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REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025
PUBLIC PETITIONS COMMITTEE

REPORT ON-

CONSIDERATION OF PUBLIC PETITION NO. 46 OF 2023 REGARDING PAYMNET OF
RETIREMENT DUES AND PENSION FOR RETIRED TEACHERS

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 30 APR 2025	
APRIL, 2025 30.04.25	
TABLED BY:	Chair, Public Petitions Hon. Kivai Kagesi, MP
CLERK OF THE TABLE:	M. Mado

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LIST OF ACRONYMS

JE	Job Evaluation
KEPSHA	Kenya Primary Schools Headteachers Association
KNUT	Kenya National Union of Teachers
SRC	Salaries and Remuneration Commission
TSC	Teachers Service Commission

CHAIRPERSON'S FOREWORD

On behalf of the Public Petitions Committee and pursuant to the provisions of Standing Order 227, it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of Public Petition No. 46 of 2023 regarding the payment of retirement dues and pension for retired teachers. The Petition was presented to the House on 16th August, 2023 pursuant to the provisions of Standing Order 225 (2)(a) by the Member for Mwatate Constituency, Hon. Peter Mbogho Shake, MP on behalf of retired teachers.

The Petitioner prayed that the National Assembly through the Public Petitions Committee, engages the Teachers Service Commission (TSC) to among others, establish the circumstances that had occasioned delays in payment of retirement benefits to retired teachers in Mwatate Constituency and the entire country.

The Committee engaged TSC and notes that it only prepares pension claims and forwards them to the Director of Pensions at the National Treasury for processing and payment. The Committee recommends that the National Treasury and TSC streamline processes which are essential in expediting pension claims for teachers and improves accountability through digital verification systems for all claims.

The Committee appreciates the Offices of the Speaker and Clerk of the National Assembly for providing guidance and necessary technical support without which its work would not have been possible. The Chairperson expresses gratitude to the Committee Members for their devotion and commitment to duty during the consideration of the Petition.

On behalf of the Committee and pursuant to the provisions of Standing Order 199, I now wish to lay the Report on the Table of the House.



For HON. ERNEST KIVAI OGESI KAGESI, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

Date..... *24-04-2025*

PART ONE

1 PREFACE

1.1 Establishment and Mandate of the Committee

The Public Petitions Committee is established under the provisions of Standing Order 208A with the following terms of reference:

- (a) considering all public petitions tabled in the House;
making such recommendations as may be appropriate with respect to the prayers sought in the petitions;
- (b) recommending whether the findings arising from consideration of a petition should be debated; and
- (c) advising the House and reporting on all public petitions committed to it.

1.2 Committee Membership

The Public Petitions Committee was first constituted in October 2022 and reconstituted in March 2025 and comprises the following Members:

Chairperson

Hon. Ernest Kivai Ogesi Kagesi, M.P.
Vihiga Constituency
Amani National Congress (ANC)

Vice Chairperson

Hon. Janet Jepkemboi Sitienei, M.P.
Turbo Constituency
United Democratic Alliance (UDA)

Hon. Patrick Makau King'ola, M.P.
Mavoko Constituency
Wiper Democratic Movement-Kenya (WDM-K)

Hon. Nimrod Mbithuka Mbai, M.P.
Kitui East Constituency
United Democratic Alliance (UDA)

Hon. Joshua Chepyegon Kandie, M.P.
Baringo Central Constituency
United Democratic Alliance (UDA)

Hon. Beatrice Kadeveresia Elachi, CBS,
M.P.
Dagoretti North Constituency
Orange Democratic Movement (ODM)

Hon. Maisori Marwa Kitayama, M.P.
Kuria East Constituency
United Democratic Alliance (UDA)

Hon. Edith Vethi Nyenze, M.P.
Kitui West Constituency
Wiper Democratic Movement-Kenya (WDM-K)

Hon. Bidu Mohamed Tubi, M.P.
Isiolo South
Jubilee Party (JP)

Hon. Bernard Muriuki Nebart, M.P.
Mbeere South Constituency
Independent

Hon. John Bwire Okano, M.P.
Taveta Constituency
Wiper Democratic Movement-Kenya (WDM-K)

Hon. Peter Mbogho Shake, M.P.
Mwatate Constituency
Jubilee Party (JP)

Hon. Suzanne Ndunge Kiamba, M.P.
Makueni Constituency
Wiper Democratic Movement-Kenya (WDM-K)

Hon. Peter Irungu Kihungi, M.P.
Kangema Constituency
United Democratic Alliance (UDA)

Hon. Sloya Clement Logova, M.P.
Sabatia Constituency
United Democratic Alliance (UDA)

1.3 Committee Secretariat

The Public Petitions Committee was facilitated members of the secretariat:

Lead Clerk
Mr. Ahmed Kadhi
Principal Clerk Assistant II

Ms. Anne Shibuko
First Clerk Assistant

Mr. Willis Obiero
Clerk Assistant III

Ms. Patricia Gichane
Legal Counsel II

Ms. Roselyne Njuki
Senior Serjeant-at-Arms

Mr. Calvin Karungo
Media Relations Officer III

Ms. Miriam Modo
First Clerk Assistant

Ms. Isaac Nabiswa
Legal Counsel II

Ms. Nancy Akinyi
Research Officer III

Mr. Paul Shana
Serjeant-at-Arms

Mr. Peter Mutethia
Audio Officer

PART TWO

2 BACKGROUND OF THE PETITION

2.1. Introduction

1. Public Petition No. 46 of 2023 regarding retirement dues and pension benefits for retired teachers was presented to the House on 16th August 2023 by the Member for Mwatate, Hon. Peter Mbogho Shake, MP pursuant to Standing Order 225(2)(a), on behalf of the retired teachers in Mwatate Constituency.
2. The Petitioner avers that the Government provides retirement benefits to public officers as part of their terms of service as social security as stipulated in Article 43(1)(e) of the Constitution.
3. The Pensions Act (Cap 189) makes provisions for granting and regulating payment of pensions, gratuities and other allowances in respect of the public service for officers under the Government of Kenya.
4. The Petitioner is concerned that despite the foregoing provisions in the Act, there are retired teachers in the country specifically in Mwatate Constituency, who served under the Teachers Service Commission who are yet to be paid their retirement dues and pension benefits.
5. The Petitioner decries the fact that in Mwatate Constituency, some of the retired teachers have neither been communicated t-p by their employer, the Teachers Service Commission on the status of their pension benefits for the years they served.
6. The Petitioner is therefore calling on the intervention of the National Assembly to establish reasons for the delayed payment of retirement dues by the Teachers Service Commission to the retired teachers and consequently fast track payment of the same by the relevant authorities.
7. He averred that some of the retired teachers have neither received any communication from the Teachers Service Commission nor their monthly pension or lump sum for their years of service which has compelled them to live in a deplorable state.
8. The Petitioner avers that the said teachers in Mwatate are all retired and have worked in various schools throughout the country in the period ranging from 2011 and 2022 and due to old age, they are suffering from ailments that are causing unbearable financial needs.

2.2. Prayers

9. The Petitioners prayed that the National Assembly through the Public Petitions Committee -

- (i) Engages the Teacher Service Commission to establish the circumstances that have occasioned the delayed payment of retirement benefits of the retired teachers in Mwatate Constituency and the entire country;
- (ii) Engages the TSC to pay to provide data and statistics of all unpaid retired teachers in the entire country and indicates when they will pay all the retirement dues of the said teachers; and
- (iii) Makes any other recommendation or action that it deems fit in addressing the plight of the Petitioners.

PART THREE

3 STAKEHOLDERS' SUBMISSIONS ON THE PETITION

3.1. The Petitioner

On Thursday, 18th April 2024, the Petitioner, the Member for Mwatate Constituency, Hon Peter Shake, MP, accompanied by the Chairperson of the Taita Taveta Retired Teachers Association and two (2) other retired teachers, Mr. David Babu and Mr. Timothy Mwazo, appeared before the Committee and submitted as follows—

10. Many retired teachers nationwide were yet to receive their retirement dues, causing financial strain as most of them lack alternative sources of income and rely heavily on these payments immediately after leaving service.
11. Two years prior to retirement, teachers are usually issued with Notices of retirement and required to submit all necessary documents pending clearance letter from their schools and certificates from the Kenya Revenue Authority (KRA). However, upon reaching their retirement date, the Teachers Service Commission (TSC) failed to communicate with them on the requirements for processing pension claims.
12. The affected teachers therefore, sent a Demand Letter to the Commission on 19th April, 2023, seeking clarification of the same and the Commission on 9th June, 2023, responded to the aggrieved teachers stating that they had not received the requisite documents to process to forward their claims to the National Treasury for processing. The retired teachers however maintain that they had submitted all required documents on time and blamed the TSC for their negligence which occasioned delays in processing their retirement benefits. Further, some teachers who retired mid-month did not receive all their salary and allowances for their last month at work.
13. Some teachers had become victims of fraudsters who masqueraded as Officers either from the Teacher Service Commission or the National Treasury in their bid to seek for assistance to process their retirement benefits hence lost lots of money on the process.
14. Those who succumbed to these fraudulent offers and paid for such assistance reportedly had their files expedited to the National Treasury while those who refrained from paying faced the risk of encountering delays or even the possibility of their files disappearing altogether. This situation highlights the vulnerability of retired teachers and underscores the need for greater vigilance and protection against fraudulent schemes.
15. The Petitioners prayed that the Public Petitions Committee intervenes to have the relevant institutions i.e. the Teachers Service Commission and the National Treasury, expedite processing of pension claims for retired teachers in the country and makes any other recommendations it deems fit in the circumstance of this case.

