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Vice-Chairperson Departmental  
Committee on Education &  
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THE NATIONAL ASSEMBLY



TWELFTH PARLIAMENT – SECOND SESSION

DEPARTMENTAL COMMITTEE ON EDUCATION AND RESEARCH

REPORT ON THE PETITION ON HIRING, POSTING AND TRANSFERS  
OF PRIMARY SCHOOL FEMALE TEACHERS

Directorate of Committee Services  
Clerk's Chambers  
National Assembly

November 2018

*Approved for table  
8/11/18  
MS  
DSWA*

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## 1.0 PREFACE

### Hon. Speaker,

The Departmental Committee on Education and Research is established under the National Assembly Standing Order 216.

### 1.1 Mandate of the Committee

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 Committee Membership

The Committee comprises of the following Members: -

1. Hon. Julius Melly, MP - **Chairperson**
2. Hon. Amos Kimunya, EGH, MP - **Vice-Chairperson**
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 Kipngetich Kogo, MP

### **Committee Secretariat**

The Committee secretariat comprise the following officers: -

1. Mr. Daniel Mutunga - Principal Clerk Assistant I
2. Mr. Philip Lekarkar - Clerk Assistant III
3. Mr. Eric Kanyi - Fiscal Analyst
4. Ms. Annceta Gacheri - Research Officer
5. Ms. Emma Esendi - Legal Counsel
6. Ms. Winnie Kiziah - Media Relations Officer
7. Mr. Nimrod Ochieng - Audio Officer
8. Ms. Catherine Mukunyi - Serjeant At Arms

### **1.3 Committal of Petition**

Pursuant to Standing Order 220 and Section 4(1b) of the Petition to Parliament (Procedure) Act CAP 7C, Mr. Julius Kipkoech Bores on 26<sup>th</sup> February, 2018 presented a public petition to the National Assembly on hiring, posting and transfer of primary school female teachers. (**ANNEX 1**)

The petition was referred to the Departmental Committee on Education and Research pursuant to Standing Order 227 for consideration.

The Petitioner drew the attention of the National Assembly to the following:

1. That the Constitution of Kenya reposes all sovereign authority in the people of Kenya.
2. The people of Kenya have delegated the legislative authority to Parliament as the representative of the people. That delegation is not absolute and can be exercised by the people simultaneously.
3. The shortage of primary school teachers is alarming in most rural areas all over the country.
4. The Ministry of Education and the Teachers Service Commission have deployed a policy of hiring new teachers and posting them outside their counties.

5. Kenyan society values marriage institution as holy and needed to be preserved with all moral values.
6. Newly hired primary school female teachers with very young children go through difficulties to balance between their career and bringing up their families since they are forced to work in very remote hardship areas with very little allowance.
7. That efforts to resolve the named issues with the relevant authorities have been made but in vain.
8. That the issues in respect to which the Petition is made are not pending before any court of law or a constitutional legal body.

The Petitioner prayed that the National Assembly deliberates on the Petition and prays that the National Assembly:

- (i) **Intervenes and makes a piece of legislation that refrains the Teachers Service Commission from posting newly hired primary school female teachers away from their matrimonial homes since their salaries and allowances are not commensurate with the hardships they endure with their young families;**
- (ii) **In exercising the powers bestowed by Article 221 of the Constitution of Kenya 2010, the National Assembly be magnanimous to the people of Kenya and ensure that teachers are sufficient to all schools across the Republic.**
- (iii) **Make any other legislation that deems fit to the above prayers.**

#### **1.4 Committee Proceedings**

In considering the petition the Committee held a total of three (3) Sittings. During the Sittings the Committee received oral and written submissions from the petitioner and the Teachers Service Commission. The Committee thereafter considered and deliberated on the prayers by the petitioner.

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 and can be obtained in the Parliament Library.

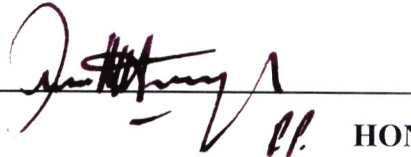
#### **1.5 Acknowledgement**

The Committee wishes to record its appreciation to the Office of the Speaker and the Clerk of the National Assembly for facilitation in fulfilment of its mandate. The Committee is also grateful to the staff of the National Assembly for the services they rendered. It is their commitment and dedication to duty that made the work of the Committee and production of this Report possible.

**Hon. Speaker,**

On behalf of the Members of the Departmental Committee on Education and Research, I beg to table the Report on the Petition on Hiring, Posting and Transfers of primary school female teachers pursuant to Standing Order 227.

Sign

A handwritten signature in black ink, appearing to read 'Julius Melly', written over a horizontal line.

Date 6th Nov 2018

**HON. JULIUS MELLY, MP**

**CHAIRPERSON, DEPARTMENTAL COMMITTEE ON EDUCATION AND  
RESEARCH**

## **2.0 CONSIDERATION OF THE PETITION**

The Committee Committed the Petition to the sub-committee on Basic Education to prosecute it and report back the findings and recommendation to the full Committee for consideration and adoption.

The Sub-Committee on Basic Education consist of the following members:

1. Hon. Joseph Tonui, MP - Chairperson
2. Hon. Jerusha Momany, MP - Vice Chairperson
3. Hon. Eve Obara, MP
4. Hon. Eric Njiru, MP
5. Hon. Jackson Lekumontare, MP
6. Hon. Peter Lochakapong, MP

The Sub-Committee invited the petitioner to present his petition and thereafter the teachers employer, the Teachers Service Commission to present its views on the petition.

### **2.1 MEETING WITH THE PETITIONER MR. JULIUS KIPKOECH BORES**

The petitioner Mr. Julius Kipkoech Bores appeared before the Committee on 18<sup>th</sup> July 2018 and presented his prayers that the Committee deliberates on the petition of hiring, posting and transfers of primary school female teachers and prayed that the National Assembly:

- (i) **Intervenes and makes a piece of legislation that refrains the Teachers Service Commission from posting newly hired primary school female teachers away from their matrimonial homes since their salaries and allowances are not commensurate with the hardships they endure with their young families;**
- (ii) **In exercising the powers bestowed by Article 221 of the Constitution of Kenya 2010, the National Assembly be magnanimous to the people of Kenya and ensure that teachers are sufficient to all schools across the Republic.**
- (iii) **Make any other legislation that deems fit to the above prayers.**

### **2. 2 MEETING WITH THE TEACHERS SERVICE COMMISSION**

The Chief Executive Officer/Secretary Teachers Service Commission Dr. Nancy Macharia appeared before the Committee on 2<sup>nd</sup> August, 2018 to give a the Commission's views on the petition on hiring, posting and recruitment of primary school female teachers.

**Views on the alarming short of primary school teachers in most rural areas all over the country.**

Dr. Nancy Macharia informed the Committee that:

Staffing of primary schools is based on staffing norms which takes an ideal class to be 50 learners being one teacher per class plus 2.5% of the number of classes policy for primary schools.

Overall, shortage of primary school teachers is a direct consequence of budgetary allocation to the Commission. The Commission wholly relies on funds appropriated by Parliament to recruit new teachers to alleviate shortage. Shortage of teachers in the public primary schools as at 19<sup>th</sup> July 2018 stood at 39,574. As can be discerned from **table 1**, shortage of primary school teachers is a national challenge and not only confined to some parts of the country.

The teacher distribution and shortage in primary schools is proportional to the number of schools and streams in a county. Consequently, the more the streams in a county the more teachers are required. However, the Commission acknowledges regional disparities in the distribution of teachers across the country and as a result, the Commission is doing all it can, as it has a constitutional mandate to do so, to proportionately distribute teachers across the regions/counties.

The Commission's endeavor has been negated by the following challenges:

**(i) Insecurity**

Insecurity has mostly affected the arid and semi- arid counties. Serious challenges have been experienced majorly in Mandera, Wajir, Lamu and Garissa counties due to Al shabaab menace. The emerging trend by the terror groups to specifically attack non-local teachers has worsened the situation.

**(ii) Court cases by teachers**

The Commission is currently defending numerous court cases where teachers have filed constitutional petitions contesting either transfer or posting to certain counties on security grounds. This has negatively affected teacher distribution as courts are persuaded to uphold the right to life over other right.

**(iii) Hostile treatment by host communities**

Equitable distribution of teachers has also been adversely affected by the treatment some teachers receive from host communities. Unlike other public servants, teachers are posted to schools in the most interior parts of the country.

Incidences where teachers have been attacked by host communities for perceived poor performance have been reported in a number of counties including Samburu, Elgeyo Marakwet, Migori, West Pokot, Makueni, Bungoma, Baringo.

The Commission appeals to the local leadership to assist in implementing its policies which are aimed at attaining general public good by educating stakeholders to always uphold the interest of the child.



## **Measures taken by the Commission to address teacher shortage in primary schools**

### **(i) Requisition for additional budget for employment of new teachers**

Over the years, the Commission has consistently requested for increased budgetary provision to employ 20, 000 teachers annually. This would translate in hiring of some 8,000 primary school teachers annually to bridge the shortage.

During 2017/2018 financial year, Parliament appropriated Kshs. 500 million for recruitment of 8,000 teachers under 100% transition flagship from primary to secondary education. The Commission recruited some 1,000 primary schoolteachers under the program.

### **(ii) Immediate replacement of teachers who exit service through natural attrition**

The Commission has put in place mechanisms to ensure that replacement of teachers who exit the service is done promptly to ensure learning is not interrupted.

### **(iii) Proportionate distribution of teacher**

The Commission has ensured that teachers who are already in service and the few who are recruited annually are proportionately distributed across the country to address the staffing gaps. Additionally, the Commission continues to undertake staff balancing to address equitable distribution of teachers.

