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TWELFTH PARLIAMENT – THIRD SESSION

DEPARTMENTAL COMMITTEE ON EDUCATION AND RESEARCH

REPORT ON THE PETITION REGARDING RELEASE OF EXAMINATION RESULTS FOR MR. NICKY ODONGO LUBANGA BY THE KENYA MEDICAL LABORATORY TECHNOLOGISTS AND TECHNICIANS BOARD

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## **ABBREVIATIONS**

<b>BSc</b>	- Bachelor of Science
<b>IT</b>	- Information Technology
<b>KCE</b>	- Kenya Certificate Education
<b>KCSE</b>	- Kenya Certificate of Secondary Education
<b>KMLTTB</b>	- Kenya Medical Laboratory Technologists and Technicians Board
<b>KMTC</b>	- Kenya Medical Training College
<b>MLS</b>	- Medical Laboratory Science
<b>TEP</b>	- Technical Education Program

## ANNEXES

Adoption list

Minutes

- ANNEX I - Petition
- ANNEX II - Mr. Nicky Odongo Lubanga Kenya Certificate of Secondary Education certificate
- ANNEX III - Mr. Nicky Odongo Lubanga Technical Education Program certificate
- ANNEX IV - Mr. Nicky Odongo Lubanga Mathematics Bridging Course certificate
- ANNEX V - Mr. Nicky Odongo Lubanga Bachelor of Science in MLS with IT certificate
- ANNEX VI - Order of withdraw of court case
- ANNEX VII - Medical Laboratory Course minimum admission requirements
- ANNEX VIII - Evidence confirmation of results by Mr. Nicky Odongo Lubanga



## **CHAIRPERSON FOREWORD**

This Report contains the Committee's proceedings on the consideration of a Petition regarding the release of examination results for Mr. Nicky Odongo Lubanga (herein referred as Petitioner) by the Kenya Medical Laboratory Technologists and Technicians Board (KMLTTB). The Petition was presented to Parliament pursuant to Standing Order 220 and Section 4(1b) of the Petition to Parliament (Procedure) Act No. 22 of 2012 by the Hon. Tindi Mwale, MP, Member of Parliament for Butere Constituency on behalf of Mr. Nicky Odongo Lubanga.

The Petition was presented to the House on 25<sup>th</sup> February, 2019 and committed to the Departmental Committee on Education and Research for consideration. Consideration of the Petition was initially put in abeyance by the Committee pursuant to Standing Order No. 89 since the matter was a subject of court proceedings at the time of filing the Petition.

Mr. Nicky Odongo Lubanga prayed that, the National Assembly through the Departmental Committee on Education and Research:-

- (i) Be issued with practising certificate by the the Kenya Medical Laboratory Technologists and Technicians Board to enable him scout for jobs;
- (ii) Investigates the matter with a view to address his plight;
- (iii) Recommends that the Ministry aligns the programs to the required standards;
- (iv) Makes any other recommendations it deems fit in the circumstance of this matter.

The Petitioner being a graduate in Medical Laboratory Science (MLS) from Maseno University was required to sit for the Kenya Medical Laboratory Technologist and Technicians Board examinations for certification. He was barred from sitting the exams by the Board on the grounds that he had not met the prescribed Kenya Certificate of Secondary Education (KCSE) minimum requirements for certification as a medical laboratory technologist.

The Petitioner sought court redress, and in honouring a consequential court directive, the Board administered certification examinations to the Petitioner at Nakuru Medical Training College on 11<sup>th</sup> December, 2017. He alleged that he went to the Board to check his results and after numerous failed attempts; he confirmed that he had obtained a pass in the examination.

KMLTTB informed the Committee that the Petitioner's examinations were marked and the Petitioner visited the Board's offices on 12<sup>th</sup> February, 2018 to confirm his examination results which were promptly communicated to him that he had failed the said examinations, having failed Microbiology, Parasitology, Clinical Chemistry and Practical exams. Due to the foregoing the petitioner could not therefore be registered as Medical Laboratory Technologist by the Board.

In considering the Petition the Committee held a total of six (6) sittings. During the Sittings the Committee received oral and written submissions from the Petitioner, Deputy Vice Chancellor in-charge of Academics and Students Affairs Maseno University and twice from the Kenya Medical Laboratory Technologist and Technicians Board.

The Committee thereafter deliberated and responded to the prayers of the Petitioner as contained in this Report.

The records of evidence adduced, documents and notes received by the Committee form the basis of the Committee's observations/findings and recommendations as outlined in the Report can be obtained in the Parliament Library.

The Committee wishes to record its appreciation to the Office of the Speaker and the Clerk of the National Assembly for logistical and technical support accord to it during the consideration of the Petition.

Further, I wish to express my appreciation to the Honourable Members of the Committee who made useful contributions towards the preparation and production of this report.

On behalf of the Members of the Departmental Committee on Education and Research, it's my pleasant privilege and honour to present to this House the Report on a Petition regarding the Release of Examination Results for Mr. Nicky Odongo Lubanga by the Kenya Medical Laboratory and Technologist Board pursuant to Standing Order 227.

**Hon. Julius Melly, MP**

## **1.0 PREFACE**

### **1.1 Establishment of the Committee**

1. The Departmental Committee on Education and Research is established under the National Assembly Standing Order 216 (5). The Committee is mandated, among others, to: -
  - (i) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
  - (ii) study the programmes and policy objectives of Ministries and departments and the effectiveness of the implementation;
  - (iii) study and review all legislation referred to it;
  - (iv) study, assess and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with their stated objectives;
  - (v) investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
  - (vi) vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);
  - (vii) examine treaties, agreements and conventions;
  - (viii) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
  - (ix) consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and,
  - (x) examine any questions raised by Members on a matter within its mandate.

### **1.2 Mandate of the Committee**

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider Education, Training and Research.
3. In executing its mandate the Committee oversees the Ministry of Education and the Teachers Service Commission.