3.2. Teachers Service Commission

On Thursday, 28th November, 2024, the Chief Executive Officer of the Teachers Service Commission, Dr. Nancy Macharia, CBS, appeared before the Committee and submitted as follows -

16. The Teachers Service Commission was established under Article 237 (1) of the Constitution with its primary functions set out in Article 237(2) and (3) to include teacher management functions and regulation of the teaching sector.
17. Article 237 (2) of the Constitution specifically mandates the Commission to register trained teachers, recruit and employ registered teachers, assign teachers for service in any public school or institution, promote and transfer teachers, exercise disciplinary control over teachers, and terminate the employment of teachers engaged in public service, among others.
18. The Commission is also mandated under Article 237 (3) of the Constitution to review the standards of education and training of persons entering the teaching service; review the national demand for and the supply of teachers and advise the National Government on matters relating to the teaching profession.
19. Further, the Commission draws powers necessary for the execution of its constitutional functions from the Teachers Service Commission Act, specifically Section 11 of the Act which mandates the Commission to: -
 - a) Formulate policies to achieve its mandate;
 - b) Provide strategic leadership and direction;
 - c) Prescribe teaching standards and ensure compliance;
 - d) Manage the Teachers payroll;
 - e) Facilitate career progression & professional development;
 - f) Monitor the Conduct and Performance; and
 - g) Do all such other things as may be necessary for the effective discharge of its functions and the exercise of its powers.
20. Section 47 and 48 of the Act empowers the Commission to publish a Code of Regulations and Code of Conduct for Teachers to assist the Commission in regulating the teaching service. In this regard, the Commission published the two codes which came into effect on 1st July, 2016.
21. Accordingly, the Constitution of Kenya, the Teachers Service Commission Act, the Code of Regulations and Code of Conduct for Teachers form the legal framework underpinning the Commission's operations.
22. Pursuant to Article 237(2)(f) of the Constitution, upon exit from service the Commission processes the pension dues of teachers in line with either Defined Benefits (DB) Pension Scheme or Defined Contributory (DC) Pension Scheme.
23. The DB Scheme is regulated by the Pensions Act and fully financed by the exchequer. The membership to the DB scheme includes:

- a) All teachers who exited service either through retirement or death on or before 1st January 2021.
- b) All teachers under the permanent and pensionable terms of service who were in service as of January 2021 and had attained the age of 45 years and above.
24. On the other hand, the Government introduced the DC Scheme vide the Public Service Superannuation Scheme Act, 2012 that established the Public Service Superannuation Scheme (PSSS). Membership to PSSS was as follows -
- (a) All teachers under the permanent and pensionable terms of service as of 1st January 2021 and had not attained the age of 45 years.
- (b) All teachers employed on or after 1st January 2021 under the permanent and pensionable terms of service.
- (c) Teachers above 45 years who opted to join PSSS as of 3rd March 2021.
25. The Commission had no mandate to pay Pension Claims. Under the provisions of the Pensions Act, payment of Pension to employees in the public service including teachers was the mandate of the Cabinet Secretary of the National Treasury and Planning.
26. The Commission's role in this regard is to prepare the Pension claim and forward them to the Director of Pensions, National Treasury for processing and payment.
27. Notably, the Commission has prepared and submitted to the Director of Pensions the Pension Claims of all the 21 Petitioners on various dates as shown in Table 1 below -

S.NO.	NAME	TSC NO.	DATE SUBMITTED TO TREASURY
1	Timothy Mwakio Mwazo	213835	14/4/2023
2	Alfred Mzae Mwashighadi	309377	17/3/2023
3	Hannah Warighe Mwambela	266018	3/11/2023
4	Gabriel Mwashighadi	269952	26/5/2023
5	Mnyaya Adelaide Shighadi	187358	6/10/2023
6	Evan Mwazo Mwasaru	246465	14/4/2023
7	Marsden Kimbada Kimegho	243728	8/9/2023
8	Joan Mwalasha	247854	9/6/2023
9	Josphine Ruwa Mwikamba	179373	14/7/2023
10	Rachael Wanjala Mganga	238618	14/7/2023
11	Vedasto Mwang'ombe Mwikamba	192669	16/6/2023
12	Raphael Righa Mwakamba	203743	30/9/2022
13	Johanness M. Mwangoka	277518	14/10/2022
14	Dalmas Moka Mzae	278728	22/9/2023
15	Florence Manga Machila	187339	6/10/2023
16	Henry Mbuvi Masila	236376	12/1/2024
17	Thomas Ngozi Mwakio	204281	10/11/2023

18	Julius Wakalo Mwaivu	243680	17/11/2023
19	Hannah Shallet Maganga	219001	14/6/2024
20	Anthony Mdoo Mwang'ombe	213837	18/8/2023
21	David Babu	198555	23/9/2022

Table 1. *Status of Pension Claims of the Petitioners*

28. In line with the Pension Act, the Commission has no mandate to pay Pension Claims. Payment of Pension Claims was a mandate of the National Treasury, specifically, the Director of Pensions.
29. The role of the Commission was to submit Pension Claims to the Director of Pensions. To this end, as at 1st July, 2024, the Commission has prepared and submitted to the Director of Pensions a total of 35,254 Pension Claims.
30. As indicated in Table 2 above, there was a balance of **5016** cases at the various stages of claim preparation.
31. Notably, majority of the unprocessed claims were Death Gratuity Claims pending for various reasons for instance: -
- (i) Incomplete or lack of statutory documents to support the pension claims.
 - (ii) 25.2 Succession related disputes between beneficiaries in cases of a deceased teacher.
 - (iii) Injunctive orders from the courts of law stopping the pension process pending hearing and final determination of the related succession cases.
32. Notwithstanding these challenges, the Commission has put in place elaborate mechanisms to reach the affected teachers or their representatives to provide all the relevant documents to support their respective claims.
33. In this regard, the Commission relied on its field officers to trace the affected teachers/beneficiaries with a view to ensure that accurate and complete claim documents were submitted to hasten the processing of the pension claims by the National Treasury.
34. Additionally, the Commission has automated/digitalized processes in its pension division under the Human Resource Management Information System platform where teachers or beneficiaries can easily upload the required documents.
35. To further hasten the pension process, the Commission in liaison with the National Treasury, has a desk of representatives of the Director of Pensions in its Pension Division who vets the claims before they are forwarded to the National Treasury for payment. This has reduced the back and forth between the Commission and the office of the Director of Pensions.
36. The Commission had no mandate to pay pension benefits. Its role in pension processing was only restricted to the submission of Pension Claims to the National Treasury for payment.

37. Accordingly, the Commission had submitted Pension Claims of all the 21 Petitioners to the Director of Pensions.

3.3. The National Treasury and Economic Planning

The Cabinet Secretary for the National Treasury and Planning, Hon. CPA John Mbadi Ng'ongo, EGH, MP, vide a Letter Ref: TNT/CONF 51/07 'I' (54) dated 11th September, 2024, forwarded submissions and stated as follows—

38. The Ministry acknowledged the importance of timely, efficient and effective payment of pensions to all retirees and it was crucial to understand pension payment process which involved multiple stakeholders each with distinct responsibilities that impacted on the timelines for pension disbursement.

39. Firstly, the various stakeholders and the specific roles they undertake in the processing of pensions are outlined below -

(a) Retiree and Beneficiary Responsibilities - Retirees or beneficiaries of deceased officers must apply for their pension dues by completing and submitting the necessary documentation. Delays in this step, especially in cases of family disputes or litigation, can impact the payment timelines.

(b) Employer's Role - Employers are required to issue retirement notices to employees at least one year in advance to enable timely submission of pension claim forms. The employer is expected to submit these claims to the Pensions Department at least nine months before the employee's retirement.

(c) Role of the Pensions Department - as the final authority in the pension processing chain, the Pensions Department is expected to finalize claims within 90 days of receiving the fully supported pension claims.

(d) Impact of Exchequer Funding - The release of pension gratuity payments depends exclusively on the availability of exchequer funding, which in turn is influenced by national revenue inflows. Delays in funding can affect the timely disbursement of pensions.

40. The Petition had highlighted the case of twenty-one (21) teachers from Mwatate Constituency who had retired from the Teachers Service Commission (TSC) and it is noted that all the 21 teachers had been paid their pension benefits in full and enrolled on the Treasury's monthly payroll on diverse dates as indicated in Table below—

S/No.	Teacher's Name	Pension No.	Pension File Status	Exchequer payment of lumpsum amount	Payroll Status
1.	Timothy Mwakio Mwazo, TSC No. 243680	388441	Paid on 15/5/2023	Already released	Is on payroll receiving monthly pension via KCB
2.	Alfred Mzae Mwashighadi, TSC. NO. 309377	387195	Paid on 6/6/2023	Already released	Is on payroll receiving monthly pension Equity Bank - Voi
3.	Hannah Warighe Mwambela, TSC No. 266018	399180	Paid on 14/12/2023	Already released	Is on payroll receiving monthly pension via Qwetu Sacco
4.	Gabriel Mwashighadi, TSC No. 269952	389793	Paid on 12/5/2023	Already released	Is on payroll receiving monthly pension via Qwetu Sacco
5.	Minyaya Adelide Shighadi, TSC No. 187358	397921	Paid on 8/12/2023	Already released	Is on payroll receiving monthly pension via KCB - Wundanyi
6.	Evan Mwazo Mwasaru, TSC No. 246465	388487	Paid on 12/5/2023	Already released	Is on payroll receiving monthly pension via Qwetu Sacco
7.	Marsaden Kimbada Kimegho, TSC No. 395834	395834	Paid on 19/10/2023	Already released	Is on payroll receiving monthly pension via Qwetu Sacco
8.	Joan Mwalasha, TSC No. 392232	392232	Paid on 1/12/2023	Already released	Is on payroll receiving monthly pension via Qwetu