## **Views on the Teachers Service Commission policy of hiring new teachers and posting them outside their home counties**

Regulation 55 of the Code of Regulations for Teachers provides the framework for recruitment and deployment of newly recruited teachers.

The regulation provides that:

1. *The Commission shall recruit registered teachers in accordance with the recruitment guidelines issued from time to time;*
2. *The Commission shall advertise available vacancies;*
  - (a) *based on the demand for supply of teachers; and*
  - (b) *taking into consideration the existing establishments.*
3. *A teacher who is currently recruited by the Commission may be deployed to serve in any part of the country based on the teaching service requirements.*

The Commission and the teachers' unions mutually and voluntarily agreed that the Code of Regulations for Teachers which also formed part and parcel of the 2017-2021 CBA. To this extent, the Code is at the core of employment contract existing between the Commission and its teachers.

Prior to the mutual agreement with the unions, the Commission undertook due process and subjected the draft Code of Regulations to wide public participation as required under the Constitution. Apart from the unions other key stakeholders whose key input was considered during the development of the Code included Parliament, Parliamentary Committee on Delegated Legislation, the Attorney General, and the Kenya Law Reform Commission.

Before **1998** the Commission centrally recruited teachers and deployed them to various districts countrywide for onward posting to schools by the District Education Officers. However, owing to specific demands pertaining the need to exercise and demonstrate fairness, equal opportunities and equity in recruitment, the Commission has decentralized the recruitment of primary school teachers, on equal basis, to various Counties.

A significant advantage of the decentralized recruitment system is that every community in the country is assured of recruitment of their sons and daughters who are registered teachers whenever vacancies arise.

In accordance with regulation (55) of the Code, taking into account demand for supply of teachers and existing establishments, the Commission bases its justification for deploying newly recruited teachers to counties neighbouring their home counties on two grounds: -

**(i) Constitutional requirement on national cohesion and integration**

As a State organ, the Commission is proclaimed by current constitutional design as an independent Commission with its mandate spread all over the country. Article 10 of the Constitution read together with the provisions of the National Cohesion and Integration Act requires state agencies specifically the Constitutional Commissions to establish policies and practices that enhance patriotism, national unity and cohesion, integration, non-discrimination, protection of marginalized, among others. Deployment of newly recruited teachers to counties neighbouring their home counties is intended to enhance national cohesion and integration

**(ii) Performance of teaching and other assigned duties**

In its assessment of performance of duty by teachers in public schools, the Commission has noted that a teacher stationed to serve in a school within the neighbourhood he/she hails from often demonstrates laxity and complacency in the performance of his/her teaching and other assigned duties. Such teachers have over the years prioritized their personal engagements at the expense of the child. Deployment of newly recruited teachers to counties neighbouring their home counties is intended to change the hitherto worrying trends of low performance arising from lack of commitment to duty.

**(iii) Contractual Obligations**

Teachers are bound the individual contracts of employments they sign while entering the teaching service. Individual letters of appointment duly signed by teachers bind them to serve anywhere in Kenya where their services are required. Indeed, whenever the Commission

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Incidences where teachers have been attacked by host communities for perceived poor performance have been reported in a number of counties including Samburu, Elgeyo Marakwet, Migori, West Pokot, Makueni, Bungoma, Baringo.

The Commission appeals to the local leadership to assist in implementing its policies which are aimed at attaining general public good by educating stakeholders to always uphold the interest of the child.

**Measures taken by the Commission to address teacher shortage in primary schools**

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During 2017/2018 financial year, Parliament appropriated Kshs. 500 million for recruitment of 8,000 teachers under 100% transition flagship from primary to secondary education. The Commission recruited some 1,000 primary schoolteachers under the program.

**(ii) Immediate replacement of teachers who exit service through natural attrition**

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**Views on the Teachers Service Commission policy of hiring new teachers and posting them outside their home counties**

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3. *A teacher who is currently recruited by the Commission may be deployed to serve in any part of the country based on the teaching service requirements.*

The Commission and the teachers' unions mutually and voluntarily agreed that the Code of Regulations for Teachers which also formed part and parcel of the 2017-2021 CBA. To this extent, the Code is at the core of employment contract existing between the Commission and its teachers.

Prior to the mutual agreement with the unions, the Commission undertook due process and subjected the draft Code of Regulations to wide public participation as required under the Constitution. Apart from the unions other key stakeholders whose key input was considered during the development of the Code included Parliament, Parliamentary Committee on Delegated Legislation, the Attorney General, and the Kenya Law Reform Commission.

Before **1998** the Commission centrally recruited teachers and deployed them to various districts countrywide for onward posting to schools by the District Education Officers. However, owing to specific demands pertaining the need to exercise and demonstrate fairness, equal opportunities and equity in recruitment, the Commission has decentralized the recruitment of primary school teachers, on equal basis, to various Counties.

A significant advantage of the decentralized recruitment system is that every community in the country is assured of recruitment of their sons and daughters who are registered teachers whenever vacancies arise.

In accordance with regulation (55) of the Code, taking into account demand for supply of teachers and existing establishments, the Commission bases its justification for deploying newly recruited teachers to counties neighbouring their home counties on two grounds: -

**(i) Constitutional requirement on national cohesion and integration**

As a State organ, the Commission is proclaimed by current constitutional design as an independent Commission with its mandate spread all over the country. Article 10 of the Constitution read together with the provisions of the National Cohesion and Integration Act requires state agencies specifically the Constitutional Commissions to establish policies and practices that enhance patriotism, national unity and cohesion, integration, non-discrimination, protection of marginalized, among others. Deployment of newly recruited teachers to counties neighbouring their home counties is intended to enhance national cohesion and integration

**(ii) Performance of teaching and other assigned duties**

In its assessment of performance of duty by teachers in public schools, the Commission has noted that a teacher stationed to serve in a school within the neighbourhood he/she hails from often demonstrates laxity and complacency in the performance of his/her teaching and other assigned duties. Such teachers have over the years prioritized their personal engagements at the expense of the child. Deployment of newly recruited teachers to counties neighbouring their home counties is intended to change the hitherto worrying trends of low performance arising from lack of commitment to duty.

**(iii) Contractual Obligations**

Teachers are bound the individual contracts of employments they sign while entering the teaching service. Individual letters of appointment duly signed by teachers bind them to serve anywhere in Kenya where their services are required. Indeed, whenever the Commission advertises vacancies in the teaching service, it makes it known beforehand to all that *'successful candidates will be deployed to serve in stations in any part of the country and not necessarily in the county where they were recruited'*.

### **Views on the newly hired female primary school teachers with very young children posted to work in very remote and hardship areas with very little allowance**

The Commission applies regulation 55 (3) of the Code of Regulation of teachers in the public interest whenever it recruits new primary school teachers to achieve the broad national objectives:

- (i) To enhance national cohesion and Integration.
- (ii) To enhance teachers' performance of duty for improved duty performance.

The provisions of regulation 55 (3) notwithstanding, the Commission posts teachers on first appointment to counties neighbouring those they have been recruited from. The Commission ensures that it does not discriminate against any teacher or region in deploying newly recruited teachers to serve in stations outside their home counties.

## **3.0 COMMITTEE OBSERVATIONS AND FINDINGS**

The Committee observed that:

### **Shortage of teachers**

1. There is a widespread shortage of teachers in most public schools across the country. Further the distribution is uneven with some parts of the country suffering acute shortage.

### **Management of teachers**

2. The management of teachers by the Teachers Service Commission is already provided for and guided by Code of Regulations and Code of Conduct and Ethics for teachers which was developed by the Commission in consultation with the unions representing the teachers.
3. The Teachers Service Commission and the teachers' unions signed a binding mutual Collective Bargaining Agreement (CBA) of 2017-2021 on terms and conditions of service for all teachers under the employment of the Teachers Service Commission, registered and deposited it in the Employment and Labour Relations Court on 30<sup>th</sup> November, 2016.

### **Recruitment and Deployment of Teachers**

4. The Commission recruits registered teachers into the teaching service in accordance with the recruitment guidelines issued from time to time by the Commission. One condition for recruitment is that a teacher recruited by the Commission must be ready and willing to *serve in any part* of the country including outside his/her home County.

### **Posting of teachers in remote and hardship areas**

5. Individual letters of appointment duly signed by the teachers bind them to serve anywhere in Kenya where their services are required including remote and hardship areas irrespective of the gender of the

teacher. The information is always made known to the successful candidates beforehand and therefore have the option to turn down the employment offer.

6. The Teachers Service Commission pays a hardship allowance to compensate for those teachers working in the gazetted hardship areas.
7. There is already existing legislation which covers the terms and conditions of teachers' employment and mandates TSC to execute its mandate in accordance with the said laws and regulations.