### 1.3 Committee Membership

The Committee comprises of the following Members: -

#### **Chairperson**

Hon. Julius Melly, MP  
Tinderet Constituency

#### **Jubilee Party**

#### **Vice Chairperson**

Hon. (Dr.) Amos Kimunya, EGH, MP  
Kipipiri Constituency

#### **Jubilee Party**

Hon. Moses Malulu Injendi, MP  
Malava Constituency  
**Jubilee Party**

Hon. Jackson Lekumontare, MP  
Samburu East Constituency  
**KANU Party**

Hon. Geoffrey Makokha Odanga, MP  
Matayos Constituency  
**ODM Party**

Hon. Jerusha Mongina Momanyi, MP  
Nyamira County  
**Jubilee**

Hon. (Dr.) Pamela Ochieng, MP  
Migori County  
**ODM Party**

Hon. John Oroo Oyioka, MP  
Bonchari Constituency  
**Peoples Democratic Party**

Hon. (Eng.) Nzambia Kithua, MP  
Kilome Constituency  
**Wiper Democratic Movement -Kenya**

Hon. Joseph Kipkosgei Tonui, MP  
Kuresoi South Constituency  
**Jubilee Party**

Hon. (Prof.) Zadoc Abel Ogutu, MP  
Bomachoge Borabu Constituency  
**Independent**

Hon. Lilian Cheptoo Tomitom, MP  
West Pokot County  
**Jubilee Party**

Hon. Catherine Wambilyanga, MP  
Bungoma County  
**Ford-Kenya**

Hon. Omboko Milemba, MP  
Emuhuya Constituency  
**Amani National Congress**

Hon. Eric Muchangi Njiru, MP  
Runyenjes Constituency  
**Jubilee Party**

Hon. Peter Lochakapong, MP  
Sigor Constituency  
**Jubilee Party**

Hon. Eve Obara, MBS, MP  
Kabondo Kasipul Constituency  
**ODM Party**

Hon. Wilson Sossion, MP  
**Nominated Member**

Hon. Wilson Kipng'etich Kogo, MP  
Chesumei Constituency  
**Jubilee Party**

## **1.4 Committee Secretariat**

Mr. Daniel Mutunga  
**Principal Clerk Assistant I**  
**Lead Clerk**

Mr. Philip Lekarkar  
**Clerk Assistant II**

Ms. Christine Odhiambo  
**Legal Counsel I**

Mr. Eric Kanyi  
**Fiscal Analyst III**

Ms. Annceta Gacheri  
**Research Officer III**

Ms. Winnie Kiziah  
**Media Relations Officer**

## **2.0 CONSIDERATION OF THE PETITION**

### **2.1 MEETING WITH THE PETITIONER MR. NICKY ODONGO LUBANGA**

4. Mr. Nicky Odongo Lubanga in his petition (**ANNEX I**) drew the attention of the Committee to the following:
- (i) That being a graduate of Maseno University, he was required to sit for Kenya Medical Laboratory Technologist and Technicians Board (KMLTTB) examinations for certification.
  - (ii) That his admission to the school meant that he had met the minimum requirements including scrutiny of his credentials and payment of the requisite admission fees of Kshs. 1,250.
  - (iii) That further, he had paid Kshs. 15,000 being examination fees to allow him sit for the said examinations which he was denied.
  - (iv) That after being barred from undertaking the examinations by the Board, Mr. Odongo sought redress in Nakuru High Court and his prayers were granted.
  - (v) That in honouring the court order, the Board of Management of Nakuru Medical Training College allowed him to sit the examinations on 11<sup>th</sup> December, 2017.
  - (vi) That on 9<sup>th</sup> February, 2018 results were released, but he never got official communication from the Board as is expected on whether he had passed or failed.
  - (vii) That on 26<sup>th</sup> February 2018, he went to school to check his results and after numerous failed attempts, he confirmed that he had a pass, however to date he has not received official communication from the registrar of the Board.
  - (viii) That he needs to be issued with a practising certificate to enable him scout for jobs.
  - (ix) That efforts to resolve the matter have been futile.
  - (x) That the matter in respect of which the Petition was made are not pending in any court of law or constitutional body.

#### **Prayers to the Committee**

5. Mr. Nicky Odongo prayed that, the National Assembly through the Departmental Committee on Education and Research:-
- (i) Investigates the matter with a view to address his plight;
  - (ii) Recommends that the Ministry aligns the programs to the required standards;
  - (iii) Makes any other recommendations it deems fit in the circumstance of this matter.

### **Further Submission to the Committee**

6. On his early education Nicky Odongo Lubanga informed the Committee that he sat for his Kenya Certificate of Secondary Education examinations in 2005 and attained a mean grade of C+ with C+ in Kiswahili, D in mathematics, C+ in Biology and C in Chemistry (**ANNEX II**).
7. He subsequently enrolled for a diploma course in Applied Sciences at Kisumu Polytechnic which he successfully completed with a PASS and was issued with a Diploma certificate in Technical Education Program (TEP) in Applied Biology by the Kenya National Examinations Council for the 2011 examinations (**ANNEX III**).
8. He thereafter sought admission in Maseno University to pursue a Bachelor of Science degree in Medical Laboratory Sciences. He submitted that on presenting himself for registration, he was advised that he could not pursue the course because the regulator, the Kenya Medical Laboratory Technologists and Technicians Board had issued a directive that those wishing to pursue the programme and had not attained the requisite grade in a particular subject were required to undergo a bridging course.
9. He then proceeded to register and sit for a bridging course in Mathematics with the Kenya National Examination Council which he completed in the year 2011 and attained a B- (Minus) in the subject (**ANNEX IV**).
10. Based on the results he was admitted to Maseno University in 2012 and subsequently indexed by KMLTTB in the same year. He was issued with an indexing card on 27<sup>th</sup> August, 2017 that enabled him to sit for the Board's exams.
11. On successful completion of the University in 2017 he was issued with a degree certificate in Medical Laboratory Sciences with IT (**ANNEX V**). He was further required to sit for the Board certification exams which he registered for on 9<sup>th</sup> January, 2017 and paid Kshs. 15,000 as examination fees. He was issued with a receipt by KMLTTB, apparently having satisfied all the requirements.
12. He was however denied the opportunity to sit for the certification exams scheduled to take place in May, 2017 by KMLTTB on the basis that he had not met all the requirements.

### **Court Intervention**

13. That after being barred from undertaking the examinations by the Board, Mr. Odongo sought redress in Nakuru High Court and his prayers were granted.
14. That in honouring the court order, the Board allowed him to sit for the exams in November, 2017 at Nakuru Medical Training College which was an examination centre.
15. In February, 2018 results were released, but he never got official communication from the Board as is expected on whether he had passed or failed.