					Sacco
9.	Josphine Ruwa Mwikamba, TSC No. 393892	393982	Paid on 15/4/2024	Already released	Is on payroll receiving monthly pension via Qwetu Sacco
10.	Rachael Wanjala Mganga, TSC No. 238613	395140	14/11/2023	Already released	Is on payroll receiving monthly pension KSC - Voi
11.	Vedasto Mwang'ombe Mwikamba, TSC No. 192669	391629	Paid on 26/9/2023	Already released	Is on payroll receiving monthly pension via KCB - Voi
12.	Raphael Righa Mwakamba, TSC No. 203743	377800	Paid on 30/11/2023	Already released	Is on payroll receiving monthly pension via KCB - Voi
13.	Johanness M. Mwangoka, TSC No. 277518	379073	Paid on 24/2/2023	Already released	Is on payroll receiving monthly pension via Coop Bank - Voi
14.	Dalmas Moka Mzae, TSC No. 278728	396617	Paid on 27/11/2023	Already released	Is on payroll receiving monthly pension vias Qwetu Sacco
15.	Florence Manga Machila, TSC No. 187339	398173	Paid on 03/2023	Already released	Is on payroll receiving monthly pension via KCB - Wundanyi
16.	Henry Mbuvi Masila, TSC No. 236376	401834	Paid on 19/2/2024	Already released	Is on payroll receiving monthly pension via KCB - Taveta
17.	Thomas Ngozi Mwakio, TSC No. 204281	399689	Paid on 22/12/2023	Already released	Is on payroll receiving monthly pension via KCB -

					Wundanyi
18.	Julius Wako Mwadi, TSC No. 243680	400330	Paid on 31/5/2024	Already released	Is on payroll receiving monthly pension via Qwetu Sacco
19.	Hannah Shallet Maganga, TSC No. 219001	408456	Paid on 19/6/2024	Already released	Is on payroll receiving monthly pension via Qwetu Sacco
20.	Anthony Mdo Mwang'ombe, TSC No. 213837	395412	Paid on 14/12/2024	Already released	Is on payroll receiving monthly pension via Qwetu Sacco
21.	David Babu, TSC No. 198555	378215	Paid on 25/11/2022	Already released	Is on payroll receiving monthly pension via KCB - Voi

Table 2. Status of pension for the 21 Retired Teachers from Mwatate

41. The Teachers Service Commission outlined several factors that had contributed to the delay in processing retirement benefits for retired teachers as outlined below—

- (i) Incomplete Documentation - A significant number of retirement claims remained unprocessed due to incomplete or missing statutory documents required to support pension dues. This included cases where teachers or their representatives had not submitted all the necessary documentation.
- (ii) Succession Disputes - In cases where teachers had passed away, succession disputes between beneficiaries had delayed the processing of benefits.
- (iii) Court Cases - Injunctive Orders from the courts had further impeded the processing of claims. For instance, there were cases where courts had stopped the pension processing pending hearing and final determination if related matters.
- (iv) Grounds of exit from service_ - Prior to the Labour and Employment Courts Ruling on 6th April, 2018, teachers who left service on disciplinary grounds were not eligible for pension. The Public Service Commission gave Circular PSC/ADM/13/ (28) dated 21st October, 2022 and a follow up Circular PSC/ADM/13(37) dated 16th December, 2022 allowing payment of dismissal cases backdating to 6th April, 2018. This

necessitated a review of cases paid prior to that period. The Commission had put in place mechanisms to reach out to the affected teachers or their representatives to ensure submission of all required documentation.

42. The TSC had provided the following data on the retirement claims submitted to the National Treasury and those still pending submissions.

43. Claims submitted to the National Treasury by the TSC between the years 2011 to 2022 was a total of 63,238 cases and a detailed breakdown by year is provided below, with the number of cases progressively increasing over the years.

Year	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
No. of cases submitted	320	285	621	5398	5574	6483	5731	7942	7350	8287	6355	10175

Table 3. Claims submitted to the National Treasury by the TSC between 2011 to 2022

44. Claims pending at TSC for submission to the National Treasury from 2019 to 2024 was a total of 5,771 cases as outlined below. The pending claims are primarily due to the reasons mentioned earlier like incomplete documentation, succession disputes, court orders among others.

Year	2019	2020	2021	2022	2023	2024	TOTAL
No. of cases submitted	36	64	93	441	1621	3561	5771

Table 4. Claims pending at the TSC for submission to the National Treasury

45. The TSC had committed to submit all the pending cases to the National Treasury by 31st December, 2024 ensuring that no claim remained outstanding beyond that date.

Year	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Submitted cases	3	2	7	6	11	12	25	25	31	54	99	258	1683	72

Table 5. Status on pension payment at the National Treasury

46. On the steps taken to address delayed pension payment, the National Treasury in collaboration with the Teachers Service Commission (TSC), had undertaken the following measures to expedite the processing of retirement benefits to teachers -

- (a) Data Verification and Cleanup - The TSC was actively reaching out to the affected teachers and their representatives to gather any missing documentation and address any administrative challenges.

- (b) **Coordination with Courts** - For cases involving succession disputes, the TSC and the National Treasury are liaising with courts to ensure timely resolution of case so that pension processing can proceed without further delays.
- (c) **Targeted Communication** - The TSC had enhanced communication channels to keep retirees and their beneficiaries informed on the status of their claims.

In addition, the National Treasury was actively engaged in modernizing and re-engineering processes of pension administration, improving service delivery and ensuring that pensioners receive their benefits promptly with minimal disruption through the following initiatives -

- (a) **Re-engineering of the Pension Management Information System (PMIS)**
The PMIS is being overhauled currently to streamline and automate pension processes, aiming to eliminate manual workflows and ensure timely and accurate disbursements. Key features include online submission of pension claims, a self-service portal for pensioners, real-time monitoring, enhanced security and integration with other government systems. This upgrade would significantly reduce delays in pension processing with the system expected to be rolled out by the end of the calendar year.
- (b) **Deployment of Pension Officers to Key Ministries, Departments and Agencies (MDAs)** - To expedite pension processing, pension officers had been deployed to thirty-two (32) MDAs including critical institutions like the Teachers Service Commission and the National Police Service. This move was aimed to facilitate on-site handling of pension claims reducing verification time and ensuring timely submission to the Pension Department.
- (c) **Early Submission of Pension Claims** - MDAs are now mandated to submit pension claims nine months before an Officer's retirement date. This advance submission allows for thorough verification and processing, ensures that retirees receive their pension promptly upon retirement.
- (d) **Adherence to a 90-Day Processing Timeline** - The Pensions Department was committed to processing fully supported claims within ninety (90) days as outlined in the National Treasury's Service Delivery Charter to minimize delays and provide retirees with financial stability post-retirement.
- (e) **Technical Support and System Enhancements** - A Technical Support contact was executed to stabilize the pension payment process, redesign the system for more efficient processing and build capacity in ICT support to reduce error and enhance system availability.
- (f) **Deployment of Pension Officers to Huduma Centres Nationwide** - by deploying pension officers to the fifty-six (56) Huduma Centres across the country, pension related services are more accessible to retirees,

reducing congestion at the central office and the financial burden of travelling to Nairobi for services.

- (g) **Review of the Pension Legal Framework** - the Government was reviewing the pension legal framework to align it with current demographic and economic realities, ensuring the pension system's financial sustainability and equity.
- (h) **Formulation of a National Retirement Benefits Policy** - Approved by the Cabinet, the policy aimed at improving governance within retirement schemes and ensure sufficient income security and allowing for dignified post-retirement lives.
- (i) **Sensitization of Civil Servants** - Through workshops and online publications, civil servants were educated on retirement documentation and the pension process to ensure timely submission of required forms and smoother transitions into retirement.
- (j) **Recruitment of additional Pension Officers** - The National Treasury had recruited more pension officers and six Deputy Directors with expertise in pension administration to enhance efficiency in the management of pension benefits for public servants.
- (k) **Access to Pensions Department Services countrywide** - Huduma Mashinani programs and deployment of PMIS to all the 56 Huduma Centres across the country brought pension services closer to the people at the grassroot level ensuring retirees in remote areas can access their benefits easily.

3.0 Retirement Benefits Authority

Vide a letter Ref: RBA/3/7/5/7 dated 4th December, 2024, the Chief Executive Officer of the Retirement Benefits Authority, Mr. Charles Machira, forwarded written submissions and stated as follows -

- 47. Pension of teachers who are not members of the Public Service Superannuation Scheme was paid by the Pensions Department of the National Treasury from the Consolidated Fund Services in line with the provisions of the Pensions Act (Cap 189).
- 48. In order to facilitate the process, the Teachers Service Commission provides the Pensions Department with the teachers' details, the final salary, reckonable service and other particulars required for the computation of pension.
- 49. The Retirement Benefits Authority does not regulate the activities of the Pensions Department as its mandate is to regulate asset-backed retirement benefits schemes and advise the Cabinet Secretary for the National Treasury and Economic Planning on that national policy to be followed with regard to retirement benefits schemes.