#### **4.0 COMMITTEE'S RECOMMENDATIONS**

Based on the above findings by the Committee on the consideration of the prayers of the petitioner, the Committee **recommends that:**

1. **The Teachers' Service Commission should continue to execute its mandate in accordance with Article 237(3) of the Constitution, the Teachers Service Act, No. 20 of 2012 Code of Regulation and Code of Conduct and Ethics for Teachers recruitment and deployment of teachers in public schools regardless of gender to promote national values, fairness non- discrimination and equity.**
2. **The Commission should further take measures to ensure that teachers work in a safe environment, encourage family values and social justice and ensure that teachers with exceptional needs are given consideration on the grounds of medical conditions, disabilities and other grounds.**
3. **The Teachers Service Commission should continuously recruit teachers on availability of funds to bridge the deficit gap and in addition undertake teachers balancing to address the inequitable distribution of teachers in schools across the country.**
4. **The government needs to review the hardship allowances from time to time with a view to enhancing payments to the teachers deployed in these zones.**
5. **The Ministry of Education should constantly review the existing laws and regulations in order to address the emerging issues and challenges that face the entire teaching fraternity.**
6. **The government should allocate more funding to the Teachers Service Commission for recruitment of more teachers in order to bridge the staffing gap.**



**ADOPTION OF THE REPORT ON THE PETITION ON HIRING, POSTING AND TRANSFER OF PRIMARY SCHOOL FEMALE TEACHERS**

**We the undersigned, hereby affix our signatures to this Report to affirm our approval**

1. Hon. Julius Melly, MP - Chairperson \_\_\_\_\_

2. Hon. Amos Kimunya, EGH, MP - Vice Chairperson \_\_\_\_\_

3. Hon. Moses Malulu Injendi, MP \_\_\_\_\_

4. Hon. Geoffrey Makokha Odanga, MP \_\_\_\_\_

5. Hon. (Dr.) Pamela Ochieng, MP \_\_\_\_\_

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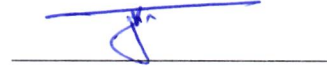
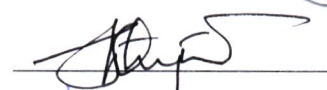
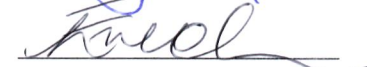
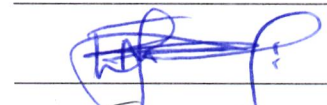
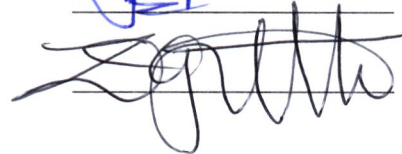
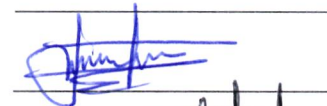
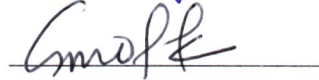
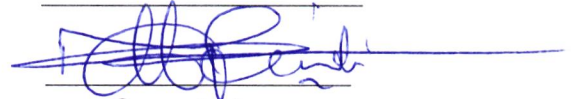
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18. Hon. Wilson Sossion, MP \_\_\_\_\_

19. Hon. Wilson Kipngetich Kogo, MP \_\_\_\_\_





**ANNEXURES**

ANNEXURE I - PETITION

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AS AT JULY 2018

ANNEXURE III - ADVERTS FOR VACANCIES FOR TEACHING POSTS  
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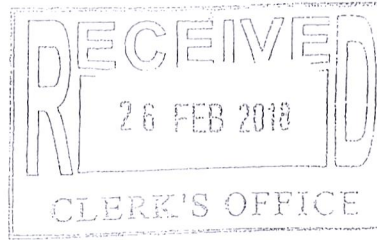
ANNEXURE IV - COMMITTEE MINUTES



# ANNEX I

*ODLS  
to advise  
out  
26/2/18*

To: National Assembly of Kenya  
C/O The Clerk,  
Kenya National Assembly  
Parliament Buildings  
P.O Box 41842 – 00100,  
Nairobi, Kenya



RE: PETITION TO PARLIAMENT UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION,  
PETITION TO PARLIAMENT (PROCEDURE) ACT AND STANDING ORDERS 219, 223 OF THE  
NATIONAL ASSEMBLY ON THE HIRING, POSTING AND TRASFERS OF FEMALE PRIMARY  
TEACHERS.

I, the undersigned, citizen of Kenya representing myself, religious organization and individuals wish to state that it in public interest that I formally lodge this petition concerning the policy developed by Ministry of Education and Teachers Service Commission that they employ new primary teachers and post them outside their counties

I humbly draw the attention of the House to the following:

1. The Constitution of Kenya 2010 reposes all sovereign authority in the people of Kenya.
2. The people of Kenya have delegated legislative authority to Parliament as the representatives of the people. That delegation is not absolute and can be exercised by the people simultaneously.
3. The shortage of primary school teachers is alarming in most rural areas all over the country.
4. The Ministry of Education and Teachers Service Commission have developed a policy of hiring new teachers and posting them outside their counties.
5. Kenyan society values marriage institution as holy and needed to be preserved with all moral values.
6. New hired female primary school teachers with very young children goes through difficulties to balance between their carrier and bringing up their families since they are forced to work in very remote hardship areas with very little allowance.

*Mr. Isanyi D.  
[Signature]*

ANNEX I

RE: PETITION TO PARLIAMENT UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION,  
PETITION TO PARLIAMENT (PROCEDURE) ACT AND STANDING ORDERS 219, 223 OF THE  
NATIONAL ASSEMBLY ON THE HIRING, POSTING AND TRASFERS OF FEMALE PRIMARY  
TEACHERS.

THAT

I confirm that efforts have been made to resolve the above said issues by the relevant bodies in vain.

THAT

I confirm that the issues in respect are not pending before any court of law, or constitutional legal body.

HEREFORE Your humble petitioner pray that Parliament:-

1. Intervene and make a piece of legislation that refrain Teachers Service Commission from posting new hired female primary teachers away from their matrimonial homes since their salaries and allowances cannot commensurate with the hardships they endure with their young families.
2. In exercising their powers bestowed by Article 221 of the Constitution of Kenya 2010, be magnanimous to the people of Kenya and ensure that teachers are sufficient to all of our Schools in across the Republic.
3. Make any other legislation that deems fit to the above prayers

And your PETITIONER will ever pray.

Petitioned and dated at Nandi County this 23<sup>rd</sup> February, 2018

This petition is prepared in public interest by:

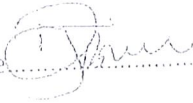
JULIUS KIPKOECH BORES

P.O BOX 137 – 30305 KOBUJOI –NANDI- TEL.0724140035 E-mail

Juliusbores@gmail.com

ID 22676103

Signature



To The Clerk

National Assembly

Departmental Committee on Education and Research

RE: HUMBLE SUBMISSIONS CONCERNING PETITION Ref. NA/DCS/EDUC/2018/(059)

Following your letter dated 13<sup>th</sup> July, 2018 informing me to meet with the Departmental Committee on Education and Research on 18<sup>th</sup> July, 2018, in order to present my prayers on the matter before the committee meets other relevant stakeholders. You further requested me to submit written submission, including supporting evidence.

First and foremost, I thank the Committee for engaging me before proceeding to grant my prayers. I would like to inform the Committee that I am an ordinary Kenyan living in rural setting.

In my prayers I would like the Committee to be informed by the following humble submissions:

1. Without being seen as belittling the work of Teachers Service Commission and its independence as enshrined in Article 249(2) (a) and (b) of the Constitution of Kenya 2010 and Sections 11(a)- (g) and 12 of TSC Act, Parliament as established under Articles 93, 94, and 95 of the same Constitution have authority to represent the will of the people and exercise their sovereignty as stipulated in Article 1 of the Constitution.
2. My prayers call for Parliament to enact legislation that protects female primary school teachers from hardships they endure while teaching in far away areas from their matrimonial homes. Article 41(1) and 2(a) and (b) of the Constitution 2010 will not be achieved or it will be breached if delocalization of female teachers without proper remuneration and good housing.
3. The fundamental unit of the society and the necessary basis of social order is the family and the state is bound to protect as stipulated in Article 45(1) of the Constitution. In that regard, it is my humble submission that Parliament safeguards any attempt that may separate spouses in the name of delocalization without good housing in rural areas and better remuneration.
4. TSC New Salary Scale For Teachers 2018 -2019 as approved by SRC is herein attached.
5. It is my humble submission that the Honorable Committee assists me in any lame issue or error that I might have done in my petition and submissions to correct it and grant my prayers.



YOURS HUMBLE PETITIONER

JULIUS KIPKOECH BORES



Ads by Google

[TSC Salary Scale](#)

[Teachers New Salary and Allowances In Kenya](#)

[KTC Salary Scale](#)

[Govt Kenya Packages Charitable Pensions, Pensions & Gratuities 2018](#)

[KMTCA September Intake 2018/2019 Application & Shortlisting](#)

[Best Loan Apps in Kenya](#)

[Instant Unsecured](#)

[Mobile Phone Loan Apps](#)

[KTC Salary Scale](#)

[Take App Download, Loan Repayment and Customer Care](#)



# ANNEXURE II

TABLE 1: PRIMARY SCHOOLS STAFFING POSITION AS AT JULY 2018							
S/NO	COUNTY	SCHOOLS	ENROLMENT	ESTABLISHMENT	CLASSES	TOD	SHORTAGE
1	BARINGO	576	133,267	5,151	5,025	5,014	-116
2	BOMET	610	199,583	6,078	5,930	4,556	-1,430
3	BUNGOMA	730	471,091	11,783	11,496	8,085	-3,523
4	BUSIA	417	227,182	6,154	6,004	4,528	-1,519
5	ELGEYO MARAKWET	354	102,870	3,488	3,403	3,257	-196
6	EMBU	373	105,456	3,740	3,649	3,481	-168
7	GARISSA	114	40,863	1,047	1,021	598	-308
8	HOMABAY	805	262,326	8,174	7,975	6,147	-1,921
9	ISIOLO	97	27,128	919	897	884	-12
10	KAJIADO	385	116,561	3,722	3,631	2,689	-942
11	KAKAMEGA	848	505,005	13,363	13,037	9,748	-3,422
12	KERICHO	494	189,125	5,628	5,491	4,763	-813
13	KIAMBU	445	211,811	5,958	5,813	5,525	-288
14	KILIFI	485	253,498	6,747	6,582	5,136	-1,488
15	KIRINYAGA	197	82,373	2,530	2,468	2,216	-252
16	KISII	688	265,838	8,348	8,144	7,429	-866
17	KISUMU	595	236,549	6,616	6,455	5,710	-852
18	KITUI	1,164	299,362	10,750	10,488	7,986	-2,571
19	KWALE	348	156,824	4,344	4,238	3,274	-983
20	LAIKIPIA	268	83,043	2,737	2,670	2,464	-250
21	LAMU	89	23,456	887	865	816	-44
22	MACHAKOS	812	245,536	8,193	7,993	7,595	-559
23	MAKUENI	866	253,419	8,347	8,143	7,360	-915
24	MANDERA	209	90,114	2,021	1,972	-1,097	-751
25	MARSABIT	123	39,435	1,210	1,180	990	-174
26	MERU	702	266,709	8,457	8,251	7,516	-894
27	MIGORI	563	252,454	6,990	6,820	5,341	-1,556
28	MOMBASA	91	64,654	1,476	1,440	1,316	-124
29	MURANGA	504	186,766	6,095	5,946	5,743	-326
30	NAIROBI	188	190,280	4,223	4,120	4,136	-87
31	NAKURU	674	358,753	10,069	9,823	7,973	-1,983
32	NANDI	666	203,291	6,631	6,469	5,290	-1,263