16. Again, he took the matter to court seeking for the release of his examination results by the Board. His prayers were granted by the court and the Board was ordered to release results to the candidate.
17. Mr. Nicky Odongo informed the Committee that he had financed his education through Higher Education Loans Board and loans borrowed by his father and since he does not have the certificate of completion of the course, he cannot be engaged in any employment to enable him pay back the loans and his personal upkeep.
18. The Committee observed that the matter with respect to which the Petition is made was active in a court of law and discussion on it would be *subjudice* pursuant to Standing Order No. 89.
19. Further deliberations on the Petition were held in abeyance pending conclusion of the court process.
20. On 17<sup>th</sup> October, 2019, the Petitioner withdrew the case (Miscellaneous Cause No. 41 of 2019) from the court (**ANNEX VI**) after which the Committee resumed consideration of the Petition.

## **2.2 SUBMISSION BY THE REGISTRAR, KENYA MEDICAL LABORATORY TECHNOLOGISTS AND TECHNICIANS BOARD**

Mr. Abdulatif Ali, Registrar KMLTTB appeared before the Committee on 5<sup>th</sup> November, 2019 to respond to the matters raised in the Petition.

The Registrar informed the Committee as follows:

21. The Kenya Medical Laboratory Technologists and Technicians Board (KMLTTB) is a body corporate with statutory mandate to exercise general supervision and control over training, practice, business and employment of medical laboratory professionals under Cap 235A laws of Kenya. The Board also advises Government on all aspects thereof including validation of invitro diagnostics through Legal Notice No. 113 of 2010.

### **Facts of the Matter regarding the Petition**

22. Nicky Odongo Lubanga did not meet the minimum entry requirements at KCSE to train in Medical Laboratory Science (MLS). He was therefore not qualified to sit for the Board's examination. The entry requirements for a candidate to pursue Bachelor of Science Degree in Medical Laboratory Science are set out in the curriculum formulated by the Board which is as follows (**ANNEX VII**):

23. Requirements for MLS Degree – BSc Program

- |                           |    |
|---------------------------|----|
| (i) Maths or Physics      | C+ |
| (ii) English or Kiswahili | C+ |

- (iii) Biology C+
  - (iv) Chemistry C+
  - (v) Mean Grade C+ which must be attained in **one sitting**.
24. Mr. Nicky Odongo Lubanga's grade in Mathematics was (D plain) and Chemistry (C Plain) which were below minimum entry requirements required for the Medical Laboratory Science program.
  25. The Petitioner filed a Judicial Review dated 4<sup>th</sup> October, 2017 seeking orders of Certiorari, Prohibition and Mandamus which were served to the Board on 18<sup>th</sup> October, 2017. A replying affidavit by the Registrar of the Board was sworn on 18<sup>th</sup> October, 2017 and filed on 18<sup>th</sup> October, 2017.
  26. The High Court through a judgment delivered on 6<sup>th</sup> November, 2017 directed that the Mr. Nicky Odongo Lubanga be allowed to sit for the November, 2017 Board Examinations.
  27. The Board was compelled to administer examinations to Mr. Nicky Odongo Lubanga which order was honored as there was no period to appeal the Court ruling because the Board was served with the orders on Friday afternoon while examinations were commencing on Monday morning of the following week. While the Board was complying with the court order, the Petitioner paid Kshs. 15,000 to KMLTTB, a standard fee for candidates sitting the Board examinations. The examinations include written multiple choice questions, long and short essays, practical and oral papers. The examination subject areas were Clinical Chemistry, Microbiology, Histopathology/Cytopathology, medical parasitology/Entomology, Haematology and Blood Transfusion Science. The fee was also to cater for other exam related administrative tasks as provided for by the Medical Laboratory Technicians and Technologists Act Cap 253A Laws of Kenya.
  28. By 26<sup>th</sup> February, 2018 when Mr. Nicky Odongo Lubanga visited the Boards Examination Centre to confirm his results as per the Petition he had already visited the Board on 12<sup>th</sup> February, 2018 and obtained his results (**ANNEX VIII**). The school referred to in the Petition where Mr. Nicky Odongo Lubanga may have gone to check his results, had no responsibility to release Board Exam results as it was only an examination centre. The responsibility lies with KMLTTB.
  29. The Medical Laboratory Technicians and Technologists Act Cap 253A Laws of Kenya, prescribes that only qualified professional Medical Laboratory Technologists are registered and issued with practicing licence after satisfying the Board examiners. The Petitioner had not yet met the requirement of Section 15(1) (a-d), 2, 3 (a&b) of the said Act.



30. Further, the Petitioner having been notified of his failure, proceeded to file another Petition being Judicial Review & Constitutional Division, Constitutional Petition No. 41 of 2019 bearing the same parties and seeking the same reliefs as had been determined in the Judicial Review matter 601 of 2017.
31. The Board complied and filed the said results in court the same date. Thereafter, the Court made an order that the matter had been exhausted and proceeded to declare the matter closed.
32. The Board filed its response by an affidavit sworn on 2<sup>nd</sup> April, 2019. After filing and serving the response to the said Petition, the Petitioner proceeded to withdraw the whole Petition through a notice dated and filed on 16<sup>th</sup> April 2019 and 18<sup>th</sup> April 2019 respectively.
33. In light of the aforesaid matters, it was the Board's view that the matters presented in the Petition were wholly unmerited since all matters raised have been fully determined by the High Court and a determination made and the matter closed. The Petitioner was made aware of the results and the Board had no mandate to register a candidate who failed Board examinations. The Petitioner was given the option just like any other candidate to take a re-sit of the Board examinations which option he declined.

#### **Admission of students to training institutions**

34. The primary responsibility of admitting students does not lie with KMLTTB, but with the training institutions. However, each training institution offering professional Medical Laboratory Science course is required to adhere strictly to the regulator's guidelines. Maseno University admitted the Petitioner to pursue the course without the minimum entry requirement to pursue the MLS course for certification as a medical laboratory technologist.

#### **2.3 SUBMISSION BY DEPUTY VICE-CHANCELLOR MASENO UNIVERSITY**

Prof. Mary Kipsat, Maseno University Deputy Vice-Chancellor in-charge of Academic and Students Affairs appeared before the Committee on 26<sup>th</sup> November, 2019 to respond to matters raised in the Petition.