PART FOUR

4.0 COMMITTEE OBSERVATIONS

Upon hearing from the Petitioner and other stakeholders, the Committee observed that—

50. There was a significant delay in the processing and payment of pension benefits to retired teachers attributed to among others incomplete documentation required to support pension dues, succession disputes, and court cases stopping processing of pension claims pending determination among others.
51. There was lack of coordinated effort between the Teachers Service Commission (TSC) and the National Treasury leading to delays and the challenges experienced from the time of submission of the pension claims by the TSC to payment by the National Treasury.
52. The Teachers Service Commission as of 1st July, 2024 had submitted to the Director of Pensions a total of 35,254 pension claims for the period between 2019 and 2023 for all teachers across the country out of which 5,016 claims were still pending due to incomplete documents, court injunctions and succession related disputes.
53. The mandate to pay pensions claims falls under the ambits of the National Treasury pursuant to the provisions of the Pension Act and not the Teachers Service Commission;
54. The TSC had committed to submit all the pending cases to the National Treasury by 31st December, 2024 ensuring that no claim remained outstanding beyond that date. It therefore followed that, all the affected twenty-one (21) retired teachers from Mwatate Constituency had been paid their pension benefits in full and enrolled on the Treasury's monthly payroll on diverse dates between the years 2022 to 2024 as highlighted in paragraph 42.
55. The National Treasury in collaboration with the Teachers Service Commission (TSC) had undertaken various measures to expedite the processing of retirement benefits to teachers including data verification and clean-up exercise, coordination with the courts to fast track determination of matters halting processing of pensions claims and enhancement of communication channels to keep retirees and beneficiaries informed on the status of their claims among other initiatives.
56. The National Treasury was engaged in modernizing pension administration to improve service delivery aimed at fast tracking processing and payment of pension benefits to retirees across the country.
57. The delays had been occasioned among others by submission of incomplete documents by the retired teachers or their beneficiaries, court cases and succession disputes.

58. In light of the affected petitioners, the Commission had prepared and submitted to the Director of Pensions, pension claims of all the twenty-one (21) petitioners on various dates as indicated in Table 1 in the Report and the same were processed and paid to the affected teachers between the periods 2022 and 2024.
59. The the affected teachers had already been paid their retirement benefits and enrolled with the National Treasury's monthly payroll.
60. The National Treasury had deployed officers to all Huduma Centres across the Country to manage pension benefits for retired civil servants.

PART FIVE

5.0 COMMITTEE RECOMMENDATIONS


61. Pursuant to the provisions of Standing Order 227, the Committee responds to the Petition as follows–

- (i) On the prayer that the Committee engages the TSC to establish the circumstances that have occasioned the delayed payment of retirement benefits to the retired teachers in Mwatate Constituency, the Committee engaged TSC and notes that TSC's only prepares pension claims and forwards them to the Director of Pensions at the National Treasury for processing and payment.
- (ii) On the prayer that the Committee engages the TSC to provide data and statistics of all unpaid retired teachers in the entire country and indicate when they will pay all the retirement dues of the said teachers, the Committee engaged TSC and notes that as of 1st July, 2024, the Teachers Service Commission had prepared and submitted 35,254 Pension Claims to the Director of Pensions at the National Treasury for all retired teachers across the country, out of which 5,016 were pending due to incomplete or lack of statutory documents to support pension claims, succession related disputes between beneficiaries and injunctive orders from the courts stopping processing of some of the claims pending court's determination

The Committee therefore recommends that the Teachers Service Commission in liaison with the National Treasury–

- (i) Streamline processes which are essential in expediting pension claims for teachers and improves accountability through digital verification systems for all claims;
- (ii) Develop an up-to-date database that tracks unpaid retirement claims for teachers across the country and fast-track payment of the claims; and
- (iii) Establish a communication framework on delay in payment of pension claims to the affected teachers on time through designated offices in the forty-seven (47) counties;
- (iv) Establish designated complains contact centers in every County where teachers can report fraudulent activities and seek guidance regarding the processing of claims in order to mitigate fraud targeted at the vulnerable retirees;
- (v) Sensitize teachers on the pension process, specifically, on the GP178 Form with a view of simplifying the pension process and enhancing efficiency and user friendliness.

- (vi) The National Treasury develops a National Retirement Benefits Policy aimed at improving governance within retirement schemes to ensure sufficient income security and allow for dignified post-retirement lives for retirees.
- (vii) The Ministry of Public Service and Human Capital Development in liaison with the National Treasury to deploy more Pension Officers to all Huduma Centres to enhance accessibility and efficiency in the management of pension benefits for public servants and ensure all retirees.

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 30 APR 2025	DAY: WED
TABLED BY:	HON ERNEST KAGESI (CHAIRPERSON)
CLERK-AT THE-TABLE:	M. MODO

Signed:  Date: 24-04-2025

For

THE HON. ERNEST OGESI KIVAI, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

ANNEXURES

- Annex 1: The Adoption List
- Annex 2: Public Petition No. 46 of 2023 regarding payment of retirement dues and pension for retired teachers.
- Annex 3: Minutes of 27th Sitting of 2024 held on 18th April, 2024
- Annex 4: Minutes of the 64th Sitting held 28th November, 2024
- Annex 5: Minutes of the 6th Sitting held 11th April 2024



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025
PUBLIC PETITIONS COMMITTEE

ADOPTION SCHEDULE
OF THE REPORT ON CONSIDERATION OF PUBLIC PETITION NO. 46 OF 2023
REGARDING PAYMENT OF RETIREMENT DUES AND PENSION FOR RETIRED TEACHERS

DATE.....11-04-2025.....

We, the undersigned Honourable Members of the Public Petitions Committee, do hereby affix our signatures to this Report on the consideration of regarding **Payment Of Retirement Dues and Pension for Retired Teachers** to confirm our approval and confirm its accuracy, validity and authenticity:

NO.	NAME	DESIGNATION	SIGNATURE
1.	Hon. Ernest Ogesi Kivai Kagesi, M.P.	Chairperson	
2.	Hon. Janet Jepkemboi Sitienei, CBS, M.P.	Vice Chairperson	
3.	Hon. Patrick Makau King'ola, M.P.	Member	
4.	Hon. Nimrod Mbithuka Mbai, M.P.	Member	
5.	Hon. Joshua Chepyegon Kandie, M.P.	Member	
6.	Hon. Beatrice Kadeveresia Elachi, CBS, M.P.	Member	
7.	Hon. Maisori Marwa Kitayama, M.P.	Member	
8.	Hon. Edith Vethi Nyenze, M.P.	Member	
9.	Hon. Bidu Mohamed Tubi, M.P.	Member	
10.	Hon. (Eng.) Bernard Muriuki Nebart, M.P.	Member	
11.	Hon. Peter Mbogho Shake, M.P.	Member	
12.	Hon. Suzanne Ndunge Kiamba, M.P.	Member	
13.	Hon. John Bwire Okano, M.P.	Member	
14.	Hon. Peter Irungu Kihungi, M.P.	Member	
15.	Hon. Sloya Clement Logova, M.P.	Member	



**THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT (SECOND SESSION)**

*Approved
S.M.K.
15/8/23*

PUBLIC PETITION

(No. 46 of 2023)

**ON PAYMENT OF RETIREMENT DUES AND PENSION FOR
RETIRED TEACHERS**

I, the **UNDERSIGNED**, on behalf of the retired teachers of Mwatate Constituency and other retired teachers across the country;

DRAW the attention of the House to the following:

1. **THAT**, the government provides retirement benefits to public officers as part of their terms of service, with a view to providing them with social security in old age as stipulated in Article 43(1)(e) of the Constitution;
2. **THAT**, the provision of retirement benefits to public officers is intended to ensure a smooth transition from active service with employment income, to retirement with a certain level of replacement income. This is so that the standard of living for public officers does not change drastically in old age;
3. **THAT**, the Pensions Act (Cap.189) makes provisions for granting and regulating the payment of pensions, gratuities and other allowances in respect of the public service for officers under the Government of Kenya;
4. **THAT**, despite the foregoing provisions, there are retired teachers in the Republic of Kenya who served under the Teachers Service Commission (TSC) who have never been paid their retirement dues and pension;
5. **THAT**, in Mwatate Constituency just like other constituencies in the Republic of Kenya the said retired teachers served in different schools and retired in different years;



PUBLIC PETITION ON PAYMENT OF RETIREMENT DUES AND PENSION FOR RETIRED TEACHERS

6. **THAT**, in Mwatate Constituency, some of the retired teachers have neither been communicated to by their employer, TSC up to date nor paid their monthly pension and or the lumpsum for the services they offered during their years of service;
7. **THAT**, the continued non-payment of the retirement benefits and pensions have subjected teachers to live in deplorable state;
8. **THAT**, the non-paid retired teachers of Mwatate Constituency retired from the period ranging 2011 and 2022 and some of them are now suffering ailments associated with old age hence causing them unbearable financial needs;
9. **THAT**, the issues in respect of which this Petition is raised are not pending before any court of law, or any constitutional or legal body;
10. **THEREFORE**, your humble petitioners pray that the National Assembly through the Public Petitions Committee—
- i. Engages the TSC to establish the circumstances that have occasioned the delayed payment of retirement benefits of the retired teachers in Mwatate Constituency and the entire country;
 - ii. Engages the TSC to provide data and statistics of all unpaid retired teachers in the entire country and indicates when they will pay all the retirement dues of the said teachers; and
 - iii. Makes any other recommendation or action it deems fit in addressing the plight of the Petitioners.

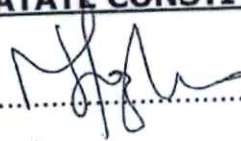
And your **PETITIONER** will ever pray.

PRESENTED BY:



THE HON. PETER MBOGHO SHAKE, MP
MEMBER FOR MWATATE CONSTITUENCY

Date:



7/8/2023.



