



## **COUNTY GOVERNMENT OF LAIKIPIA**

### **COUNTY PUBLIC SERVICE BOARD**

## **MANAGEMENT OF DISCIPLINARY CASES IN LAIKIPIA COUNTY PUBLIC SERVICE.**

### **1. DISCIPLINARY PROCEDURE**

The following general guidelines shall be observed while processing discipline cases:

- (a) Disciplinary cases dealt with under delegated powers shall be processed through the County Human Resource Management Advisory Committee.
- (b) If criminal proceedings are instituted against an officer or where an officer has been acquitted of a criminal charge in a court of law, the Authorized Officer shall not be prevented from dismissing him or otherwise punishing him on any other charge arising out of his conduct in the matter.
- (c) Where an officer has been charged with desertion of duty, the show cause letter shall be addressed to his/her last known address by registered mail.
- (d) There should be proper framing of charges with full particulars of the case including the applicable provision of the Constitution, legislation or code of conduct alleged to have been breached.
- (e) The officer should be notified in writing, be given the particulars of the misconduct as preferred and reasonable opportunity to respond to the allegations.

- (f) Thorough investigation of an alleged offence shall be undertaken before any disciplinary action is taken.
- (g) Application of other interventions in resolving discipline cases such as counseling may be considered
- (h) The officer subjected to the discipline process has the Right of appeal.

## **2. PROCEDURE TO BE FOLLOWED IN INITIAL DISCIPLINARY ACTION**

### **Minor offences**

In the event of initial instance(s) of minor offences committed by an officer, his/her supervisor will issue a **verbal warning**. The verbal warning should be in form of structured discussion which may entail counselling. The officer should be informed of the alleged offence and what is likely to befall him or her in case the offence(s) is repeated in future. A **copy** of the record for such a warning indicating that there was a meeting between the supervisor and the officer should be kept by the supervisor. In the event the officer **repeatedly** commits minor offences irrespective of verbal warning(s), a **written warning** should be given to the officer by his or her supervisor. The warning letter should state the exact nature of offence(s) and indicate future disciplinary action which will be taken against the officer if the offence is repeated.

### **Persistent minor offence or Serious offence**

Where an officer fails to reform despite being issued with verbal and written warnings, or where he or she commits serious offence(s) i.e.

- (a) Negligence of duty
- (b) Intoxication during working hours
- (c) Using abusive or insulting language or behaving in a manner likely to cause a breach of the peace
- (d) Insubordination
- (e) Criminal conviction

- (f) Incarceration for more than fourteen (14) days following arrest for cognizable offence
- (g) Willful destruction of government property
- (h) Theft by public servant
- (i) Unauthorized use or disclosure of confidential information
- (j) Falsification of information or references on appointment
- (k) Acceptance of any bribe, secret profit or unauthorized commission.

**a) Procedure to be followed by the authorized officers in respect of officers in Job group Q and above: -**

- i. Carry out a **preliminary investigation** and consultation as to the circumstances surrounding the act of misconduct or Review the persistent offences of which the officer has been warned severally but failed to reform.
- ii. Issue the officer with a ‘**show cause letter**’ on the alleged offence and the charges framed against him/her and invite him to state in writing the grounds, if any, on which he relies to exculpate himself/herself.
- iii. The period within which to respond to the charges **must** be specified in the statement.
- iv. On expiry of the specified period of response to the ‘show cause letter’, whether or not the officer has responded, the case shall be presented to the County Human Resource Management Advisory Committee (CHRMAC) for **deliberation and recommendation**.
- v. In the event the investigation reveals further offence(s) against the officer, the steps in (iii) to (iv) above shall apply.

- vi. Thereafter, the case shall be forwarded to the County Public Service Board with recommendation, material evidence and records upon which a decision will be made.
- vii. However, if the County public service board is of the opinion that further investigation is necessary before a decision is made, it will direct the Authorized officer to do so.

### **3. INTERDICTION**

- i. An officer may be interdicted where gross misconduct which is likely to lead to dismissal is reported and requires investigation or a report that an officer has been charged in criminal proceedings is received.
- ii. If the case relates to a criminal charge, the officer is served with an interdiction letter, a sample of which is provided in Appendix I. If the misconduct is one which can lead to dismissal but is not of criminal nature the officer shall be served with a ‘show cause letter’ which shall also contain a communication on interdiction, a sample of which is provided in Appendix II.
- iii. A public officer on interdiction shall be entitled to half of his basic salary, full house allowance and medical insurance cover.
- iv. A public officer who is on interdiction should not leave the duty station without the permission of the Authorized Officer or any other public officer who is empowered to give such permission.
- v. A public officer whose interdiction has been lifted shall promptly be served with a decision letter, a sample of which is provided in Appendix III.

- vi. Any withheld salary, allowances and benefits will be restored with effect from the date it was withheld.