She informed the Committee that:

35. Mr. Nicky Odongo Lubanga was admitted as a self-sponsored student to study Bachelor of Science in Medical Laboratory Science with IT at Maseno University in September, 2012.

### **Admission Requirements**

36. Applicants for admission to the undergraduate BSc Medical Laboratory Science programme of Maseno University should meet the following or equivalent as recognized by the University Senate.

- (i) Mean Grade C + (plus)
- (ii) C – (minus) or KCE Division III must have a diploma in a relevant field
- (iii) Specific requirement for BSc Medical Laboratory Science at the time of admission of Mr. Nicky Odongo Lubanga:
  - C+ in Biology, Chemistry or Physical Science
  - C+ in Mathematics or Physics
  - C+ in English or Kiswahili
  - Or Diploma in a relevant field in Technical Education Programme issued by the Kenya National Examinations Council printed in the year 2013.

37. In admitting Mr. Nicky Odongo Lubanga, the University considered his diploma which superseded his KCSE results. This was used as the primary admission criteria. This was on the understanding that he would be admitted in first year with no transfer of credit.

### **Compliance with course admission requirements set by the Kenya Medical Laboratory Technicians and Technologist Board.**

38. In admitting Mr. Nicky Odongo Lubanga, the University complied with all requirements of the regulatory bodies and Kenya Universities and Colleges Central Placement Service.

### **Indexing of Candidates**

The process of registering and indexing of candidates to sit for the Kenya Medical Laboratory Technicians and Technologist Board examinations is a prerogative of the KMLTTB.

39. The BSc Medical Laboratory Sciences with IT programme is not classified. Candidates may either pass or fail the course. Upon successfully fulfilling all the university requirements for graduation, Mr. Nicky Odongo Lubanga graduated on 16<sup>th</sup> December, 2016 with a PASS in the course.



## **2.4 FURTHER SUBMISSION BY KENYA MEDICAL LABORATORY TECHNOLOGISTS AND TECHNICIANS BOARD**

Mr. Abdulatif Ali, Registrar KMLTTB appeared before the Committee for a second time on 3<sup>rd</sup> December, 2019 to provide further clarification to the matters raised in the Petition.

He informed the Committee as follows:

### **Procedure of indexing students for the Kenya Medical Laboratory and Technologist Registration Examinations**

40. Indexing of candidates for KMLTTB examination is a process that starts with approval of a training institution to offer the Medical Laboratory Science program either at certificate, diploma or degree level. The institution approval entails agreement to adhere to the training standards that include minimum entry requirements of all students based on their KCSE level or its equivalent for those educated outside Kenya.
41. The training institutions are responsible for students' admissions and submission of their credentials for indexing within 30 days of the students' admission to college.
42. The indexing is not meant for Board examinations but entry into Medical Laboratory Science training. Upon successful training at the appropriate level, the graduates apply for registration for practice, where all their documents are scrutinized again as a measure of quality assurance. The Board confirms the following:-
  - (i) Status of approval of the training institution;
  - (ii) Indexing at commencement of training;
  - (iii) Authenticity of all certificates submitted; and,
  - (iv) Candidates cleared for sitting the Board registration examination are assigned a unique examination number.
43. Upon passing the Board registration examinations, the new professionals are registered to practice under supervision as provided by the law, Cap 253A Laws of Kenya.

### **Scrutiny of certificates of applicants to verify that they meet the minimum requirements to sit for the Board examinations and whether the Board verified Mr. Nicky Odongo Lubanga certificates**

44. The Board requires that the initial indexing for training to be undertaken by respective approved training institutions and the students fill indexing application form indicating all their credentials. These credentials are verified by the concerned institutions by declaration in part (ii) of the said form and forwarded to KMLTTB for further verification and processing.
45. Within 30 days of student's admission to the institution, all documents should have been forwarded to KMLTTB for further verification and processing which Maseno

University did not comply. This acts as the first level of the quality assurance measures to eliminate all those applicants who do not meet the minimum entry requirements in good time to join other courses.

46. Pursuant to the Board's regulatory mandate and in furtherance of its mission to protect the health of Kenyans, the Board conducts thorough audit of all the documents submitted by the candidates to ensure that such candidates meet the minimum entry requirements for pursuing Medical Laboratory Science courses and are eligible to sit for the Board examinations.
47. For the case of Mr. Nicky Odongo Lubanga, the Board received his application for the Board registration examinations after his graduation. This is the point at which weaknesses at entry level were identified that he had scored grade D in mathematics, grade D in Physics against a requirement of C+ in either of the two and a grade C in Chemistry against a minimum requirement of C+.
48. He was accordingly not allowed to sit for the Board examinations. He then proceeded to file a case at the High Court that directed the Board to allow him sit the said examinations. The Registrar of the Board is mandated to remove from the register, inter alia any entries fraudulently or erroneously made and such cases are not exceptional.
49. The Board appealed the matter, however it proceeded to allow the Petitioner to sit Board examinations when he was issued with Exam Index Number B0301/NOV2017V upon being assigned the KMTC Nakuru as his exam centre. This was necessary to avoid contempt of court as the order was issued on Friday afternoon while examinations were commencing on Monday morning of the following week. The Board had also offered to allow him to sit for his supplementary examination papers as the court ruling in the matter of the appeal is being awaited.

**Whether minimum academic requirements for training and certification of Medical Laboratory Science practitioners are communicated to the Universities and other training institutions.**

50. The Board prior to any approval of any training institution as a medical training science inducts them on all the standards of training including governance and management, academic program, human resource requirements and physical infrastructure. This ensures that the right standards of training are captured in a wholesome manner. Maseno University was informed of this requirement by the Board.

**Recourse for students who train and sit for the Board's examination but fail to be certified by the Board as Medical Laboratory Science practitioner.**

51. Recourse for persons with medical laboratory science training but fail to be certified by the Board and are desirous of practicing as medical laboratory practitioners are



required to sit for supplementary examinations on conditions that they have no record of engaging in examination irregularities or any other malpractices.

52. However Mr. Nicky Odongo Lubanga's case is a combination of lack of requisite training requirements and failure to satisfy examiners of his skills, knowledge, competencies and attitudes required of medical laboratory practitioner. Since the Board filed an appeal in the Court of Appeal whose outcome is still being awaited, the Board will still give him a chance to sit for his supplementary examinations when he expresses interest in the same.

