activity.

(2) A teacher shall serve impartially with loyalty, honesty and objectivity regardless of the teacher's political views.

(3) A teacher shall not—

- (a) act as an agent for, or further the interests of a political party or candidate in an election;

- (b) manifest support for or opposition to any political party or candidate in an election;
- (c) engage in any political activity or campaigns that may compromise or be seen to compromise the dignity of his or her office; or
- (d) use public or institutional resources for the furtherance of any project for the purpose of supporting a candidate or political party.

(4) A teacher who intends to contest an election shall retire or resign from service at least six months before the date of election.

17. (1) A teacher shall not use his or her office to improperly enrich himself or others.

Improper
enrichment.

(2) Without limiting the generality of paragraph(1), a teacher shall—

- (a) neither ask for, nor accept any property or benefit of any kind, for himself or for any person, on account of anything to be done, done or omitted to be done, by the teacher in the discharge of his or her duties or by virtue of his or her official position;
- (b) not either directly or through family members, solicit or accept any gifts, gratuity, hospitality, free passages or favours from any person or any body corporate or unincorporated that might reasonably be thought to influence, or intended to influence, the teacher in the performance of his or her duties.

(3) Where a gift or donation of the nature specified in paragraph 2 is given without the knowledge of the teacher or it would be offensive to custom or good public relations to refuse the gift, such a teacher may accept the gift provided that such acceptance shall not unduly influence his or her decision in the performance of his or her duty.

(4) Notwithstanding any other provisions of this paragraph to the contrary, but subject to section 14(2) of the General Leadership and Integrity Code, a teacher may accept—

- (a) gifts which are occasional or in the form of a souvenir;
- (b) personal gifts or donations from relatives or friends, on such special occasions as may be recognized by custom;
- (c) gifts that are granted pursuant to a recognised institutional reward system for performance; and
- (d) non-monetary gifts given to him or her in his or her official capacity but not exceeding the value of twenty thousand shillings.

18. (1) A teacher involved in the receipt and administration of donations to an institution shall ensure that proper records are kept of

Donations.

the donations and that the donations are used for the purposes for which they were given.

(2) A teacher who has reasonable grounds to believe that—

- (a) proper records of any donations for the institution have not been kept; or
- (b) any donations for the institution have not been used for the purposes for which they were given;

shall inform the Secretary or any other relevant authority.

19. A teacher who has a duty to give advice shall give honest, accurate, and impartial advice without fear or favor.

Professional advice.

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

21. (1) A teacher shall evaluate learners honestly based on their performance.

Evaluation of learners.

(2) A teacher shall ensure that internal and external examinations are conducted fairly and without cheating.

22. (1) A teacher shall not—

Sexual relations with learners.

- (a) engage in any sexual activity whatsoever with a learner, regardless of whether the learner consents;
- (b) make a request to, or exert pressure on a learner for sexual activity or favour; or
- (c) flirt with a learner.

(2) For purposes of this paragraph, a teacher shall not:—

- (a) send learners to their personal residences for whatever reason;
- (b) induce, coerce, threaten or intimidate a learner in any way and particularly in regard to their academic performance, in exchange for sexual relations; or
- (c) facilitate non disclosure or cover-up of cases of sexual abuse against a learner.

(3) A teacher shall not:—

- (a) release a learner from school for any reason before notifying the parent or guardian;
- (b) send a learner away from school earlier than 6.00am or later than twelve noon except in cases of emergency.

23. (1) A teacher shall not—

Sexual harassment.

- (a) sexually harass a fellow employee or members of the public;
- (b) persistently make requests or exert pressure for sexual activity or favour which he or she knows or ought to know is unwelcome; or

- (c) make intentional or careless physical contact that is sexual in nature.

(2) It shall be the duty of the person alleging sexual harassment to report the same to the relevant authority.

24. A teacher shall—

Relations with
fellow employees.

- (a) treat fellow employees and the public with dignity, courtesy and respect;
- (b) avoid behavior that is unbecoming, abusive, belittling or threatening to fellow employees or any member of the public; and
- (c) not bully or perpetrate offensive behaviour which is vindictive, cruel, malicious or humiliating and is intended to undermine a fellow employee or a member of the public.

25. (1) A teacher shall ensure that his or her station of work is free of pornography and pornographic material.

Pornography.