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

MINUTES OF THE 27TH SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON WEDNESDAY, APRIL 18, 2024, IN THE COMMITTEE ROOM 12, GROUND FLOOR, NEW WING, MAIN PARLIAMENT BUILDINGS AT 12.00. P.M

PRESENT

1. Hon. Janet Jepkemboi Sitienei, M.P. - Vice Chairperson
2. Hon. Joshua Chepyegon Kandie, M.P.
3. Hon. John Walter Owino, M.P.
4. Hon. Maisori Marwa Kitayama, MP
5. Hon. Ernest Ogesi Kivai, M.P.
6. Hon. Bidu Mohamed Tubi, M.P.
7. Hon. (Eng.) Bernard Muriuki Nebart, M.P.
8. Hon. Peter Mbogho Shake, M.P.
9. Hon. John Bwire Okano, M.P.

APOLOGIES

1. Hon. Nimrod Mbithuka Mbai, M.P. - Chairperson
2. Hon. Patrick Makau King'ola, M.P.
3. Hon. Edith Vethi Nyenze, M.P.
4. Hon. Suzanne Ndunge Kiamba, M.P.
5. Hon. Caleb Mutiso Mule, M.P.
6. Hon. Sloya Clement Logova, M.P.

IN ATTENDANCE

1. Hon. Charles, Ngusya, MP - Petitioner
2. Mr. Daniel Kiteme - National Chairman Senior National Head teachers
3. Mr. Githu Geoffrey - Teacher
4. Hon. Peter Shake, MP - Petitioner
5. Mr. David Babu - Retired Teacher (Principal)
6. Mr. Timothy Mwazo - Retired Teacher (Chair Taita Taveta Retired Teachers Association)
7. Hon. Benard Kitur, MP

SECRETARIAT

1. Ms. Miriam Modo - Clerk Assistant I
2. Ms. Anne Shibuko - Clerk Assistant I

- | | | |
|-------------------------|---|-------------------------------|
| 3. Ms. Patricia Gichane | - | Legal Counsel II |
| 4. Ms. Felistas Muiya | - | Public Communications Officer |
| 5. Mr. Martin Sigei | - | Research Officer III |
| 6. Mr. Calvin Karungo | - | Media Relations Officer III |
| 7. Mr. Peter Mutethia | - | Audio Officer |

MIN./PPETC/2024/ 167: PRELIMINARIES

The Chairperson called the meeting to order at 12:00 p.m. and proceedings began with prayers by Hon. John Bwire Okano, M.P.

MIN./PPETC/2024/168: ADOPTION OF AGENDA

AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of previous sittings
4. Matters Arising
5. Consideration of Public Petition No. 47 of 2023 regarding the Deployment of Classroom Teachers as Head Teachers in Schools across the Country
 - Meeting with Petitioner, Hon. Charles Ngusya, MP
6. Consideration of Public Petition No. 52 of 2023 regarding Ban of Asbestos as roofing material in the Country
 - Meeting with the Petitioner, Hon. Ibrahim Abdi, MP
7. Consideration of Public Petition No. 46 of 2023 regarding the Payment of Retirement Dues and Pension Dues to Retired Teachers
 - Meeting with the Petitioner, Hon. Peter Shake, MP
8. Consideration of Public Petition No. 5 of 2024 regarding Illegal Acquisition of Parcels of Land known as Kapkaron Farm L.R. No. 6053 in Nandi Hills Sub County, Nandi County
 - Meeting with the Petitioner, Hon. Bernard K. Kitur, MP
9. Any Other Business
10. Adjournment

The Agenda was adopted to constitute business having been proposed Hon. Peter Mbogho Shake, M.P. and seconded by Hon. Bernard Muriuki, M.P.

MIN./PPETC/2024/169: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Agenda was deferred

Meeting with the Petitioner, Hon. Charles Ngusya, MP

The Hon. Charles Ngusya, MP appeared before the Committee and presented as follows—

1. The Teachers Service Commission (TSC) and Kenya National Union of Teachers (KNUT) signed the July 2017 CBA which among other things provided for an agreement for remuneration payable to teachers as determined by the provisions of Articles 41, 237 and 230(4) of the Constitution of Kenya;
2. Before the July 2017 CBA, there were about 1,000 classroom teachers, who were promoted to the then job group M after a successful competitive interview for senior graduate teacher. Some of the teachers were deployed to become headteachers from 2018 while others remained as senior teachers;
3. Despite their additional roles and qualifications, the deployed headteachers remained in the same job group C5 (formerly job group M) and their salaries and allowances did not change as per the requirement of the July 2017 CBA;
4. Their counterparts who went through the same interview and became headteachers before the July 2017 CBA are now in job group D1 and earning higher salaries and allowances;
5. The two categories of teachers have the same qualifications, same job group, are performing same roles and facing the same challenges yet they earn different salaries and allowances contrary to section 5(1) of the Labour Relations Act 2007;
6. There exist discrepancies where some senior graduate teachers are head teachers yet others with the same qualifications are still in job group C5 instead of job group D1. Additionally, their monthly salary and allowance difference is about Kshs. 25,000 at the lowest and Kshs. 36,000 at the highest;
7. Further, this group was neither factored in the recent advertised TSC promotions for 14,738 teachers, nor in the 12,634 tutors slated for promotion;
8. Due to the aforementioned concerns, the teachers feel discriminated and are demoralized even as they continue to undertake their duties;
9. The teachers have made their best efforts to have the matter addressed including writing individual letters to TSC seeking fair remuneration and engagement with Kenya National Union of Teachers (KNUT) to intervene but there were no satisfactory responses or action.

Prayers

The petitioners prayed that the Committee engages TSC to:

10. Review the salaries and allowances of the concerned deployed teachers and place them at par with their colleagues who undergone the same interview and became headteachers before the July 2017 CBA;
11. Pay the teachers the arrears from the period between their deployment as headteachers till now.

The National Chairperson of Senior National Headteachers, Mr. Daniel Kiteme appeared before the Committee and presented as follows—

1. In the CBA 2017-2021, job group M was renamed C5, and teachers were given the title deputy headteacher 1. They were deployed to serve as deputy headteachers and headteachers under the same job group from 2017 onwards, while others remained as classroom teachers, senior teachers, and deputy headteachers.
2. All teachers who were senior graduates/approved teachers in job group M and were not administrators before the CBA receive the same pay regardless of deployment status.
3. Deputy Headteacher 1 (job group C5) was a grade assigned to all teachers in job group M who were not administrators. This grade was not a promotional grade for deputy headteacher 2, contrary to career progression requirements. Since the conception of the July 2017 CBA, deputy headteacher 2 (job group C4) had conducted interviews for headteacher positions (job group C5) as evidence that Deputy Headteacher 1 and Headteacher in job group 5 are not the same.
4. Upon deployment of some teachers to headteacher positions by TSC, they retained the title of Deputy Headteacher 1 with no adjustment in pay to the next job group, D1, despite assuming the additional role and responsibility of a headteacher.
5. TSC indicated that job group C5 was already a grade for headteachers, and the only change they could make was to alter the title from deputy headteacher 1 to headteacher without any monetary adjustments. This contradicted the Career Progression Guidelines of 2018, which specify that both deputy headteacher 2 and deputy headteacher 1 have defined roles distinct from that of the headteacher, and they both report to the headteacher.
6. There exists a discrepancy where some senior graduate teachers in job group M serving as headteachers are in job group D1, while others (the petitioners) with the same qualifications are still in job group C5 instead of D1. Both job groups require the same qualifications, entail similar roles, and face identical challenges.

7. The Petitioners, through Kenya Primary Schools Headteachers Association (KEPSHA), compiled a list of about 380 affected teachers nationwide, including some who had passed away, retired, or were still in service. The petitioners requested compensation for the period during which they did not receive pay commensurate with their job group and responsibilities.

Committee Concerns

1. **Regarding the difference between CBA before and after 2017**, the Petitioners indicated that the teachers did interviews and were The Petitioners highlighted a distinction between the Collective Bargaining Agreement (CBA) pre- and post-2017, stating that teachers underwent interviews and were promoted to job group M without administrative responsibilities. Pre-2017 CBA, these teachers were designated as classroom teachers in job group M, without administrative duties. In 2018, they were deployed with administrative roles but retained within the same salaries despite passing the interviews and getting the new appointments.
2. **Concerning the terms and conditions of service across different job groups and cadres**, the teachers pointed out that the Code of regulations for teachers, the Employment Act, 2007, Career Progression Guidelines 2018, and the reference manuals of the CBA 2017-2021, delineated these terms and conditions. Addressing the consistency of these terms post-deployment, the teachers clarified that while their deployment letters specified promotion to headships, they were silent on the terms and conditions. However, according to the Code of Regulations, deployment to a higher post (vertical) constituted promotion, whereas deployment across departments within the institution resulted in the teacher remaining in the same position (horizontal).
3. **Regarding whether the various job groups were overlapping within same salary scale**, the petitioners asserted that the job groups for classroom teachers, senior teachers, deputy headteachers, and headteachers overlapped, marking a unique unprecedented situation. Despite meeting the qualifications for headteacher roles under job group C5, upon writing letters to the TSC, they were verbally informed of being overqualified. However, no additional allowances were granted to them. While some teachers received responses to their letters, others did not. Upon assuming headship roles, the teachers received neither responsibility allowance nor any other benefits.
4. **Regarding their proposal to compensate retired teachers retroactively for their benefits and allowances**, the teachers suggested that the Committee should recommend finding a way to compensate retired teachers and promote those currently in service.

MIN./PPETC/2024/171:

CONSIDERATION OF PUBLIC PETITION NO. 52 OF
2023 REGARDING BAN OF ASBESTOS AS
ROOFING MATERIAL IN THE COUNTRY

Meeting with the Petitioner, Hon. Ibrahim Abdi, MP

The Agenda was deferred.