# ANNEXURE II

33	NAROK	584	222,293	6,486	6,328	4,207	-2,162
34	NYAMIRA	395	125,621	4,398	4,291	3,942	-418
35	NYANDARUA	342	122,091	3,872	3,778	3,397	-422
36	NYERI	377	103,972	3,760	3,668	3,373	-295
37	SAMBURU	137	47327	1,348	1,315	1,074	-218
38	SIAYA	628	239,990	6,994	6,823	5,616	-1,304
39	TAITA TAVETA	196	58,420	2,017	1,968	1,877	-112
40	TANA RIVER	144	46,843	1,469	1,433	1,127	-296
41	THARAKA NITHI	402	86,034	3,640	3,551	3,263	-345
42	TRANS NZOIA	352	225,589	5,741	5,601	4,527	-1,149
43	TURKANA	202	98,791	2,352	2295	1,206	-1,024
44	UASIN GISHU	453	171,703	5,340	5210	4,809	-501
45	VIHIGA	371	159,310	4,824	4,706	3,916	-851
46	WAJIR	158	56,134	1,430	1,395	855	-503
47	WEST POKOT	444	165,952	4,584	4,472	2,847	-1,606
<b>GRAND TOTAL</b>		<b>20,665</b>	<b>807,4692</b>	<b>240,130</b>	<b>235,400</b>	<b>195,826</b>	<b>-39,574</b>



# ANNEXURE III

## ANNEXURE III

- ADVERTS FOR 2016, 2017 AND 2018

ANNEXURE III

III

## TEACHERS SERVICE COMMISSION

VACANCIES FOR TEACHING POSTS IN PUBLIC PRIMARY AND POST  
PRIMARY INSTITUTIONS - AUGUST, 2016

The Teachers Service Commission is advertising 5,000 posts for recruitment of additional teachers (1,225 posts for primary schools and 3,775 posts for post primary schools/ institutions) and 2157 posts to replace teachers who have exited service through natural attrition (1,618 posts for Primary schools and 539 posts for post primary schools/ institutions).

Eligible candidates should meet the following basic requirements:

- (i) **Be Kenya citizens.**
- (ii) **Must be 45 years of age and below.**
- (iii) **Must have original Professional and Academic Certificates.**
- (iv) **Must be registered with the Teachers Service Commission.**

**N/B:** Applicants who were engaged on contract as relief teachers should attach a copy of the contract letter and reporting casualty return.

- a) Applicants applying for posts in **Primary schools** must be holders of **P1 certificate**. Interested candidates should apply to the **TSC County Director**, in the **County** where a vacancy has been advertised and submit all relevant academic and professional documents. Those who had applied earlier and were unsuccessful must apply afresh since a new merit list for **2016/2017** financial year will be generated.

**Successful candidates will be deployed to serve in stations in any part of the country and not necessarily in the County where they were recruited.**

- b) Applicants applying for posts in **Post Primary institutions** must be holders of a minimum of **Diploma in Education Certificate**. Interested candidates should apply to the **Secretary, Board of Management** of the **school/institution** where the vacancy has been advertised and submit a copy to the **TSC County Director**.

All interested candidates should submit their applications to the respective County Directors and Boards of Management as above not later than **26<sup>th</sup> August, 2016**







KENYA  
VISION 2030

17<sup>th</sup> May, 2017

## TEACHERS SERVICE COMMISSION

THE TSC HOUSE, KIJIMANJARO RD, UPPERHILL, PRIVATE BAG, NAIROBI, KENYA

### VACANCIES FOR TEACHING POSTS IN PUBLIC PRIMARY AND POST PRIMARY INSTITUTIONS - JULY, 2017

The Teachers Service Commission is advertising **5,000** posts for recruitment of additional teachers (**2,205** posts for primary schools and **2,795** posts for post primary schools/ institutions).

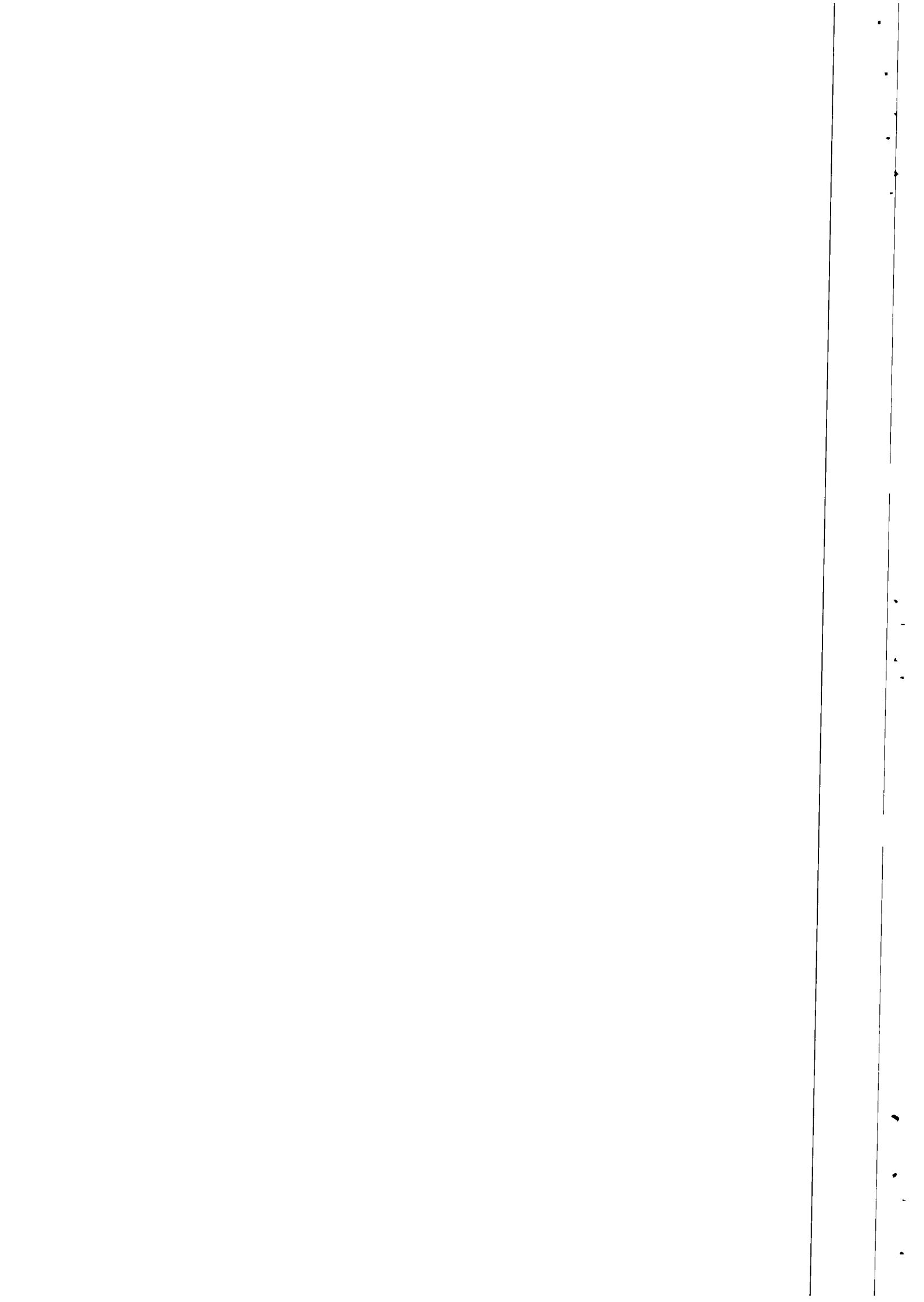
Eligible candidates should meet the following basic requirements:

- (i) Be Kenya citizens.
  - (ii) Must be 45 years of age and below.
  - (iii) Must have original Professional and Academic Certificates.
  - (iv) Must be registered with the Teachers Service Commission.
- (a) Applicants applying for posts in Primary schools must be holders of P1 Certificate. Interested candidates should apply to the TSC County Director, in the County where a vacancy has been advertised attaching all relevant academic and professional certificates. The application should be submitted through the respective TSC Sub-County Directors. Those who had applied earlier and were unsuccessful must apply afresh since a new merit list for **2017/2018** financial year will be generated.