#### **Steps for processing students**

53. Training Institution level: The KMLTTB approved training institution admits the students based on criteria available in KMLTTB MLS core curriculum at each level of training. i.e. Certificate, Diploma and Degree. The curriculum is issued to the training institution upon approval of MLS program by KMLTTB.
54. Training institutions obtain the indexing application form and give it to the qualified students to fill out.
55. The training institution or Medical Laboratory Science department/section countercheck the information, confirms the documents attached and countersigns, then stamp them for onward transmission to the KMLTTB with the required application fees.
56. KMLTTB level: the information and documents are verified based on admission requirements and status of the training institution. Upon confirmation of payment, the data is recorded and indexing process is completed once a unique number is assigned to the applicant.
57. After successful completion of training, the student sits Final Qualifying Examinations (FQE), which is a form of assessment done by the training institution. When the candidate passes FQE, he/she applies to KMLTTB to sit registration examinations, a form of competency assessment for registration to practice.



#### **4.0 COMMITTEE OBSERVATIONS**

The Committee observed that:

1. The Petitioner failed to make full and faithful disclosure of the facts material to the Petition and more particularly pertaining to the existence of an active court case on the subject matter at the time of filing the Petition and the fact that he was fully aware that he did not meet the minimum criteria for qualification for training and certification as Medical Laboratory Technologist;
2. The Medical Laboratory Technicians and Technologists Act Cap 253A Laws of Kenya, prescribes that only qualified professional Medical Laboratory Technologists are registered and issued with practicing licence after satisfying the Board examiners. It is apparent that Mr. Nicky Odongo Lubanga did not meet the minimum requirements to pursue Medical Laboratory Science course for certification as a Medical Laboratory Technologist as specified in Section 15(1) (a-d), 2, 3 (a&b) of the said Act.
3. The Committee concurred with the Board that Mr. Nicky Odongo Lubanga's case is a combination of lack of requisite training requirements and failure to satisfy examiners of his knowledge, skills, competencies and attitudes required of Medical Laboratory Practitioner.
4. Maseno University contravened KMLTTB admission requirements and indexing procedures by admitting an applicant who did not meet the requisite qualification for training for certification as Medical Laboratory Technologist and failing to submit credentials for indexing within 30 days of the students' admission to the University as per the requirements.
5. The Registrar, KMLTTB acted in accordance with the provisions of the Medical Laboratory Technicians and Technologists Act Cap 253A Laws of Kenya by declining to register the Petitioner as Medical Laboratory Technologist as he did not qualify. To allow un-qualified person to practice as a medical technologist without the proper qualifications as set out would be exposing the health of the public to risk.
6. The Board had accorded the Petitioner an avenue to re-sit the Medical Laboratory Science exams; an opportunity that the latter declined and opted to pursue the matter in court.

## 5.0 COMMITTEE RECOMMENDATIONS

In response to the Petitioners prayers that the Committee recommends that:

1. The prayers of the Petitioner to have his KMLTTB certification examinations results released and subsequent registration as Medical Laboratory Technologist by the Board be dismissed as he had failed the exams and further he did not meet the minimum qualifications to be registered as Medical Laboratory Technologist.
2. Training institutions should ensure that they incorporate Medical Laboratory Science course admission requirements and only admit students who meet the minimum requirements to undertake the course. Further they should ensure that the students meet the requirements set by respective regulatory agencies for certification.
3. The Registrar, Kenya Medical Laboratory Technologists and Technicians Board should enforce strict adherence to admission, placement, registration and indexing procedures by institutions offering Medical Laboratory course and those found in violation and contravention of the procedures be recommended for closure of the program.
4. The Registrar, Kenya Medical Laboratory Technologists and Technicians Board should conduct regular inspection of training institutions approved by the Board to ensure compliance with set standards, admission and indexing procedures, examinations regulations and other course requirements to ensure quality studies in Medical Laboratory Science course.
5. The Petitioner may liaise with the Board to establish the minimum requirements needed to qualify for a Medical Laboratory Technologist after which he may request to re-sit for Medical Laboratory Science exams.

SIGN \_\_\_\_\_



DATE \_\_\_\_\_

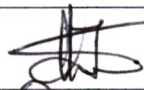
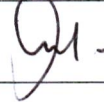
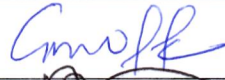

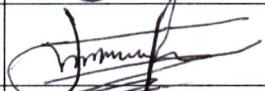



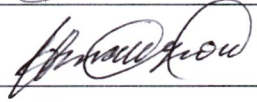


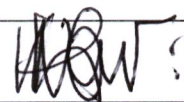
15/3/2020

**HON. JULIUS MELLY, MP  
CHAIRPERSON  
COMMITTEE ON EDUCATION AND RESEARCH**



COMMITTEE ON EDUCATION AND RESEARCH

**ADOPTION OF THE REPORT ON THE PETITION REGARDING RELEASE OF  
EXAMINATION RESULTS FOR MR. NICKY ODONGO LUBANGA BY THE KENYA  
MEDICAL LABORATORY TECHNOLOGISTS AND TECHNICIANS BOARD**

	NAME	SIGNATURE
1.	Hon. Julius Melly, MP - Chairperson	
2.	Hon. Dr. Amos Kimunya, EGH, MP - Vice-Chair	
3.	Hon. Moses Malulu Injendi, MP	
4.	Hon. Geoffrey Makokha Odanga, MP	
5.	Hon. (Dr.) Pamela Ochieng, MP	
6.	Hon. (Eng.) Nzambia Thuddeus Kithua, MP	
7.	Hon. (Prof.) Zadoc Abel Ogutu, MP	
8.	Hon. Catherine Wambilyanga, MP	
9.	Hon. Eric Muchangi Njiru, MP	
10.	Hon. Eve Obara, MBS, MP	
11.	Hon. Jackson Lekumontare, MP	
12.	Hon. Jerusha Mongina Momanyi,	
13.	Hon. John Oroo Oyioka, MP	
14.	Hon. Joseph Kipkosgei Tonui, MP	
15.	Hon. Lilian Cheptoo Tomitom , MP	
16.	Hon. Omboko Milemba, MP	
17.	Hon. Peter Lochakapong, MP	
18.	Hon. Wilson Sossion, MP	
19.	Hon. Wilson Kipngetch Kogo, MP	