MIN./PPETC/2024/172:

CONSIDERATION OF PUBLIC PETITION NO. 46 OF
2023 REGARDING THE PAYMENT OF
RETIREMENT DUES AND PENSION DUES TO
RETIRED TEACHERS

Meeting with the Petitioner, Hon. Peter Shake, MP

1. The government provides retirement benefits to public officers as part of their terms of service, with a view to providing them with social security in old age as stipulated in Article 43(1)(e) of the Constitution. The provision of retirement benefits to public officers is intended to ensure a smooth transition from active service with employment income, to retirement with a certain level of replacement income. This is so that the standard of living for public officers does not change drastically in old age.
2. The Pensions Act (Cap.189) makes provisions for granting and regulating the payment of pensions, gratuities and other allowances in respect of the public service for officers under the Government of Kenya.
3. Despite the foregoing provisions, there are retired teachers in the Republic of Kenya who served under the Teachers Service Commission (TSC) who have never been paid their retirement dues and pension.
4. In Mwatate Constituency just like other constituencies in the Republic of Kenya the said retired teachers served in different schools and retired in different years. Some of the retired teachers have neither been communicated to by their employer, TSC up to date nor paid their monthly pension and or the lumpsum for the services they offered during their years of service.
5. The continued non-payment of the retirement benefits and pensions have subjected teachers to live in deplorable state. The non-paid retired teachers of Mwatate Constituency retired from the period ranging 2011 and 2022 and some of them are now suffering ailments associated with old age hence causing them unbearable financial needs.

Prayers

The Petitioner prayed that the Committee:

1. Engages the TSC to establish the circumstances that have occasioned the delayed payment of retirement benefits of the retired teachers in Mwatate Constituency and the entire country;
2. Engages the TSC to provide data and statistics of all unpaid retired teachers in the entire country and indicates when they will pay all the retirement dues of the said teachers; and
3. Makes any other recommendation or action it deems fit in addressing the plight of the Petitioners.

The Petitioners represented by retired teacher, Chairperson Taita Taveta Retired Teachers Association) retired teacher, Mr. David Babu and Mr. Timothy Mwazo appeared before the Committee and submitted as follows—

1. Many retired teachers nationwide were yet to receive their retirement dues, causing financial strain as most of them lack alternative sources of income and rely heavily on these payments immediately after leaving service.
2. Two years prior to retirement, teachers are normally issued a notice of retirement and required to submit all necessary documents pending clearance letter from their school and a certificate from the Kenya Revenue Authority (KRA). However, upon reaching their retirement date, the Teachers Service Commission (TSC) fails to communicate with them.
3. In response to this situation, the teachers sent a demand letter to the TSC on 19th April 2023, seeking clarification. The TSC replied on June 9, 2023, stating that they had not received the requisite documents to proceed with the teachers' request for payment from the National Treasury. However, the retired teachers maintain that they had submitted all required documents in a timely manner. Consequently, they suspect negligence on the part of the TSC, which has resulted in significant delays in processing their retirement benefits. Further, some teachers who retire mid-month would not receive all their salary and allowances for their last month at work.
4. Some teachers have fallen victim to scams, losing money in attempts to seek assistance with the processing of their retirement dues. Allegedly, certain individuals posing as representatives from the Teachers Service Commission (TSC) and the Pension Department have contacted teachers, falsely claiming they could expedite the processing of their files.
5. Those who succumbed to these fraudulent offers and paid for such assistance reportedly had their files expedited to the National Treasury. However, those who refrained from paying faced the risk of encountering delays or even the

possibility of their files disappearing altogether. This situation highlights the vulnerability of retired teachers and underscores the need for greater vigilance and protection against fraudulent schemes.

6. Further, the formula for calculating the retirement benefits was not clear and allegedly not honoured and whenever teachers sought clarity, no one responded.
7. The Committee should consider recommending that the Teachers Service Commission (TSC) continue paying the salaries of retired teachers until they receive their retirement dues. This measure aims to alleviate the financial burden experienced by retired teachers during the transition period.
8. Sometime the Pensions Department and TSC reports that they have released money and processed the retirement dues for teachers but in reality, teachers were suffering as many teachers were not receiving the monies in time.

Committee Concerns

The Committee inquired with the petitioners to gather information on specific cases of teachers whose retirement benefits had been delayed or who had fallen victim to scams. The petitioners acknowledged the need for detailed information on these cases, recognizing that some retired teachers may be hesitant to come forward. They committed to providing further details on such cases to facilitate the Committee's investigation and ensure that appropriate action is taken to address these issues effectively.

Committee Resolution

After deliberations, the Committee requested the petitioners to furnish copies of the demand letter sent to the Teachers Service Commission (TSC) and the responses received from the TSC. Additionally, the Committee requested details on retired teachers who had not yet received their retirement dues. This information would enable the Committee to comprehensively assess the situation and take appropriate steps to address the concerns raised by the petitioners regarding delays in retirement benefits.

MIN./PPETC/2024/173:

CONSIDERATION OF PUBLIC PETITION NO. 5 OF
2024 REGARDING ILLEGAL ACQUISITION OF
PARCELS OF LAND KNOWN AS KAPKARON FARM
LR. NO. 6053 IN NANDI HILLS SUB COUNTY,
NANDI COUNTY

Meeting with the Petitioner, Hon. Bernard K. Kitur, MP

The Hon. Benard Kitur, MP, appeared before the Committee and submitted as follows—

1. That Kapkaron Farm LR. No 5423/2 and LR. 6053 located in Nandi County was part of a parcels of land expropriated by the White Colonial Settlers in the early 1940s.
2. Following negotiations with the community and the local leadership, Kakuzi Limited, who were the last owners of the farms, were willingly to give back parts of blocks of the lands to the community for establishment of public institutions and settlement of squatters.
3. Among the Blocks of land donated by Kakuzi Ltd, to the community was Septon, Title No. 5423/2 measuring 433.02 Ha. In particular, 242 acres (96.44 ha) was to be used for the establishment of Kapkaron Technical (Secondary) School and Block (Septon Syndicate) of Title No. 6053 measuring 440 acres earmarked for the settlement of squatters.
4. Between April to August 1985, Hime & Zimmerline (licensed surveyors) began the initial discussion on how the matter of expunging the land Title No. 5423/2 from the bigger block. On 26th January, 1993, Kaplan & Stratton law firm did a letter that enclosed the schedule of shareholders of both Siret Tea Company Ltd and Kakuzi Ltd as the transfer was first to move both lands (LR. 5423/2 and LR. 6053) from Siret Tea Company Ltd to the parent holding company, Kakuzi Ltd then from the latter to the squatters' legally registered firm.
5. On 24th March, 1993, Kakuzi Ltd did a letter to the community through the Chairman of Kapkaron Farmers' Co-operative Society Ltd, in response to a letter the community had done on 5th March 1993 and confirming that the company was still committed to donating LR No. 6053 in addition to LR No. 5423/2 to the community for construction of the said Technical Secondary School.
6. On 2nd June, 1993, Mr P. N Mogire on behalf of the Commissioner of Lands gave a final sub-divisional approval of LR NO. 5423/2 (433.02 Ha) and excised 96.88 Ha placing the new title number of the Block for the community as LR No. 5423/4.
7. On 2nd July, 1993, a Gazette Legal Notice No. 173 was published where Siret Tea Company Ltd transferred LR No. 5423/2, 1070 acres and LR No. 6053 of 440 acres among others.
8. On 24th June, 1994, Block LR No. 5423/2 was transferred from Siret Tea Company Ltd to Kakuzi Ltd, and the same day the same parcel of land was allegedly transferred illegally from Kakuzi Ltd to a private developer by the name Tinderet Development Trust Company.
9. The said Tinderet Development Trust Company Ltd is a non-existent company as per the response letter from the Registrar of Companies dated 6th August, 2015 which then makes the transfer of the community land to a phantom company null and void.

10. Kakuzi Ltd is yet to declare the status of LR No. 6053 which they had expressly intended as a company to unequivocally transfer to the community vide letter dated 24th March 1993.

Prayers

The petitioner prayed that the Committee:

1. Engages the Ministry of Lands, Public Works, Housing and Urban Development and other relevant authorities with a view to investigating into the alleged irregular, illegal and acquisition of Kapkaron Farm LR. No 5423/2 and LR. 6053 by Tinderet Development Trust Company.
2. Recommends that squatters who have settled for more than 50 years in Kapkaron Farm LR. No 5423/2 and LR. 6053 be given priority during settlement of residents in the area.
3. Recommends for investigations into conduct of land settlement officers for failing to adhere to the provisions of the Land Act, 2012; and, Leadership and Integrity Act, in the course of their duties while settling residents; and, that appropriate disciplinary action be taken.

The Petitioner also provided further information and evidence before the Committee as follows:

1. An overview map of the land indicating the land which the petitioners were interested in (LR 5423 (96.88 acres) and LR 6053). The remaining part of the land was a portion referred to as Ainop-Maget where the community used as a place for circumcision and other cultural practices (*Kipkiyai*) and the white settler were willing to give that portion. However, the day Tinderet Development Trust Company Ltd took over the LR. No. 5423/4, the land earmarked for the cultural and water conservation site was also taken and tea planted leaving only a small stretch which has the watercourse.
2. In the letter of the proposed excision from Siret Estate and Septon Estate, Nandi Hills from the licensed surveyor, Hime & Zimmerline to Kakuzi Ltd on 30th April 1985, the subdivisional application was subject to the consent of Land Control Board but required that the transferees be a legally recognised body. Therefore, bringing in Tinderet Development Trust Company was to purport to have an organisation that caters for the community interest as a trust but it was a decoy company.
3. A letter by the then Minister of Cooperative Development to the Commissioner of Lands on 3rd October 1985 enclosed copies of two letters by the licensed surveyor, Hime & Zimmerline acting on behalf of Siret Tea Company requesting for subdivision approval of two pieces of land which were being donated to the squatters and building of a technical school.