**Successful candidates will be deployed to serve in stations in any part of the country and not necessarily in the County where they were recruited.**

- (b) Applicants applying for posts in Post Primary Institutions must be holders of a minimum of **Diploma in Education Certificate**. Interested candidates should apply to the **Secretary, Board of Management** of the **School/Institution** where the vacancy has been advertised attaching all relevant Academic and Professional Certificates and submit a copy to the respective **TSC County Director**.
- i. Interested candidates should submit their applications to the respective County Directors for Primary Schools and Boards of Management for Post Primary Institutions not later than  
16<sup>th</sup> June 2017
  - ii. The Teachers Service Commission is an equal opportunity employer and people with disability are encouraged to apply.

*Approved*  
*31/5/17*





## TEACHERS SERVICE COMMISSION

THE TSO HOUSE, KZIO MANJARO RD, UPPERHILL, PRIVATE BAG, NAIROBI, KENYA

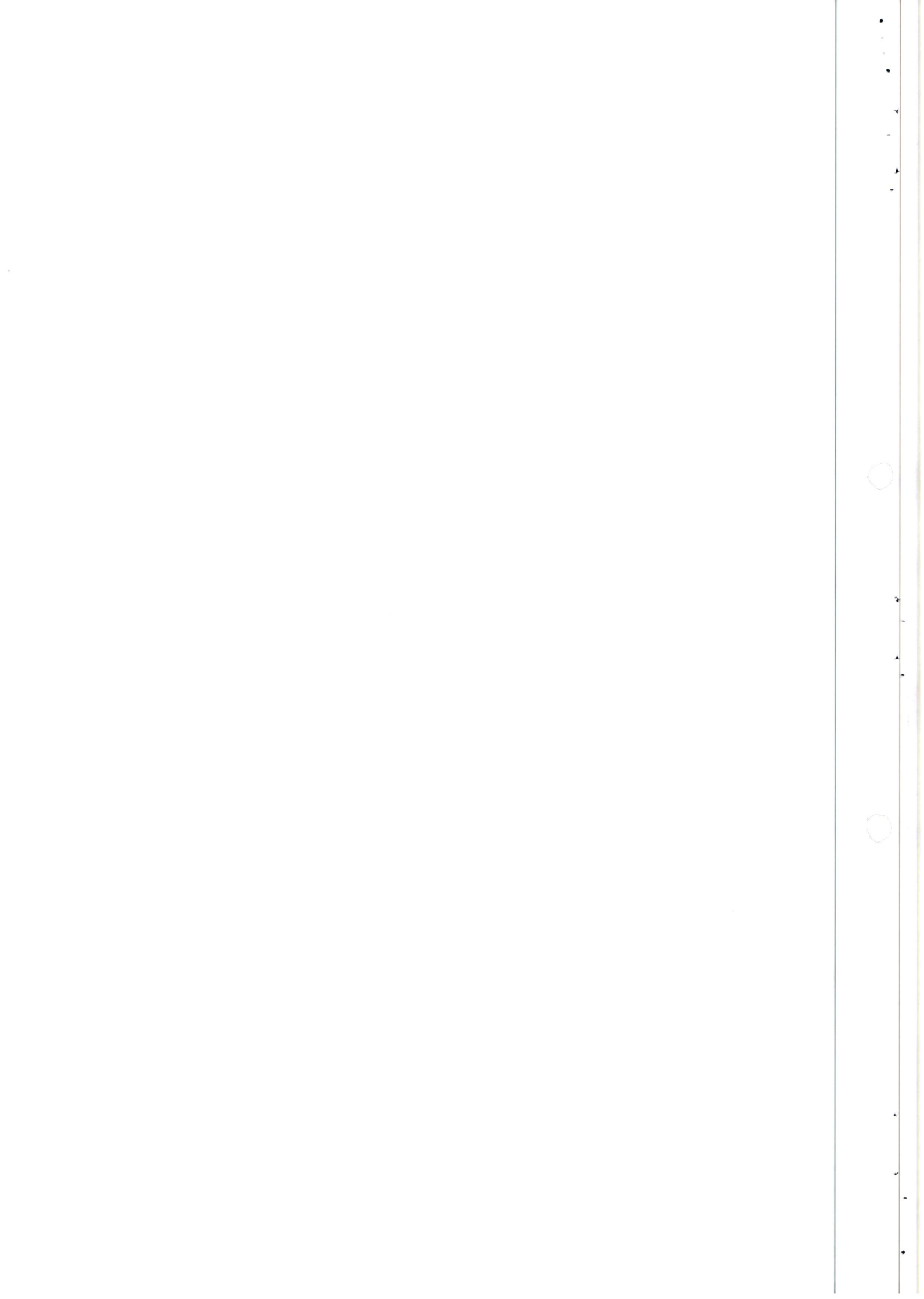
### VACANCIES FOR TEACHING POSTS IN PUBLIC PRIMARY AND SECONDARY SCHOOLS - MAY, 2018

The Teachers Service Commission is advertising 8,672 posts for recruitment of teachers to address the 100% transition from primary to secondary schools.

Eligible candidates should meet the following basic requirements:

- (i) Be Kenya citizens.
  - (ii) Must be 45 years of age and below.
  - (iii) Must have original Professional and Academic Certificates.
  - (iv) Must be registered with the Teachers Service Commission.
- a) Applicants applying for posts in Primary schools must be holders of P1 certificate. Interested candidates should apply to the TSC County Director, in the County where a vacancy has been advertised and submit all relevant academic and professional documents. Those who had applied earlier and were unsuccessful must apply afresh since a new merit list for 2018/2019 financial year will be generated. Successful candidates will be deployed to serve in any part of the country.
- b) Applicants applying for posts in Secondary Schools must be holders of a minimum of Diploma in Education Certificate. Interested candidates should apply to the Secretary, Board of Management of the school where a vacancy has been advertised and submit a copy of the application to the TSC County Director.

All interested candidates should submit their applications to the respective County Directors and Boards of Management as above not later than 25<sup>th</sup> May, 2018.



# ANNEXURE IV

**MINUTES OF THE 1<sup>ST</sup> SITTING OF THE SUB-COMMITTEE ON BASIC EDUCOMMITTEE OF EDUCATION & RESEARCH HELD ON WEDNESDAY 18<sup>TH</sup> JULY, 2018 IN 5<sup>TH</sup> FLOOR BOARDROOM, CONTINENTAL HOUSE PARLIAMENT BUILDINGS AT 10.00 AM**

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**PRESENT**

1. Hon. (Prof.) Zadoc Ogutu, MP - Session Chair
2. Hon. Joseph Tonui, MP - Sub – Committee Chair
3. Hon. Jerusha Momanyi, MP - Vice- Sub – Committee Chair
4. Hon. Geoffrey Odanga, MP
5. Hon. (Eng.) Nzambia Kithua, MP
6. Hon. Catherine Wambilianga, MP
7. Hon. Peter Lochakapong, MP
8. Hon. Eric Muchangi, MP
9. Hon. Wilson Kogo, MP

**NATIONAL ASSEMBLY SECRETARIAT**

1. Mr. Philip Lekarkar - Clerk Assistant III
2. Ms. Annceta Gacheri - Researcher
3. Ms. Emma Esendi - Legal Counsel
4. Mr. Nimrod Ochieng' - Audio Officer

**IN ATTENDANCE: PETITIONER**

1. Mr. Julius Kipkoech Bores - Petitioner

**MIN.NO. /EDUC/2018/001: PRELIMINARIES**

The Chair called the meeting to order at 10.21 am thereafter followed by prayers. A round of introductions was done.

The agenda of the meeting was adopted having been proposed and seconded by Hon. Catherine Wambilianga, MP, MP and Hon. (Eng.) Nzambia Kithua, MP respectively.

**MIN.NO. /EDUC/2018/002: CONFIRMATION OF MINUTES**

Confirmation of minutes of the previous sitting was deferred to the next meeting.

**MIN.NO. /EDUC/2018/003: PETITION BY MR. JULIUS KIPKOECH BORES**

**Mr. Julius Kipkoech Bores the Petitioner drew the attention of the National Assembly to the following:**

1. That the Constitution of Kenya reposes all sovereign authority in the people of Kenya.

VI EXHIBIT

2. The people of Kenya have delegated the legislative authority to Parliament as the representative of the people. That delegation is not absolute and can be exercised by the people simultaneously.
3. The shortage of primary school teachers is alarming in most rural areas all over the country.
4. The Ministry of Education and the Teachers Service Commission have deployed a policy of hiring new teachers and posting them outside their counties.
5. Kenyan society values marriage institution as holy and needed to be preserved with all moral values.
6. Newly hired primary school female teachers with very young children go through difficulties to balance between their career and bringing up their families since they are forced to work in very remote hardship areas with very little allowance.
7. That efforts to resolve the named issues with the relevant authorities have been made but in vain.
8. That the issues in respect to which the Petition is made are not pending before any court of law or a constitutional legal body.

#### **Committee observations**

The Committee observed that:

1. The management of teachers by the Teachers Service Commission is already provided for and guided by Code of Regulations and Code of Conduct and Ethics for teachers which was developed by the Commission in consultation with the unions representing the teachers.
2. The Teachers Service Commission and the teachers' unions signed a binding mutual Collective Bargaining Agreement (CBA) of 2017-2021 on terms and conditions of service for all teachers under the employment of the Teachers Service Commission, registered and deposited it in the Employment and Labour Relations Court on 30<sup>th</sup> November, 2016.

#### **MIN.NO. /EDUC/2018/004: ANY OTHER BUSINESS**

No other business arose.

#### **MIN. NO./EDUC/2018/005: ADJOURNMENT**

There being no other business the meeting was adjourned at 11: 45 am. The next meeting at 2.30pm in the afternoon.