**MINUTES OF THE 11<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON EDUCATION AND RESEARCH HELD ON FRIDAY, 6<sup>TH</sup> MARCH, 2020 IN HILTON GARDEN INN HOTEL AT 2:00 PM**

---

**PRESENT**

1. Hon. Julius Melly, MP - Chairperson
2. Hon. (Dr.) Amos Kimunya EGH, MP - Vice Chairperson
3. Hon. Geoffrey Odanga, MP
4. Hon. (Eng.) Nzambia Kithua, MP
5. Hon. (Prof.) Zadoc Ogutu, MP
6. Hon. (Dr.) Pamela Ochieng, MP
7. Hon. Eric Muchangi, MP
8. Hon. Eve Obara MBS, MP
9. Hon. Jerusha Momanyi, MP
10. Hon. Joseph Tonui, MP
11. Hon. Omboko Milemba, MP
12. Hon. Oroo Oyioka, MP
13. Hon. Wilson Sossion, MP

**ABSENT WITH APOLOGY**

1. Hon. Moses Malulu Injendi, MP
2. Hon. Catherine Wambilyanga, MP
3. Hon. Lilian Tomitom, MP
4. Hon. Jackson Lekumontare, MP
5. Hon. Peter Lochakapong, MP
6. Hon. Wilson Kogo, MP

**NATIONAL ASSEMBLY SECRETARIAT**

1. Mr. Daniel Mutunga - Principal Clerk Assistant
2. Mr. Philip Lekarkar - Clerk Assistant II
3. Ms. Annceta Gacheri - Research Officer III
4. Mr. Eric Kanyi - Fiscal Analyst
5. Mr. Collins Mahamba - Audio Officer
6. Mr. Manuel Leparachao - Serjeant at arms

**MIN. NO. EDUC/2020/060: PRELIMINARIES**

The Chairperson called the meeting to order at 2.11 pm. Prayer was said.

Agenda of the meeting was adopted having been proposed by Hon. (Dr.) Pamela Ochieng, MP and seconded by Hon. Jerusha Momanyi, MP.



Confirmation of minutes was deferred to the next sitting.

**MIN. NO. EDUC/2020/062: CONSIDERATION OF THE REPORT ON PETITION BY MR. NICKY ODONGO LUBANGA ON THE RELEASE OF EXAMINATION RESULTS BY KENYA MEDICAL LABORATORY TECHNOLOGISTS AND TECHNICIANS BOARD.**

Having considered the prayers of the petitioner and submissions of various stakeholders who appeared before the Committee to adduce evidence on the matter, the Committee made the following observations:

1. The Petitioner failed to make full and faithful disclosure of the facts material to the Petition and more particularly pertaining to the existence of an active court case on the subject matter at the time of filing the Petition and the fact that he was fully aware that he did not meet the minimum criteria for qualification for training and certification as Medical Laboratory Technologist;
2. The Medical Laboratory Technicians and Technologists Act Cap 253A Laws of Kenya, prescribes that only qualified professional Medical Laboratory Technologists are registered and issued with practicing licence after satisfying the Board examiners. It is apparent that Mr. Nicky Odongo Lubanga did not meet the minimum requirements to pursue Medical Laboratory Science course for certification as a Medical Laboratory Technologist as specified in Section 15(1) (a-d), 2, 3 (a&b) of the said Act.
3. The Committee concurred with the Board that Mr. Nicky Odongo Lubanga's case is a combination of lack of requisite training requirements and failure to satisfy examiners of his knowledge, skills, competencies and attitudes required of Medical Laboratory Practitioner.
4. Maseno University contravened KMLTTB admission requirements and indexing procedures by admitting an applicant who did not meet the requisite qualification for training for certification as Medical Laboratory Technologist and failing to submit credentials for indexing within 30 days of the students' admission to the University as per the requirements.
5. The Registrar, KMLTTB acted in accordance with the provisions of the Medical Laboratory Technicians and Technologists Act Cap 253A Laws of Kenya by declining to register the Petitioner as Medical Laboratory Technologist as he did not qualify. To allow un-qualified person to practice as a medical technologist without the proper qualifications as set out would be exposing the health of the public to risk.
6. The Board had accorded the Petitioner an avenue to re-sit the Medical Laboratory Science exams; an opportunity that the latter declined and opted to pursue the matter in court.

**Arising from the observations, the Committee made the following recommendations in response to the petitioner's prayers.**

1. The prayers of the Petitioner to have his KMLTTB certification examinations results released and subsequent registration as Medical Laboratory Technologist by the Board be dismissed as he had failed the exams and further he did not meet the minimum qualifications to be registered as Medical Laboratory Technologist.
2. Training institutions should ensure that they incorporate Medical Laboratory Science course admission requirements and only admit students who meet the minimum requirements to undertake the course. Further they should ensure that the students meet the requirements set by respective regulatory agencies for certification.
3. The Registrar, Kenya Medical Laboratory Technologists and Technicians Board should enforce strict adherence to admission, placement, registration and indexing procedures by institutions offering Medical Laboratory course and those found in violation and contravention of the procedures be recommended for closure of the program.
4. The Registrar, Kenya Medical Laboratory Technologists and Technicians Board should conduct regular inspection of training institutions approved by the Board to ensure compliance with set standards, admission and indexing procedures, examinations regulations and other course requirements to ensure quality studies in Medical Laboratory Science course.
5. The Petitioner may liaise with the Board to establish the minimum requirements needed to qualify for a Medical Laboratory Technologist after which he may request to re-sit for Medical Laboratory Science exams.

The following are to be included in the Report:

- (i) A page for abbreviations and acronyms
- (ii) A page for annexures

The Committee concentrating the secretariat to edit the Report accordingly and ensure that it is free of errors in preparation for tabling on Tuesday 10<sup>th</sup> March, 2020.

Having considered the Report, the Committee unanimously adopted the Report on Petition by on the Release of his examination for Mr. Nicky Odongo Lubanga by the Kenya Medical Laboratory Technologists and Technicians Board having been proposed by Hon. (Eng.) Nzambia Kithua, MP and seconded by Hon. (Prof.) Zadoc Ogutu, MP respectively.

**MIN. NO. EDUC/2020/063: ANY OTHER BUSINESS**

No other business arose.