(2) A teacher shall not—

- (a) supply pornographic materials to a fellow employee, a learner or a member of the public;
- (b) expose a learner to pornography, sexual toys or assist a learner in obtaining access to the same;
- (c) sell, let to hire, distribute, exhibit or in any manner put into circulation; or
- (d) make, produce or have in his or her possession any pornographic book, pamphlet, paper, drawing, painting, art, representation, figure or any other obscene object.

26. (1) A teacher shall not—

Prohibited drugs
and psychotropic
substances.

- (a) supply illicit drugs, cigarettes, or alcohol to a learner;
- (b) expose a learner to illicit drugs, cigarettes and alcohol; or
- (c) assist a learner to access illicit drugs, cigarettes and alcohol.

(2) A teacher shall—

- (a) ensure that his or her work place is free from illicit drugs, cigarettes and alcohol;
- (b) not peddle or consume illicit drugs, cigarettes and alcohol while on duty; or
- (c) not report to work while under the influence of illicit drugs or alcohol.

27. A teacher shall—

Financial dealings
and private
affairs.

- (a) live within his or her means and avoid incurring any financial liability he or she cannot satisfy;

- (b) not neglect his or her financial obligations or neglect to settle them;
- (c) not evade taxes;
- (d) not use or lend the prestige of his or her office to sanction or endorse his or her own private activities or the private activities of any other person;
- (e) conduct his or her private affairs in a way that inspires public confidence in the integrity of his or her office; and
- (f) ensure that his or her private affairs do not interfere with his or her official duties or affect the dignity of his or her office and that the risk of conflict with non-official duties is minimized.

28. A teacher shall —

Official dealings.

- (a) practice and promote the principles of equity, inclusiveness, protection of the marginalized, integrity and professional competency;
- (b) not, knowingly and deliberately, withhold information that is not protected with a view to disadvantage any person including teaching vacancies or posts, promotions or other official correspondence;
- (c) not engage in private business during official working hours; and
- (d) not, if serving on a full time basis, engage in any other gainful employment. Gainful employment for purposes of this Code refers to, but is not limited to work that a teacher may —
 - (i) pursue and perform for money or other forms of regular compensation or remuneration;
 - (ii) perform which is inherently incompatible with his or her official responsibilities;
 - (iii) perform and which results in the impairment of judgment or conflict of interest;
 - (iv) perform and which affects the performance of his official duties; or
 - (v) perform on a full time basis during official working hours.

29. A teacher shall not canvass or lobby, either directly or indirectly, for any favours in the teaching service or in any other organization.

Canvassing for favours in service.

30. A teacher shall not use his or her position or title or any authority associated with his or her office in a manner that could reasonably be construed to imply that the Commission or institution sanctions or endorses any activities, either by him or her or by any other person, that are not activities of the institution.

Endorsing private activities.

31. (1) A teacher is part and parcel of the society in which he or she lives and whereas he or she should not be isolated, he or she is expected to remain within dignified limits and to particularly —

Civil and charitable activities.

- (a) project a good image in the community where he or she lives by participating appropriately in the communal activities; and
- (b) set a good example to the learners and the public by obeying lawfully established authority and being law abiding.

(2) A teacher may contribute towards or attend a public collection but shall not;

- (a) participate in such a way as to reflect adversely on his or her integrity or to interfere with the performance of his or her official duties; and
- (b) use his or her office to solicit for funds for public collection.

32. A teacher may engage in teaching or learning activities outside normal school hours to promote education provided that he or she shall not conduct holiday tuition.

Holiday tuition.

33. (1) A teacher shall not, 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.

Acting for foreigners.

(2) For the purpose of this paragraph:-

- (a) an individual is deemed foreign if the individual is a non-citizen; and
- (b) an organization is foreign if it is incorporated or registered outside Kenya or if it is wholly or substantially owned by a foreign government, organization or individual.

34. (1) A teacher who:-

Acting through others.

- (a) causes anything to be done through another person that would, if done by the teacher, would be a contravention of this Code; or
- (b) allows or directs a person under his or her supervision or control to do anything that is a contravention of this Code;
- (c) would be in breach of the provisions of this Code.

(2) Paragraph (1) shall not apply with respect to anything done without the teacher's knowledge, consent or the teacher took reasonable steps to prevent it.