Signed \_\_\_\_\_



**Hon. Joseph Tonui, MP**  
**(Basic Education Sub-Committee Chairman)**

Date \_\_\_\_\_

18th/Oct/2018

**MINUTES OF THE 54<sup>TH</sup> SITTING OF THE COMMITTEE ON EDUCATION & RESEARCH HELD  
ON TUESDAY 2<sup>ND</sup> AUGUST 2018 IN 11<sup>TH</sup> FLOOR BOARDROOM PROTECTION HOUSE,  
PARLIAMENT BUILDINGS AT 10.00 AM**

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**PRESENT**

1. Hon. Julius Melly, MP - Chairperson
2. Hon. Moses Injendi, MP
3. Hon. (Dr.) Pamela Ochieng, MP
4. Hon. (Eng.) Nzambia Kithua, MP
5. Hon. (Prof.) Zadoc Ogutu, MP
6. Hon. Eric Muchangi, MP
7. Hon. Eve Obara MBS, MP
8. Hon. Jackson Lekumontare, MP
9. Hon. Joseph Tonui, MP
10. Hon. Peter Lochakapong, MP
11. Hon. Oroo Oyioka, MP
12. Hon. Wilson Kogo, MP

**ABSENT WITH APOLOGY**

1. Hon. Amos Kimunya EGH, MP - Vice Chairperson
2. Hon. Geoffrey Odanga, MP
3. Hon. Catherine Wambilianga, MP
4. Hon. Jerusha Momanyi, MP
5. Hon. Lilian Tomitom, MP
6. Hon. Wilson Sossion, MP
7. Hon. Omboko Milemba, MP

**NATIONAL ASSEMBLY SECRETARIAT**

1. Mr. Daniel Mutunga - Principal Clerk Assistant I
2. Mr. Philip Lekarkar - Clerk Assistant III
3. Ancenta Gacheri - Research Officer
4. Mr. Nimrod Ochieng' - Audio Officer
5. Ms. Catherine Mukunyi - Serjeant at Arms

**TEACHERS SERVICE COMMISSION**

1. Dr. Nancy Macharia, CBS - Chief Executive Officer
2. Ms. Rita Wahome - Ag. Director Staffing Division
3. Mr. Timon Ogucho - Legal Officer

**MIN.NO. /EDUC/2018/278: PRELIMINARIES**

The Chair called the meeting to order at 10.18 am thereafter followed by prayers.

The agenda of the meeting was adopted having been proposed and seconded by Hon. (Prof.) Zadoc Ogutu, MP and Hon. Oroo Oyioka, MP respectively.

**MIN.NO. /EDUC/2018/279: CONFIRMATION OF MINUTES**

Confirmation of minutes of the previous sittings was deferred to the next sitting.

**MIN.NO./EDUC/2018/280: SUBMISSION BY THE CEO TEACHERS SERVICE COMMISSION**

**The Teachers Service Commission Chief Executive Officer/ Secretary Dr. Nancy Macharia as follows:**

**Establishment and mandate of the teachers service Commission**

The Teachers Service Commission is established under Article 237(1) of the Constitution with its primary function set out in Article 237 (2) to:-

- (a) register trained teachers;
- (b) recruit and employ registered teachers;
- (c) assign teachers for service in any public school or institution;
- (d) promote and transfer teachers;
- (e) exercise disciplinary control over teachers;
- (f) terminate the employment of teaches engaged in public service.

Under Article 237(3) of the Constitution the Commission is further mandated to:-

- (a) review the standards of education and training of persons entering the teaching service
- (b) review the national demand for, and the supply of teachers; and
- (c) advise the National Government on matters relating to the teaching profession.

**Powers of the Commission**

The Commission draws powers necessary for the execution of its constitutional mandate from the Teachers Service Commission Act, No. 20 of 2012. Section 11 of the Act empowers the Commission to:-

- (a) Formulate policies to achieve its mandate;
- (b) Provide strategic leadership direction; Prescribe the teaching standards and ensure compliance;
- (c) Manage the teachers payroll;
- (d) Facilitate career progression and professional development;
- (e) Monitor the conduct and performance.



Further, sections 47 and 48 of the Act direct the Commission to compile and publish a Code of Regulations and Code of Conduct and Ethics for Teachers to apply to all registered teachers. To this end the Commission has published the two codes which came into effect on 1st July 2016.

Pursuant to Article 41 (5) of the Constitution as read together with section 57(1) of the Labour Relations Act, the Commission concluded and registered in the Employment and Labour Relations Court on 30th November 2016 a Collective Bargaining Agreement (2017-2021) on terms and conditions of service for all teachers under the employment of the Commission.

The Code of Regulations for Teachers and Code of Conduct and Ethics for Teachers form part and parcel of the 2017-2021 CBA.

**MIN.NO. /EDUC/2018/281: RESPONSE TO THE PETITION ON RECRUITMENT OF FEMALE PRIMARY SCHOOL TEACHERS**

**Prayer No. 1 Response to the alarming short of primary school teachers in most rural areas all over the country.**

Staffing of primary schools is based on staffing norms which takes an ideal class to be 50 learner's being one teacher per class plus 2.5% of the number of classes policy for primary schools.

Overall, shortage of primary school teachers is a direct a direct consequence of budgetary allocation to the Commission. The Commission wholly relies on funds appropriated by Parliament to recruit new teachers to alleviate shortage.

Shortage of teachers in the public primary schools as at 19th July 2018 stood at 39,574. As can be discerned from the table shortage of primary schools teachers is a national challenge and not only confined to some parts of the country.

The teacher distribution and shortage in primary schools is proportional to the number of schools and streams in a county. Consequently, the more the streams in a county the more teachers are required.

However the Commission acknowledges regional disparities in the distribution of teachers across the country. Consequently, the Commission is doing all it can, as it has a constitutional mandate to do so, to proportionately distribute teachers across the regions/counties, the Commission's endeavor has been negated by the following challenges:-

**(i) Insecurity**

This has mostly affected the arid and semi- arid counties. Serious challenges have been experienced majorly in Mandera, Wajir, Lamu and Garissa counties due to Al shabaab

menace. The emerging trend by the terror groups to specifically attack non-local teachers has worsened the situation.

**(ii) Court cases by teachers**

The Commission is currently defending numerous court cases where teachers have filed constitutional petitions contesting either transfer or posting to certain counties on security grounds. This has negatively affected teacher distribution as courts are persuaded to uphold the right to life over other right.

**(iii) Hostile treatment by host communities**

Equitable distribution of teachers has also been adversely affected by the treatment some teachers receive from host communities. Unlike other public servants like, teachers are posted to schools in the most interior parts of the country.

Incidences where teachers have been attacked by host communities for perceived poor performance have been reported in a number of counties including Samburu, Elgeyo Marakwet, Migori, West Pokot, Makueni, Bungoma, Baringo etc.

The Commission appeals to the local leadership to assist in implementing its policies which are aimed at attaining general public good by educating stakeholders to always uphold the interest of the child.

**Measures taken by the Commission to address teacher shortage in primary schools**

**(i) Requisition for additional budget for employment of new teachers.**

Over the years, the Commission has consistently requested for increased budgetary provision to employ 20, 000 teachers annually. This would translate in hiring of some 8,000 primary school teachers annually to bridge the shortage.

During 2017/2018 financial year, Parliament appropriated Kshs. 500 million for recruitment of 8,000 teachers under 100% transition flagship from primary to secondary education. The Commission recruited some 1,000 primary schoolteachers under the program.

**(ii) Immediate replacement of teachers who exit service through natural attrition.**

The Commission has put in place mechanisms to ensure that replacement of teachers who exit the service is done promptly to ensure learning is not interrupted.

**(iii) Proportionate distribution of teacher**

The Commission has ensured that teachers who are already in service and the few who are recruited annually are proportionately distributed across the country to address the staffing gaps. Additionally, the Commission continues to undertake staff balancing to address equitable distribution of teachers.

**Prayer No. 2. Teachers Service Commission has developed a policy of hiring new teachers and posting them outside their home counties.**

Regulation 55 of the Code of Regulations for Teachers provides the framework for recruitment and deployment of newly recruited teachers.

The regulation provides:

1. *The Commission shall recruit registered teachers in accordance with the recruitment guidelines issued from time to time;*
2. *The Commission shall advertise available vacancies;*
  - (a) *based on the demand for supply of teachers; and*
  - (b) *taking into consideration the existing establishments.*
3. *A teacher who is currently recruited by the Commission may be deployed to serve in any part of the country based on the teaching service requirements.*

As already stated, the Commission and the teachers' unions mutually and voluntarily agreed that the Code of Regulations for Teachers form part and parcel of the 2017-2021 CBA. To this extent, the Code is at the core of employment contract existing between the Commission and its teachers. Prior to the mutual agreement with the unions, the Commission undertook due process and subjected the draft Code of Regulations to wide public participation as required under the Constitution. Apart from the unions other key stakeholders whose key input was considered during the development of the Code included Parliament, Parliamentary Committee on Delegated Legislation, the Attorney General, and the Kenya Law Reform Commission.

Before 1998 the Commission centrally recruited teachers and deployed them to various districts countrywide for onward posting to schools by the District Education Officers. However, owing to specific demands pertaining the need to exercise and demonstrate fairness, equal opportunities and equity in recruitment, the Commission has decentralized the recruitment of primary school teachers, on equal basis, to various counties.

A significant advantage of the decentralized recruitment system is that every community in the country is assured of recruitment of their sons and daughters who are registered teachers whenever vacancies arise.