**MIN. NO. EDUC/2020/064: ADJOURNMENT**

There being no other business, the meeting was adjourned at 4.05 pm. The next meeting held on Saturday 7<sup>th</sup> March, 2020 at 9.00 am

SIGN \_\_\_\_\_



DATE \_\_\_\_\_

10/3/2020

**HON. JULIUS MELLY, MP**

**CHAIRPERSON, COMMITTEE ON EDUCATION AND RESEARCH**



**ANNEX**

Approved

REPUBLIC OF KENYA



BAT  
SNA  
1/3/19

TWELFTH PARLIAMENT - (THIRD SESSION)

THE NATIONAL ASSEMBLY

PUBLIC PETITION

(No. 006 of 2019)

**REGARDING PROPOSED OVER-RELEASE OF EXAMINATION RESULTS  
FOR NICKY ODONGO LUBANGA**

I, the undersigned, on behalf of the residents of Butere Constituency;

**DRAW** the attention of the House to the following;

1. **THAT**, Mr. Nicky Odongo Lubanga, a graduate of Maseno University was required to sit for Kenya Medical Laboratory Technologist and Technicians Board (KMLTTB) Examinations for certification;
2. **THAT**, Odongo's admission to the school meant that he had met the minimum requirements including scrutiny of his credentials and payment of the requisite admission fees of Kshs. 1,250/=;
3. **THAT**, further, he had paid Kshs. 15,000 being examination fees to allow him sit for the said examinations which he was denied;
4. **THAT**, after being barred from undertaking examinations by the Board, Mr. Odongo sought redress in Nakuru High Court and his prayers were granted;
5. **THAT**, in honoring the Court's Order, the Board of Management of Nakuru Medical Training College allowed him to sit the examinations on 11<sup>th</sup> December, 2017;
6. **THAT**, on 9<sup>th</sup> February, 2018, results were released, but Mr. Odongo never got official Communication from the Board as is the rule, on whether he had passed or failed;

**PUBLIC PETITION**  
**REGARDING PROPOSED OVER-RELEASE OF EXAMINATION RESULTS**  
**FOR NICKY ODONGO LUBANGA**

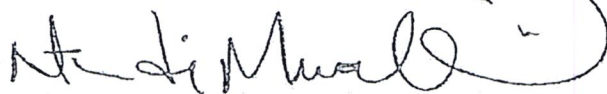
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7. **THAT**, on 26<sup>th</sup> February, 2018, he went to school to check his results and after numerous failed attempts, he confirmed that he had a PASS, however, to-date, he has not received official communication from the registrar of the Board;
8. **THAT**, Mr. Odongo needs to be issued with a Practising Certificate to enable him scout for jobs;
9. **THAT**, efforts to resolve the matter have been futile;
10. **THAT**, the matter in respect of which this petition is made is not pending before any court of law or constitutional body;

**THEREFORE**, your humble petitioners pray that the National Assembly, through the Departmental Committee on Education and Research: -

- a) Investigates into the matter with a view to address<sup>in</sup> the Petitioner's plight;
- b) Recommends that the Ministry aligns their programs to required standards; and
- c) Makes any other recommendations it deems fit in the circumstance of this matter.

And your humble Petitioners will ever pray



**THE HON. TINDI MWALE, MP**  
**MEMBER FOR BUTERE CONSTITUENCY**

DATE: .....21/21/2019.....



The Kenya National Examinations Council



This is to certify that the candidate named below sat for the Kenya Certificate of Secondary Education examination in the subjects named below and qualified for the award of a

Kenya  
Certificate of Secondary Education

THE CANDIDATE REACHED THE GRADE SHOWN IN THE SUBJECTS NAMED

ODONGO L. NICKY

\*M\*

608307/039

LUBINU SEC SCHOOL

	GRADE
101 ENGLISH	C (PLAIN)
102 KISWAHILI	C+(PLUS)
121 MATHEMATICS	D (PLAIN)
231 BIOLOGY	C+(PLUS)
232 PHYSICS	D (PLAIN)
233 CHEMISTRY	C (PLAIN)
316 SOCIAL EDUCATION AND ETHICS	B+(PLUS)
562 COMMERCE	B (PLAIN)

SUBJECTS NAMED EIGHT MEAN GRADE C+(PLUS)

EXAMINATION OF NOVEMBER/DECEMBER 2005

  
Secretary

Kenya National Examinations Council



  
Chairman

Kenya National Examinations Council

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KCSE 2934263

Not valid without a hologram (See overleaf)

ANNEX II

The Kenya National Examinations Council



**Diploma**

**IN TECHNICAL EDUCATION PROGRAMME (TEP)**

This is to certify that the candidate named below sat for the Diploma in TEP examination in the subjects named below and was awarded this Diploma. The candidate attained the grades shown below:

2404/23 DIPLOMA IN APPLIED SCIENCE

ODUNGO L. NICKY

INDEX NO. 970101/018 MKK

970101 MISUMU PRIVATE

SUBJECT

SUBJECT	GRADE
301 TAXONOMY, ECOLOGY, SOIL SCIENCE, HERBARIUM, AQUARIUM & CIV	2 (FIRST)
302 CYTOLOGY, HISTOLOGY & GENETICS	2 (FIRST)
303 MICROBIOLOGY, PARASITOLOGY & IMMUNOLOGY	2 (FIRST)
304 BIOCHEMISTRY, ANATOMY AND PHYSIOLOGY	2 (FIRST)
305 ANIMAL & PLANT HUSBANDRY, PHARMACY, TOXICOLOGY, ENTOMOLOGY & PL	2 (FIRST)
306 LABORATORY PRACTICE AND MANAGEMENT	2 (FIRST)
307 TRADE & ENTREPRENEURSHIP PROJECT	2 (FIRST)

SUBJECT NAMED (SEVEN)

PAPER PASSED (SEVEN)

OVERALL RESULT: PASS WITH MERIT  
 NOVEMBER 2011 SERIES  
 DATE PRINTED: 01-Dec-2013

Secretary  
 Kenya National Examinations Council



Chairman  
 Kenya National Examinations Council

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D/TEP 0018830



(See overleaf for conditions of issue)





This result slip is not a certificate. The Kenya National Examinations Council reserves the right to correct the information given on result slips which will be confirmed by the issue of certificates. (See overleaf)