4. In a letter from Hime & Zimmerline to the County Council of Nandi and Tinderet Land Control Board, dated 2nd August 1989 regarding LR No. 5423/2, Nandi Hills, the surveyor enclosed a plan copy showing the location of the proposed excision from LR No. 5423/2. That the excision was proposed Kapkaron Technical Secondary School and the then proprietor was Siret Tea Company.
5. Kaplan & Stratton law firm acting on behalf of Siret Tea Company wrote to the Commissioner of Lands vide a letter dated 30th October 1991 appraising the Ministry of Lands on the process of subdivision of the land LR No. 5423/2, Nandi Hills.
6. The lawyer, Kaplan & Stratton law firm and the surveyor, Hime & Zimmerline engaged the Commissioner of Lands severally in a bid to fast-track the process of subdivision of the land. The Ministry of Lands responded to Hime & Zimmerline vide letter dated 21st January 1993 regarding subdivision approvals indicating regret in the delays in making the approvals and promising to take up the matter.
7. Kaplan & Stratton writing to the Commissioner of Lands vide letter 26th January 1993 regarding transfer of properties by Siret Tea Company to Kakuzi Ltd, included four parcels; LR No. 5423/1, LR No. 6047/4, **LR No. 6053** and LR No. 1475/6, Nandi Hills.
8. Kakuzi Ltd. vide a letter dated 24th March 1993 wrote to the Kapkaron Farmers' Cooperative Society regarding LR No. 6053 and acknowledging delays in transfers of the land donated for a technical school and emphasising the intention of using the land for the same purpose as agreed. However, Kakuzi Ltd clarified that until the transaction was complete, the land was still its property.
9. A Gazette Notice dated 22nd May 1993 indicated the proposed transfer from Siret Tea Company Ltd to Kakuzi Ltd of LR No. 5423/1 (1,070 acres), LR No. 604/4 (593.3 Ha), LR No. 6053 (440 acres) and LR No. 1475/6 (388 acres).
10. Mr. P.N Mogire from Commissioner of Lands in a letter dated 2nd June 1993 to Hime & Zimmerline confirmed the final approval of the proposed subdivision of LR No. 5423/2 (433.02 Ha).
11. After the completion of the transfer of the land to Kakuzi Ltd., for Kshs4,050,390 on 24th June 1994, the land LR No. 5423/4 (96.88 Ha) was transferred as a gift to Tinderet Development Trust Company Ltd on the same day. Further, the Registrar of Companies in a letter dated 6th August 2015 indicated that Tinderet Development Trust Company Ltd. did not exist in its database or register.

Committee Concerns

1. The Committee sought clarifications regarding the lands sought for investigations and regarding whether the LR No. 5423/2 and LR No. 6053 were both acquired by Tinderet Development Trust Company. Kakuzi Ltd was only a managing agent before. The land LR 5423/2 was originally owned by two brothers and a lady who never even stepped foot in Kenya hence the section of the land was used for the entire period. Therefore, Siret Tea Company was owning it on behalf of the lady and Kakuzi Ltd was the managing agent. When the lady passed on, the land was moved from Siret Company to Kakuzi Ltd. However, the purported owner of Tinderet Development Trust Company had interest in Kakuzi Ltd. The Petitioner clarified that the land in question was Siret Tea Company Ltd.'s farm LR No. 5423/2.
2. Regarding whether an **official search from the Ministry of Lands after the 2015 search to establish the current owner of the land in question**. The Petitioner indicated that the investigation about the company could not reveal its records. The Petitioner requested the Committee to invite the following stakeholders to provide clarity on the matter:
 - i. The Business Registration Service (BRS) to provide information whether Tinderet Development Company Ltd. exists or not;
 - ii. Postal Corporation of Kenya to provide information regarding the owners of the postal addresses mentioned to belong to Tinderet Development Trust Company Ltd. The Ministry of Lands provides the chronology of the ownership of the land LR. No. 5423/2 to date;
 - iii. National Lands Commission (NLC)
 - iv. Hime & Zimmerline Licences Surveyors;
 - v. Kaplan & Stratton Law Firm;
 - vi. The purported Tinderet Development Trust Company Ltd. to be invited to provide a background of the land;
 - vii. Siret Tea Company and Kakuzi Ltd.
 - viii. The former of Parliament for Tinderet Constituency, Hon. Henry Kosgey to provide clarity.
3. Regarding the **status of the land in question**, the Petitioner clarified that in 1989 a leader of the region came and explained to him of the plain land which had squatters and requested for help in settling them. In the early 1990s, the community was evicted and the land acquired and tilled. Those who refused to leave were surrounded by the tea plantation but again later moved. Some of those who accepted to move were taken elsewhere and promised to be given land by government but the entire process was not done well and they were later chased away from the land they had been taken for purposes of resettlement. Currently the entire land is a tea plantation. The matter was extremely painful and emotive matter to the Nandi Community.
4. The source of **information about the ownership of land under Siret Tea Company**, the Petitioner clarified that information was transferred by the locals who worked in the tea estate and witnessed the occurrences. Further, part of

the land owned by Siret Tea Company was even sold to some locals and the other part was taken by Tinderet Development Trust Company. However, the Petitioner unable to affirm the information based on documentation as that would be provided by the company itself. Further, some documentation could not be accessed by the Petitioner.

MIN./PPETC/2024/174:

ANY OTHER BUSINESS

Site visit inquiry in the Coast region

The Secretariat briefed the Committee that the upcoming site visit inquiry scheduled for Wednesday, 24th April 2024 to Sunday, 28th April 2024 in Taveta, Jomvu and Lungalunga Constituencies.

MIN./PPETC/2024/175:

ADJOURNMENT AND DATE OF NEXT MEETING

The Chairperson adjourned the meeting at 03:00 p.m. The next meeting will be held on Tuesday, 23rd April 2024 at 12:00 p.m.

Sign: 

(CHAIRPERSON)

Date 5/06/2024



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

MINUTES OF THE 64TH SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON THURSDAY, NOVEMBER 28, 2024, IN COMMITTEE ROOM 20 ON 3RD FLOOR, BUNGE TOWER AT 11.00. A.M

PRESENT

1. Hon. Janet Jepkemboi Sitienei, M.P. - Vice Chairperson
2. Hon. Patrick Makau King'ola, M.P.
3. Hon. Joshua Chepyegon Kandie, M.P
4. Hon. Maisori Marwa Kitayama, MP
5. Hon. Edith Vethi Nyenze, M.P
6. Hon. (Eng.) Bernard Muriuki Nebart, M.P.
7. Hon. Suzanne Ndunge Kiamba, M.P.

APOLOGIES

1. Hon. Nimrod Mbithuka Mbai, M.P. - Chairperson
2. Hon. Ernest Ogesi Kivai, M.P.
3. Hon. John Walter Owino, M.P.
4. Hon. Bidu Mohamed Tubi, M.P.
5. Hon. Caleb Mutiso Mule, M.P.
6. Hon. Peter Mbogho Shake, M.P.
7. Hon. John Bwire Okano, M.P.
8. Hon. Sloya Clement Logova, M.P.

SECRETARIAT

- | | |
|-------------------------|------------------------------|
| 1. Mr. Ahmad Kadhi | Principal Clerk Assistant II |
| 2. Ms. Anne Shibuko | Clerk Assistant I |
| 3. Ms. Patricia Gichane | Legal Counsel II |
| 4. Mr. Willis Obiero | Clerk Assistant III |
| 5. Ms. Nancy Akinyi | Research Officer III |
| 6. Mr. Calvin Karungo | Media Relations Officer III |
| 7. Mr. Peter Mutethia | Audio Officer |
| 8. Ms. Wahu Mwirikia | Audio Officer Intern |

IN ATTENDANCE

TEACHERS SERVICE COMMISSION (TSC)

- | | |
|----------------------------|--------------------------|
| 1. Ms. Nancy Macharia | Chief Executive Officer |
| 2. Mr. Cavin Anyuor | Director, Legal Services |
| 3. Ms. Antonina Lentoijoni | Director, Staffing |
| 4. Mr. Gabriel Mathenge | Director, Operations |

5. Mr. Edwin Musindi Legal Officer

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)

1. Mr. Marjan Hussein Marjan	CEO
2. Mr. Chrispine Owiye	Director, Legal Services
3. Ms. Linda Mworja	Communications Officer
4. Ms. Agatha Wahome	Ag. Director, Electoral Boundaries and Risk Manager
5. Ms. Irene Kyatu	Ag. Manager Electoral Boundaries
6. Mr. Tioko Nkieny	Manager, CEO's office

MIN./PPETC/2024/406: PRELIMINARIES

The Chairperson called the meeting to order at 11:00 a.m. and proceedings began with prayers by Hon. Joshua Chepyegon Kandie, M.P.

MIN./PPETC/2024/407: ADOPTION OF AGENDA

AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of previous sittings
4. Matters Arising
5. Meeting with Teachers Service Commission (TSC) regarding—
 - *P/No. 46 of 2023 on Payment of retirement dues and pension for retired teacher;*
 - *P/No. 47 of 2023 on Deployment of Classroom Teachers as Head Teachers in Schools across the Country;*
 - *P/No. 54 of 2023 on Unlawful Deductions by TSC in Favor of Kenya Union of Special Needs Education Teachers (KUSNET);*
 - *P/No. 62 of 2023 on Stagnation of Teachers' Progression; and*
 - *P/No. 76 of 2023 on Discrimination by the Teachers Service Commission on Career Progression Guidelines for Special Needs Education Teachers in Kenya.*
6. Consideration of P/No. 40 of 2023 regarding Delimitation of Electoral Units
 - *Meeting with the IEBC*
7. Any Other Business
8. Adjournment

MIN./PPETC/2024/408: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The agenda was deferred.