#### **4. SUSPENSION**

- i. If a public officer has been convicted of a serious criminal offence or is found culpable of a gross misconduct which can lead to dismissal, he or she shall be served with a suspension letter, a sample of which is provided in Appendix IV.
- ii. A public officer who is on suspension shall not leave the duty station without the permission of the Authorized Officer or any other public officer who is empowered to give such permission.
- iii. A public officer who is on suspension shall not be entitled to any salary but shall be paid full house allowance, and medical allowance or medical insurance premium remitted whichever is the case.
- iv. A public officer whose suspension has been lifted shall promptly be served with a decision letter, a sample of which is provided in Appendix V.
- v. Any withheld salary, allowances and benefits shall be restored with effect from the date it was withheld. Interdiction and suspension shall be lifted by the Authorized Officer on recommendation by the MHRMAC and approval of the County Public service Board.

#### **5. ABSENCE FROM DUTY WITHOUT LEAVE**

Where an officer is absent from duty without leave, reasonable or lawful cause, the following steps shall apply:

- i. Establish the exact dates the officer was absent from duty.

- ii. If not traced through personal contacts and next of kin within a period of ten (10) days from the commencement of such absence, the salary and other remunerative allowances shall be stopped with effect from the date of absence, and a report of the missing officer be made to the nearest police station.
- iii. The officer shall be addressed a registered '**show cause letter**' through his/her last known address, giving a reasonable period within which to respond but not less than ten (10) days.
- iv. The **nature of the offence** and the **contemplated action** shall be stated clearly in the letter. A scanned copy of the show cause letter may be sent to the officer through electronic mail. (Sample letter is provided as Appendix VI.
- v. If the officer does not respond, the case shall be submitted to the County Human Resource Management Advisory Committee which shall make a recommendation to the County Public Service Board for a decision.
- vi. If the officer has responded, the representations shall be analyzed and submitted to the County Human Resource Management Advisory Committee which shall make a recommendation to the County Public Service Board for a decision.
- vii. The decision of the County Public Service Board and the right of appeal or application for review shall promptly be communicated to the officer.
- viii. Such decisions will also be communicated to the relevant professional body, where applicable.

## **6. RETIREMENT IN THE PUBLIC INTEREST**

Retirement in the public interest may be allowed instead of the prescribed punishments if the Board or the Authorized Officer considers upon proof of the misconduct that:

- (a) The public officer has nevertheless raised a mitigating factor which renders imposition of a punishment too harsh in view of the circumstances of the case.
- (b) The length of service, benefits accrued and previous good record of the public officer justifies the retirement.
- (c) Imposing a punishment against the public officer is likely to adversely affect the reputation of the public body concerned or the County public service generally.

### **In retiring a public officer in the public interest, the following process shall apply:**

- i. The Authorized Officer shall address a letter, a sample of which is provided in Appendix VII, requiring an officer to show cause why he or she should not be retired on grounds of public interest and stating a reasonable period within which he/she must respond.
- ii. The public officer's representations shall be submitted to the CHRMAC for deliberation and recommendation on the case.
- iii. The details of the case and the CHRMAC recommendations shall be submitted to the County Public Service Board for a decision.
- iv. Where the Board is of the opinion that an alternative punishment be applied, the case shall be returned to the Authorized Officer with instructions that a fresh show cause letter be

issued in line with the contemplated disciplinary action.

- v. Where the Board concurs with the recommendation, the Authorized officer shall convey the Commission's decision to the officer, informing him/her of the benefits, if any and the right of application for review within the time provided for in the regulations as per the sample letter provided in Appendix VIII.

## **7. PUNISHMENTS**

All punishments inflicted on a public officer shall be within the law.

The following are the punishments which may be inflicted on officers facing disciplinary action:

- i. Recovery of cost or part of the cost of any loss or breakage caused by default or negligence provided that no such cost has been recovered by surcharge under the appropriate financial instructions or regulations.
- ii. Reprimand (including severe reprimand).
- iii. Deferment of increment.
- iv. Withholding of increment.
- v. Stoppage of increment.
- vi. Reduction in rank or seniority.
- vii. Dismissal.

## **8. APPEALS AND APPLICATION FOR REVIEW OF DISCIPLINARY CASES**

Section 85 of the Public Service Commission Act 2017 provides that "The Commission shall, in order to discharge its mandate under Article 234 (2) (i) of the Constitution, hear and determine appeals in respect of any decision relating to engagement of any person in a County Government, including a decision in respect of disciplinary control.



**APPENDIX I– Interdiction following a criminal charge**

(Letter head)

To.....  
.....

(Registered mail to last known address)

Dear Sir/Madam,

**INTERDICTION UPON CRIMINAL CHARGE**

It has been reported to this office that you were arrested and charged in a court of law with the offence of ..... (Set out particulars).

In view of the foregoing, you are hereby interdicted from exercising the duties of your office with effect from the date you were charged/date of this letter (whichever is applicable) pending finalization of your case.

While on interdiction, you will be paid half salary and you should not leave your duty station without the express permission from your immediate supervisor.

(Signed)  
Authorized Officer

Copy to: Supervisor

**APPENDIX II—Interdiction following gross misconduct leading to dismissal**

(Letter Head)

To.....  
.....