35. A teacher shall not subscribe to or be involved in associations, sponsor or support a group that is proscribed or involved in any subversive activity.

Subversive association.

36. A teacher engaged in public service must submit —

- (a) an initial declaration within thirty days after employment;

Declaration of income, assets and liabilities.

- (b) a final declaration within thirty days after leaving employment; and
- (c) bi-annual declarations as provided for in Part VI of the Leadership and Integrity Act, 2012.

37. (1) If a teacher considers that anything required of him or her is a contravention of this Code or is otherwise improper, unethical or unlawful, the teacher shall report the matter to an appropriate authority.

Reporting.

(2) Every teacher shall be under an obligation to report to the appropriate authority any breach of the provisions of this Code.

(3) Such information received in respect of paragraph (2) shall be dealt with in strict confidentiality with a view to protecting the source.

38. (1) The Commission may investigate or cause to be investigated any allegation of breach of this Code so as to determine the veracity of such allegation.

Investigations.

(2) The Commission may carry out investigations on a teacher's improprieties on its own initiative or pursuant to a complaint by any person.

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

(4) Upon the submission of a report, the Commission shall ensure that the findings of the investigations are implemented within ninety days.

(5) An investigation may be carried out under this paragraph notwithstanding the fact that the person being investigated has ceased or is not an employee of the Commission.

39. For the purposes of section 36(1) of the Leadership and Integrity Act and paragraph 37(1) of this Code a teacher may report any matter to the Secretary, head of institution or any other appropriate authority as the case may be.

Reporting Authority.

40. Any teacher who is alleged to have violated the provisions of this Code will be subjected to the laid down disciplinary procedures under the Teachers Service Commission Act and the Code of Regulations of Teachers.

Breach of this Code.

41. This Code may be reviewed from time to time as the Commission may deem appropriate.

Review of this Code.

STAFF INTEGRITY PACT (TO BE FILLED IN DUPLICATE)

I.....TSC/..... do hereby confirm that I have read the contents of the Teachers Service Commission Code of Conduct and Ethics for Teachers (Revised 2014) and hence commit to adhere to its provisions at all times and uphold both my personal integrity and the integrity of the Commission.

Date:..... Sign:.....

In the presence of:

SECRETARY

TEACHERS SERVICE COMMISSION

(FORM A)

Report of Gifts Received

To: (approving Authority)

Description of Offer or:

.....

Name and title:

.....

Company:.....

Relationship (Business/personal):.....

Occasion on which the gift was/is to be received:.....

Description & (assessed) value of gift:.....

Suggested Method of Disposal

- (a) Retained by receiving staff
- (b) Retained for display/ as a souvenir in the office
- (c) Shared among the officers
- (d) Reserve as luck draw prize at staff function
- (e) Donate to charitable organization
- (f) Return to offer or
- (g) Others (please specify)

.....

Name of receiving staff.....

Title..... Date.....

Part B -Acknowledgment (to be completed by approving authority)

To (receiving staff)

The recommended method of disposal is *Approved/Not Approved

The gift(s) concerned should be disposed of by way of:.....

Name of Approving Authority.....

Title.....

Department.....

Date.....

*Please delete as appropriate

(FORM B)

DECLARATION OF CONFLICT OF INTEREST

Part A-Declaration (to be completed by declaring staff)

To: (Approving Authority)

I would like to report the following existing/potential* conflict of interest situation arising during the discharge of my official duties:

Persons/companies with whom/which I have official dealings and /or personal interest

1.....

2.....

3.....

Brief description of my duties which involve the persons/companies mentioned above and these are the areas of real/possible conflict of interest.

1.....

2.....

3.....

Name of Declaring Staff.....

Title.....

Department

Date.....

Part B-acknowledgment (to be completed by approving authority)

To: Declaring Staff

The information contained in your declaration for.....is noted. It has been decided that:

You should refrain from performing or getting involved in performing the work, as described in Part A, which may give rise to conflict of interest.

You should continue to handle the work as described in Part A, provided that there is no change in the information declared above.

Other conditions (please specify):

.....
.....

Name of Declaring Staff.....

Title.....

Department.....

Date.....

NANCY N. MACHARIA,
Secretary/Chief Executive Officer,
Teachers Service Commission.

LYDIA N. NZOMO,
Chairperson,
Teachers Service Commission.