In accordance with **regulation (55)** of the Code, taking into account demand for supply of teachers and existing establishments, the Commission bases its justification for deploying newly recruited teachers to counties neighbouring their home counties on two grounds:-

**(i) Constitutional requirement on national cohesion and integration:**

As a State organ, the Commission is proclaimed by current constitutional design as an independent Commission with its mandate spread all over the country. Article 10 of the Constitution read together with the provisions of the National Cohesion and Integration Act requires state agencies specifically the Constitutional Commissions to establish policies and practices that enhance patriotism, national unity and cohesion, integration, non-discrimination, protection of marginalized, among others. Deployment of newly recruited teachers to counties neighbouring their home counties is intended to enhance national cohesion and integration

**(ii) Performance of teaching and other assigned duties:**

In its assessment of performance of duty by teachers in public schools, the Commission has noted that a teacher stationed to serve in a school within the neighbourhood he/she hails from often demonstrates laxity and complacency in the performance of his/her teaching and other assigned duties. Such teachers have over the years prioritized their personal engagements at the expense of the child. Deployment of newly recruited teachers to counties neighbouring their home counties is intended to change the hitherto worrying trends of low performance arising from lack of commitment to duty.

**(iii) Contractual**

**obligations**

Teachers are bound the individual contracts of employments they sign while entering the teaching service. Individual letters of appointment duly signed by teachers bind them to serve anywhere in Kenya where their services are required. Indeed, whenever the Commission advertises vacancies in the teaching service, it makes it known beforehand to all that *'successful candidates will be deployed to serve in stations in any part of the country and not necessarily in the county where they were recruited'*.

**Prayer No. 3**

**Newly hired hired female primary school teachers with very young children go through difficulties in balancing their careers and bringing up their families since they are forced to work in very remote hardship areas with very little allowance**

The Commission applies regulation 55 (3) of the Code in the public interest whenever it recruits new primary school teachers to achieve the broad national objectives:

- (i) To enhance national cohesion and Integration.
- (ii) To enhance teachers' performance of duty for improved duty performance.

The provisions of regulation 55 (3) notwithstanding, the Commission posts teachers on first appointment appointment to counties neighbouring those they have been recruited

from.

The Commission ensures that it does not discriminate against any teacher or region in deploying newly recruited teachers to serve in stations outside their home counties.

**MIN.NO. /EDUC/2018/282: THE COMMISSION'S POLICY ON DELOCALIZATION OF TEACHERS; EXTENT OF IMPLEMENTATION AND ITS EFFECTIVENESS**

**The Policy on Delocalization**

**Constitutional and Statutory Mandate**

The Commission derives the power to transfer teachers directly from the Constitution, the Teachers Service Commission. Article 237(2)(c) of the Constitution mandates the Commission as sole State organ to assign teachers under its employment to various public schools in the country.

Article 237(3) (b) of the Commission to review the supply and demand of teachers and to ensure that public schools are allocated proportionate number of teachers. Accordingly, the delocalization of principals and headteachers was carried out as a routine duty of the Commission granted by the Constitution and the law as it has always done since its inception in 1967.

**Job Evaluation in the Teaching Service**

TSC and Salaries and Remuneration Commission (SRC) undertook Job Evaluation exercise for the teaching service in November 2015/2016. The job evaluation recommended the substantive appointment of institutional administrators and placing them in institutions commensurate with their grades. Accordingly, the recent transfers were informed by the recommendations of the job evaluation report. The transfers were accompanied by the individual grades if each teacher. The teachers having been substantively appointed cannot be demoted and be deployed back as classroom teachers. The said transfers were made in public interest as well as in the best interest of the individual teachers.

**Provision of the Code of Regulation of Teachers.**

The transfers were also informed of Code of Regulations which grants the Commission the power to transfer a teacher even when the teacher has not requested for the transfer.

**Justification and intended objectives of the transfer**

**(a) National Cohesion and Integration**

As a State agency, the Commission has a constitutional mandate under Article 10 of the Constitution as read together with the provisions of the National Cohesion and Integration Act to establish policies and practices that enhance national cohesion and integration.

In this regard, in November 2017, the Commission adopted a Policy on Appointment and Deployment of Institutional Administrators which provides that Institutional Administrators be posted outside their home counties. The overall objective of this policy is to deter over localization of the teaching profession so as to promote co-existence and cohesion among communities.

Policy on Appointment and Deployment of Institutional Administrators is further premised on Regulation 70 (8) of the COR for teachers.

Overall the policy on decentralization which is captioned in regulation 55 (3) and 70 (8) of the COR for teachers is premised in philosophy that a teacher is a national resource whose services, knowledge and expertise should not be exclusively confined to their communities.

**(b) Performance and good governance of public institutions**

In its assessment of performance in public schools, the Commission noted that a teacher stationed to serve in a school within the neighbourhood he/she hails from often demonstrates laxity, leniency and laziness in enforcing government policies and standards. Transfer of administrators outside their home counties is intended to enable them enforce the teaching standards and government policies without fear or favour. It is also meant to improve service delivery in public schools with a view to ensuring quality education and curriculum implementation.

**(c) Deterrence of Conflict of Interest**

Serving in the local neighborhoods has been the root cause of recurrent menace of poor management of institutional resources. Conversion of public resources and institutional property into private use and outright theft are prone in situations where the institutional administrator is a local. The delocalization of institutional administrator is intended to deter this negative practice and allow teachers to focus on their administrative duties and not private business.

**(d) Borrowing from best practices**

Teaching profession is part and parcel of the Kenya public service; however the teaching service has been managed as an isolated service. Borrowing best practices from sister Commission like the Judicial Service Commission where judicial officers work outside their home counties for a period of at least 3 years and considering intricacies of the teaching service, the Commission has capped the length of stay at an institution at 9 (nine) years for the heads of institutions and 6 (six) years for their deputies to facilitate succession management

**(e) Contractual Obligations**

Teachers are bound by the individual contracts of employment they sign while entering the teaching service. Individual letters of appointment duly signed by teachers bind them to serve anywhere in Kenya where their services are required.

**(f) Other factors that informed teacher transfers**

- (i) The need to find institutional administrators for the newly established schools
- (ii) Filling existing existing vacancies occasioned by exit due to natural attrition
- (iii) Change of station for heads who have overstayed in one school for decades
- (iv) Request from individual institutional administrators on various grounds including medical, security and/or hostility from the hosting communities.

**The extents of Implementation**

Although delocalization is not a new phenomenon in the teaching service, since the adoption of the Policy on Appointment and Deployment of Institutional administrators in November 2017, the Commission conducted delocalization of institutional administrators in December 2017 and in April 2018. The number of principals and headteachers involved are illustrated as table below.

<b>Post Primary</b>	<b>December 2017</b>		<b>April 2018</b>	
	Category	delocalized	Category	Delocalized
	National	31	National	11
	Extra County	77	Extra County	31
	County Boys	73	County Boys	202
	County Girls	10	County Girls	174
	Sub-county	134	Sub-county	297
	Tertiary	19	Tertiary	4
	<b>Total</b>	<b>345</b>	<b>Total</b>	<b>719</b>
<b>Primary</b>				
	<b>December 2017</b>		<b>April 2018</b>	
	Category of school	Delocalized	Category of school	Delocalized
	All	Nil	All	3,

**Effectiveness of Delocalization**

Delocalization of institutional administrators has been effective and the following positive result have been noted:

### **Delocalization of Principals**

All the 1,065 principals delocalized so far reported to their new stations within the stipulated time frames. Although some resistance was experienced from local communities/stakeholders in regard to December 2017 exercise, which delayed the handing/taking over in some schools, there was no incidences of resistance by local communities/stakeholders.

Principals who have so far been delocalized have reported that they appreciate the significance of working outside their communities. In the same vein, currently, the Commission has received a number of requests from principals who are yet to be delocalized to be considered for the same.

Delocalization has given a national outlook in the management of learning institutions and therefore requires support from all quarters and stakeholders.

### **Delocalization of Headteachers**

The Commission has observed that delocalized head teachers now spend more time in their stations as they have been removed from the agents of distraction.

Head teachers presence in their stations has seen marked improvement in lesson aqttendance by teaches under their supervision.

Headteachers who have been delocalized have reported that they now enjoy the professional distance.

There is bound to be professional growth through sharing of experiences and opportunities for benchmarking among schools

### **Delocalization of Principals vis-à-vis current wave of student unrest**

The current wave of student unrest in schools cannot be attributed to delocalization of principals by the Commission in December2017 and April in 2018.

Below is a summary of the post primary institutions where delocalization was effected vis-à-vis students' unrest reported as ay May 2018.

<b>Institution</b>	<b>delocalised</b>	<b>Student unrest</b>
Public schools	1,065	90

The 90 institutions affected by the student unrest forms only 8.5% of the total cases of delocalization.



As may be correlated from the table on institutional administrators delocalized in December 2017 and April 2018, whereas in December 2017, 345 institutions had their principals delocalized, no student unrest was reported in Term 1, 2018.

For the reason that only 8.5% of the institutions where delocalization was effected experienced student unrest, it is not statistically correct to lay an outright claim that delocalization is the reason for mass student unrest countrywide.

#### Effect of the Current wave of School Unrest on Teaching and Learning

The Commission and the Ministry of Education have a close working relationship and always consult on matters of mutual obligations. To this extent, TSC is aware that the Ministry of Education is currently investigating all cases of students' unrest.

The Commission awaits the Ministry's final report on the investigations to enable it address issues touching on teacher management relating to the unrests.

#### MIN.NO. /EDUC/2018/282: TRANSFER OF TECHNICAL & VOCATIONAL EDUCATION & TRAINING (TVET) TEACHERS TO PUBLIC SERVICE COMMISSION

#### MIN.NO. /EDUC/2018/284: ANY OTHER BUSINESS

No other business arose.