THE KENYA NATIONAL EXAMINATIONS COUNCIL  
EXAMINATION FOR THE KENYA CERTIFICATE OF SECONDARY  
EDUCATION RESULT SLIP



K.C.S.E

960801 BUYERE MUMIAS PRIVATE

960801/502 ODONGO L NICKY

960801/502 \*M2\* 2011

SUBJECTS  
122 MATHEMATICS ALT B

GRADES  
B-(MINUS)

SUBJECTS RECORDED \*ONE\*

SUBJECTS DONE \*ONE\*

\*\* MEAN GRADE X (MISSING GROUP )\*\* AGP=ZERO\* DATE PRINTED:120403

K.C.S.E

117553



ANNEX IV



# Masena University

On the recommendation of the University Senate  
and by virtue of the authority vested in the University, hereby confer upon

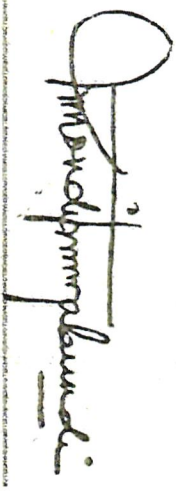
**Lubanga Nicky Odongo**

the degree of

**Bachelor of Science**  
**(Medical Laboratory Sciences, With IT )**  
**Pass**

In testimony thereof this award was conferred at the congregation held at this University on

Friday the 16th December, 2016



Vice-Chancellor



Deputy Vice-Chancellor,  
Academic & Student Affairs

ANNEX V

9



ANNEX V

REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI  
JUDICIAL REVIEW AND CONSTITUTIONAL DIVISION  
MISCELLANEOUS CAUSE NO. 41 OF 2019

IN THE MATTER OF SECTION 8 & 9 OF THE LAW REFORM ACT CAP 26 OF THE LAWS OF  
KENYA

AND

IN THE MATTER OF ORDER 53 OF THE CIVIL PROCEDURE RULES 2010, CAP 21, LAWS OF  
KENYA

AND

IN THE MATTER OF THE MEDICAL LABORATORY TECHNICIANS AND TECHNOLOGISTS  
ACT, 1999, NO. 10 OF 1999

AND

IN THE MATTER OF THE MEDICAL LABORATORY TECHNICIANS AND TECHNOLOGISTS  
(CURRICULUM AND COURSE CONTENT) REGULATIONS

AND

IN THE MATTER OF THE KENYA MEDICAL LABORATORY TECHNICIANS AND  
TECHNOLOGIST BOARD

AND

IN THE MATTER OF THE APPLICATION FOR NICKY ODONGO LUBANGA (INDEX NO. B182/12)  
TO SIT FOR THE NOVEMBER, 2017 EXAMINATIONS

AND

IN THE MATTER OF THE APPLICATION FOR LEAVE TO APPLY FOR ORDERS OF  
CERTIORARI, PROHIBITION AND MANDAMUS

BETWEEN

NICKY ODONGO LUBANGA.....APPLICANT

-VERSUS-

THE KENYA MEDICAL LABORATORY TECHNICIANS

AND TECHNOLOGISTS BOARD.....1<sup>ST</sup> RESPONDENT

ABEL ONYANGO.....2<sup>ND</sup> RESPONDENT



IV XEHA

IN COURT ON 1<sup>ST</sup> JULY, 2019  
BEFORE HON. MR. JUSTICE W. KORIR

ORDER

THIS MATTER coming up for mention on 1<sup>ST</sup> July, 2019 before Hon. Mr. Justice W. Korir, AND UPON HEARING the counsel for the Petitioner and counsel for the Respondents;

IT IS HEREBY ORDERED: -

1. THAT the matter be and is hereby marked as withdrawn as prayed by the Petitioner.
2. THAT the Petition be and is hereby marked as withdrawn with costs to the Respondents.

GIVEN under my Hand and Seal of this Honourable Court this 1<sup>st</sup> day of July, 2019.

ISSUED at Nairobi this.....17<sup>th</sup>.....day of.....OCTOBER.....2019

.....  
  
 DEPUTY REGISTRAR

MISC CASE NO. 41 OF 2019

## BACHELOR OF MEDICAL LABORATORY SCIENCES

### 1.1 Preamble

The Kenya Medical Laboratory and Technicians and Technologists Board (KMLTTB) is mandated by CAP 253A, Laws of Kenya (Act No.10 of 1999) to develop the content of the course of instruction for Medical Laboratory Sciences. The board has previously developed programmes for certificate, Diploma and Higher Diploma in Medical laboratory Sciences. On this context, the Board has proceeded to develop the Bachelors degree programme in Medical Laboratory Sciences to serve and guide universities wishing to offer this programme.

### 1.2 Rationale of the Programme

KMLTTB developed the first degree curriculum in Medical Laboratory Science in 2006. Since then a lot of advancements in Medical Laboratory Sciences (MLS) have occurred. As the focus shifts to evidence-based clinical practice, KMLTTB as a regulatory agency is therefore tasked with ensuring competency amongst graduates. Consequently, the need grew to review and revise the current curriculum in order to incorporate new advancements in Medical Laboratory Sciences, ensure standardization of the BMLS course as well as revolutionize the attitude of BMLS graduates.

### 1.3 KMLTTB Vision and Mission

#### 1.3.1 Vision

An accountable, effective and efficient regulatory body promoting quality medical laboratory services

#### 1.3.2 Mission

To protect the health of all Kenyans by ensuring compliance with standards in training, employment, research, practice and business in medical laboratory services

## 2. University Admission Requirements

2.1 A candidate pursuing BMLS must meet the minimum university-entry requirements. The minimum entry requirement for degree level is an average of grade C+.

2.2 In addition, the candidate must have obtained the following grades in the subjects indicated at **one sitting**:

#### *Alternative A*

Biology	C+
Chemistry	C+
Mathematics or Physics	C+
English or Kiswahili	C+

#### *Alternative C*

*(Advanced certificate of secondary education)*  
Biology-C+; Chemistry-C+; Maths/Physics-C+

#### *Alternative B*

Biological Sciences	B-
Physical Sciences	B-
Mathematics or Physics	C+
English or Kiswahili	C+

**NB:** All applicants with academic qualifications from other countries shall have their grades equated by the relevant government of Kenya bodies such as Kenya National Examination Council (KNEC).

2.3 Applicants who are holders of Higher National Diploma in a Medical Laboratory Sciences discipline obtained from institutions approved by KMLTTB are eligible for training in BMLS.

ANNEX III





ANNEX VIII