Thro' ..... (Supervisor)

Dear Sir or Madam,

**INTERDICTION**

It has been reported to this office that you..... (Set out the particulars of the misconduct together with dates)

To facilitate investigations on the alleged misconduct, it has been decided that you be and are hereby interdicted from exercising the duties of your office from the date of this letter pending finalization of your case.

While on interdiction, you will be paid half salary, full house allowance and your medical insurance premiums will be remitted. Further, you should not leave your duty station without the express permission of your immediate supervisor.

(Signed)  
Authorized Officer

**APPENDIX III—Letter Lifting Interdiction**

(Letter head)

To.....

.....

Thro' ..... (Supervisor)

.....

Dear Sir/Madam

**LIFTING OF INTERDICTION**

Further to our letter Ref. No..... dated .....(the interdiction letter) and after due consideration of your case, it has been decided that the interdiction imposed on you be and is hereby lifted with effect from..... (the date of the interdiction).

Your salary withheld during the interdiction shall be released.

You should acknowledge within one month from the date of this letter that you have read and understood the contents herein.

Your faithfully  
(Signed)  
Authorized Officer

**APPENDIX IV—Suspension Letter**

(Letter Head)

To.....

.....

Thro' ..... (Supervisor)

Dear Sir or Madam,

**SUSPENSION**

It has been reported to this office that you were convicted of a serious criminal offence namely (set out particulars).

Or

Having considered your representations and investigation report on ..... (state alleged offence), your general conduct and work performance has been found wanting and warrants dismissal on account of gross misconduct.

Consequently, it has been decided that you be and are hereby suspended from exercising the duties of your office from the date of this letter pending finalization of your case.

While on suspension, you will not be entitled to any salary but you will be paid full house allowance and your medical insurance premiums will be remitted.

(Signed)

Authorized Officer

**APPENDIX V—Letter Lifting Suspension**

(Letter head)

To.....  
.....

Thro' ..... (Supervisor)  
.....

Dear Sir/Madam,

**LIFTING OF SUSPENSION**

Further to our letter Ref. No.....dated .....  
(the suspension letter) and after due consideration of your case  
it has been decided that, the suspension imposed on you be  
and is hereby lifted with effect from..... (the date of the  
suspension).

However, you are hereby warned that a repeat of the same or  
similar misconduct in future may lead to commencement of  
proceedings for your dismissal from the service.

In view of this decision, you are required to report to this  
office on ..... and not later than ..... (reasonable time).

You are required to acknowledge within one month from the  
date of this letter that you have read and understood the  
contents herein.

Your faithfully  
(Signed)  
Authorized Officer

**APPENDIX VI—Show Cause Letter—absence from duty without reasonable cause**

(Letter Head)

To.....  
.....

Thro' ..... (Supervisor)

Dear Sir or Madam,

**ABSENCE FROM DUTY WITHOUT REASONABLE CAUSE**

It has been reported that you absented yourself from duty on..... (State the particulars of the absence including number of days and specific dates)

In view of the above, your dismissal from the service on account of absence from duty without reasonable cause is contemplated, but before this is done, you are hereby called upon to show cause why the intended action should not be taken.

Your representation if any, should reach this office within..... (State reasonable time) from the date of this letter failure to which the contemplated action will be taken without further reference to you.

Your faithfully  
(Signed)  
Authorized Officer

**APPENDIX VII—Notice of Intention to Retire on  
Grounds of Public Interest**

(Letter head)

To.....

.....

Thro' ..... (Supervisor)

Dear Sir or Madam,

**NOTIFICATION OF RETIREMENT IN THE PUBLIC  
INTEREST**

It has been established that you committed the following offence(s) which affect the public interest. (State the full particulars of the complaint/offence that warrant his retirement)

Consequently, it is contemplated to retire you on the ground of public interest. However, before a decision to retire you is made, you are hereby asked to make a written representation as to why you should not be retired in the public interest.

Your representations, if any, should reach this office within ..... (reasonable period) days from the date of this letter failure to which, you shall be retired on the ground of public interest without further reference to you.

Yours faithfully  
(Signed)  
Authorized Officer

**APPENDIX VIII—Decision Letter on Retirement in Public Interest**

(Letter head)

To.....  
.....

Thro' ..... (Supervisor)

Dear Sir or Madam,

**RETIREMENT IN THE PUBLIC INTEREST**

This is to inform you of the Public Service Commission’s decision to retire you on grounds of public interest with effect from.....(date).

In view of this decision, you are required to report to this office within thirty days with a view to submitting a handover report and to conclude arrangements for processing your terminal benefits.

Consequently, you are requested to complete the following documents and return them to this office duly signed for further action:

1. Pension Commutation Form.
2. Official Secrets (Declaration) Act for officers leaving the service.
3. Final Wealth Declaration Form
4. Clearance Form.

Pease note that you have a right of application for review of the decision to the Public Service Commission within six months from the date of this letter.

Your faithfully  
(Signed)  
Authorised Officer