#### MIN. NO./EDUC/2018/285: ADJOURNMENT

There being no other business the meeting was adjourned at 1.10 pm. The next meeting will be held on Tuesday 7<sup>th</sup> August, 2018 at 10.00am.

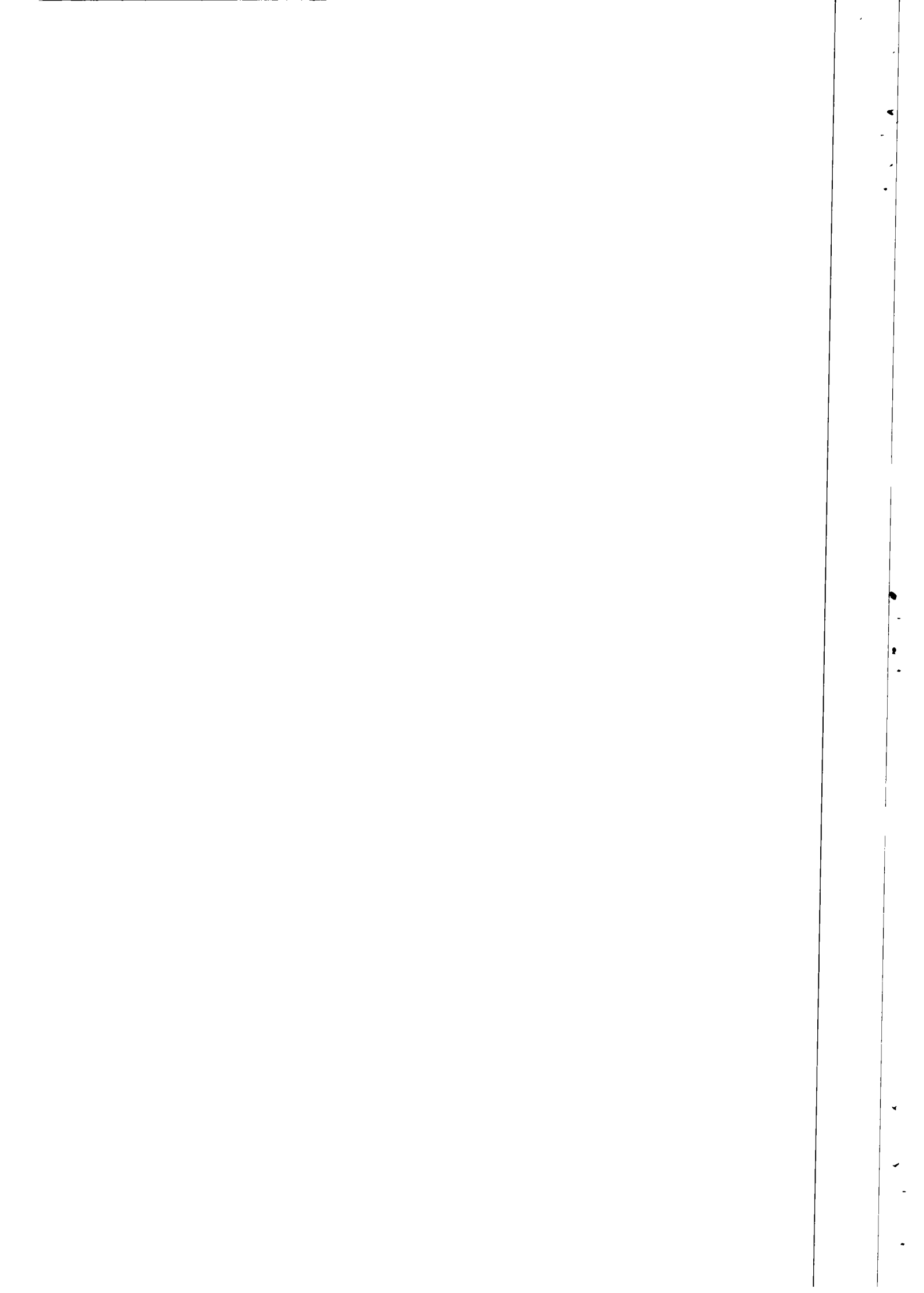
Signed



*PS* Hon. Julius Melly, MP  
(Chairman)

Date

6/Nov/2018



**MINUTES OF THE 69<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON EDUCATION AND RESEARCH HELD ON THURSDAY, 18<sup>TH</sup> OCTOBER, 2018, 11<sup>TH</sup> FLOOR PROTECTION HOUSE MAIN PARLIAMENT BUILDINGS AT 10:00 AM**

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**PRESENT**

1. Hon. Julius Melly, MP - **Chairperson**
2. Hon. Amos Kimunya EGH, MP - **Vice Chairperson**
3. Hon. Moses Injendi, MP
4. Hon. Geoffrey Odanga, MP
5. Hon. Eve Obara MBS, MP
6. Hon. (Dr.) Pamela Ochieng, MP
7. Hon. (Eng.) Thaddeus Nzambia Kithua, MP
8. Hon. Eric Muchangi, MP
9. Hon. Peter Lochakapong, MP
10. Hon. Jerusha Momanyi, MP
11. Hon. Jackson Lekumontare, MP
12. Hon. Joseph Tonui, MP
13. Hon. Wilson Kogo, MP

**ABSENT WITH APOLOGY**

1. Hon. (Prof.) Zadoc Ogutu, MP
2. Hon. Catherine Wambilianga, MP
3. Hon. Omboko Milemba, MP
4. Hon. Oroo Oyioka, MP
5. Hon. Lilian Tomitom, MP
6. Hon. Wilson Sossion, MP

**IN-ATTENDANCE - NATIONAL ASSEMBLY**

1. Mr. Daniel Mutunga - Principal Clerk Assistant I
2. Mr. Philip Lekarkar - Clerk Assistant III
3. Ms. Annceta Gacheri - Research Officer
4. Emma Essendi - Legal Counsel
5. Mr. Nimrod Ochieng' - Audio Officer

**MIN. NO. /EDUC/2018/359: PRELIMINARIES/ADOPTION OF THE AGENDA**

The Chairman called the meeting to order at 10:16 am. A Prayer was said. The Agenda of the Meeting was adopted as true business for the day having been proposed by Hon. (Dr.) Pamela Ochieng, MP and seconded by Hon. Eric Muchangi, MP.

### **MIN.NO./EDUC/2018/360: CONFIRMATION OF MINUTES**

Minutes of the 68<sup>th</sup> Sitting were confirmed as true record of the deliberations having been proposed by Hon. Moses Injendi, MP and Hon. Jerusha Momanyi, MP.

### **MIN.NO./EDUC/2018/361: MATTERS ARISING**

#### **Under MIN.NO./EDUC/2018/356**

The following matters arose during the confirmation of the previous minutes:

- (i) The 68<sup>th</sup> Sitting was held on Tuesday 16<sup>th</sup> October 2018 and not on Thursday as erroneously captured.
- (ii) That the minutes of the 67<sup>th</sup> Sitting were proposed by Hon. Oroo Oyioka, MP and seconded by Hon. Peter Lochakapong, MP ( and not by Hon. Oroo Oyioka, MP)as true record of the deliberations.
- (iii) It was the Ministry of Education that lauded the proposals to lower admission grades into TTCs in hardship areas to D+ and not the Committee.
- (iv) That any Member chairing Committee sitting other than the Chair should be indicated as the Session Chair in the minutes.

### **MIN.NO./EDUC/2018/362: CONSIDERATION AND ADOPTION OF COMMITTEE REPORTS**

#### **Report on the Petition Regarding Hiring, Posting and Transfer of Teachers by Julius Kipkoech Bores**

The Committee reconsidered the draft Report on Petition regarding hiring, posting and transfer of primary school female teachers by Julius Kipkoech Bores and made the following further amendments to the Report:

The Committee observed that:

#### **(i) On Committee Recommendations**

That Parliament should appropriate more funding to TSC to recruit more teachers to bridge the deficit. The word "gap" at the end of the sentence was deleted.

#### **(ii) Report on the Inquiry into the Sexual Assault Incident at Moi Girls School Nairobi**

The Committee deliberated on the draft report and made the following amendments.

The key findings of the inquiry on page 7 and subsequently in the general recommendations was amended as follows:

"That there was an act of vaginal penetration on the victim as was deduced from the doctors' reports from the Nairobi Women's and Kenyatta National Hospitals. However, the Committee could not establish the cause and nature of the penetration".

**Report on the Petition Regarding Hiring, Posting and Transfer of Teachers by Julius Kipkoech Bores was adopted having been proposed Hon. Joseph Tonui, MP and seconded by Hon. Jerusha Momanyi, MP.**

**Report on the Inquiry into the Sexual Assault Incident at Moi Girls School Nairobi was adopted unanimously having been proposed by Hon. (Eng.) Thaddeus Nzambia Kithua, MP and seconded Hon. Eric Muchangi, MP.**

**MIN. NO./EDUC/2018/363: ANY OTHER BUSINESS**

Universities Inspection Visit

The meeting was informed that inspection visit to two universities in the Coastal region and four universities in Nyanza region will be undertaken as from Thursday 25<sup>th</sup> to Saturday 27<sup>th</sup> October 2018.

The Committee further resolved to conduct inspection visits to universities in Rift Valley, Western, Central and Eastern regions once the first round is concluded.

The Secretariat was directed to brief the members on the purpose of the visits and plan for the programs in consultation with the respective universities managements.

No other business arose

**MIN. NO. /EDUC/2018/364: ADJOURNMENT**

There being no other business, the meeting was adjourned at 12.00 noon. The next meeting will be held on Tuesday 23<sup>rd</sup> October, 2018 at 10.00 am.

Signed.....  
*PP* Hon. Julius Melly, MP  
(Chairman)

Date.....  
6/Nov/2018