MIN./PPETC/2024/409: MEETING WITH TEACHERS SERVICE COMMISSION (TSC)

The CEO TSC, Ms. Nancy Macharia appeared before the Committee and submitted as follows:

Background (Pension Regime in the teaching sector)

1. Pursuant to **Article 237(2)(f)** of the Constitution, upon exit from service the Commission processes the pension dues of teachers in line with either Defined Benefits (DB) Pension Scheme or Defined Contributory (DC) Pension Scheme.
2. The DB Scheme is regulated by the Pensions Act and fully financed by the exchequer. The membership to the DB scheme includes:
 - a) All teachers who exited service either through retirement or death on or before 1st January 2021.
 - b) All teachers under the permanent and pensionable terms of service who were in service as of 1st January 2021 and had attained the age of 45 years and above.
3. On the other hand, the government introduced the DC Scheme vide the Public Service Superannuation Scheme Act, 2012 that established the Public Service Superannuation Scheme (PSSS). Membership to PSSS is as follows:
 - a) All teachers under the permanent and pensionable terms of service as of 1st January 2021 and had not attained the age of 45 years.
 - b) All teachers employed on or after 1st January 2021 under the permanent and pensionable terms of service.
 - c) Teachers above 45 years who opted to join PSSS as of 31st March 2021.

Specific Responses to the Petition

TSC to establish the that have occasioned the delay payment of retirement benefits of the retired teachers in Mwatate the circumstances Constituency and the entire country.

4. The Commission has no mandate to pay pensions claims. Under the provisions of the Pensions Act, payment of Pension to employees in the public service including teachers is the mandate of the Cabinet Secretary, National Treasury.
5. The Commission's role in this regard is to prepare the Pension claim and forward them to the Director of Pensions, National Treasury for processing and payment.
6. Notably, the Commission has prepared and submitted to the Director of Pensions the Pension Claims of all the twenty-one (21) Petitioners on various dates.

TSC to provide data and statistics of all unpaid retired teachers in the entire country and indicate when they will pay all the retirement dues of the said teachers:

7. In line with the Pension Act, the Commission has no mandate to pay Pension Claims. Payment of Pension Claims is a mandate of the National Treasury, specifically, the Director of Pensions.
8. The role of the Commission is to submit Pension Claims to the Director of Pensions. To this end, as at 1st July, 2024, the Commission has prepared and submitted to the

Director of Pensions a total of **35,254** Pension between 2019 and 2023 for 10,270 retired teachers.

9. There was a balance of **5016** cases at various stages of claim preparation. Notably, majority of the unprocessed claims are death gratuity claims pending for various reasons amongst them being:
 - a) Incomplete or lack of statutory documents to support the pension claims.
 - b) Succession related disputes between beneficiaries in cases of deceased teacher.
 - c) Injunctive orders from the courts of law stopping the pension process pending hearing and final determination of the related succession cases.
10. Notwithstanding these challenges, the Commission has put in place elaborate mechanisms to reach the affected teachers or their representatives to provide all the relevant documents to support their respective claims.
11. In this regard, the Commission relies on its field officers to trace the affected teachers/beneficiaries with a view to ensure that accurate and complete claim documents are submitted to hasten the processing of the pension claims for onward transmission to the National Treasury.
12. Additionally, the Commission has automated/digitalized processes in its pension division under the Human Resource Management Information System platform where teachers or beneficiaries can easily upload the required documents.
13. To further hasten the pension process, the Commission in liaison with the National Treasury, has a desk of representatives of the Director of Pensions in its Pension Division who vets the claims before they are forwarded to the National Treasury for payment. This has reduced the back and forth between the Commission and the office of the Director of Pensions.
14. The Commission has no mandate to paying pension benefits. Its role in pension processing is restricted to submitting the Pension Claims to Treasury, Director of Pensions for payment of the benefits.
15. Accordingly, the Commission has submitted the Pension Claims of all the 21 Petitioners to the Director of Pensions. To this end, it is our humble submission that the Commission has discharged its mandate as required by law.

Committee Concerns

Regarding the difference between the teaching service and other public service pension schemes, TSC stated that most pensions in the public service were paid by the National Treasury hence the need for amendments to the Pensions Act.

P/No. 47 of 2023 on Deployment of Classroom Teachers as Head Teachers in Schools across the Country

Background

1. In 2015/2016, the Commission in consultation with the Salaries and Remuneration Commission (SRC) conducted a Job Evaluation (JE) for the teaching service. Based on the findings of the JE Report, SRC rendered a formal advisory proposing a new grading and remuneration structure for teachers in the public service.
2. The main objective of the JE exercise was to determine the relative worth of the jobs/assignments within the teaching service with a view to link teacher remuneration and benefits to the respective responsibility assigned to them. The JE introduced among others:
 - a) The position of Senior Master in post primary institutions.
 - b) Responsibility-Based Grading System and remuneration structure replacing the Qualification-Based System.
 - c) Removal of Responsibility Allowance.
 - d) Substantive appointment to administrative positions in teaching service.
3. After the JE, the Commission signed the 2017-2021 Collective Bargaining Agreement (CBA) with the teacher unions including Kenya National Union of Teachers (KNUT). This transition necessitated the development and implementation of the teachers' **Career Progression Guidelines (CPG)** and **Policy on Appointment & Deployment of Institutional Administrators** in 2017 to align the New Grading Structure with the career progression of teachers.
4. The Policy of Appointment & Deployment of Institutional Administrators (2017) provides standards ensuring that institutional administrative positions are competitively filled.

Conversion from the previous grading structure

5. Prior to the JE, teachers job groups were not in sync with their responsibilities. For example, a Head teacher would be at Job Group M" and a classroom teacher at "Job group G"
6. The JE addressed this disparity by categorising the teaching service into two (2) groups, administrators and non-administrators.
7. The administrators in primary schools comprised of **Head teachers, Deputy headteachers** and **Senior teachers**. Non-administrators comprised of classroom teachers in job-groups "H", "J", and "G".
8. Conversion of teachers at the primary school level were done based on the role of teacher at the time of their substantive job group.

Specified response to the Petition

9. Conversions to D1 and C5 were done as follows:

- a) Head teachers in Job Groups **M** and **N** were converted to grade D1 as **Senior Head teacher**.
- b) Teachers in Job Group **N** were converted to **grade D1 as Senior Head teacher**.
- c) Deputy Head teachers in Job Group **N** were converted as **Senior Head teachers to grade D1**.
- d) Head teachers in Job Groups G, H, J, K and L converted to **grade C5**.
- e) Deputy Headteachers in Job Group **M** were converted to grade C5, as **Deputy Headteacher I**.
- f) Teachers in Job group **M** were converted to grade **C5 as Deputy Headteacher I**.

10. The list submitted by the Petitioners has 10 members. However, Petitioner number 10 cannot be verified by the records held by the Commission as the details provided do not appear on the list of teachers employed by the Commission.

11. In 2017, before JE and signing of the 2017-2021 CBA, the Commission advertised for promotions of teachers to Job Group M.

12. Consequently, all the nine (9) Petitioners, successfully applied for the promotion and accordingly were competitively promoted to Senior Graduate Teachers, at Job Group 'M' with effect from May 2017.

13. Thereafter, in July 2017 in accordance with the recommendations of the JE and the terms of 2017-2021 CBA, the Commission converted teachers into the new Job Grades.

14. To this end, all the nine (9) petitioners who were then in Job Group **M** and not holding administrative positions were converted into **Grade C5** like all other classroom teachers who were in Job **M** at the time.

15. Admittedly, at the time of implementation of the JE report, teachers were converted to different grades based on various factors including their job groups at the time and the position they held at the time.

16. Pursuant to the records held by the Commission, the nine (9) Petitioners were in Job Group M and were not holding any administrative position. Accordingly, they were correctly converted to grade C5. However, teachers in job group M and were holding administrative positions were converted to D1.

17. Even though these teachers were in the same Job Group before 1st July 2017 (job group M), they were not holding the same responsibilities and thus the conversion to different grades, in that those who were classroom teachers, Senior teachers, or deputy Head teachers were converted to C5 while Head teachers were converted to D1.

18. To this end, the averment by the Petitioners that they should or ought to be in grade D1 is misconceived and without merit as they were not holding any administrative position at the time of conversions.
19. The JE implemented adopted the Peterson structure that provides for more payment for administrative duties. Consequently, remuneration of teachers is done in accordance with the substantive teachers' Job Grade and the responsibilities linked to the grade. To this end, the Petitioners are remunerated as per the salary attached to their respective job grades.
20. It then follows that teachers at Job Grade D1 rightfully earn more than those in Job Grade C5 as they are in higher Job Grade with higher responsibilities.
21. Further, promotions to administrative positions after implementation of the recommendations of the JE are done competitively in accordance with the Policy on Appointment & Deployment of Institutional Administrators.
22. The promotions are based on several factors, key among them being availability of vacancies in authorized establishments and budgetary provision. Due to lack of vacancies, the Commission did not advertise for promotions in grade D1.
23. The Petitioners having been correctly converted to job grade C5, will progress to D1 when vacancies become available, and interviews done in accordance with the Code of Regulation for Teachers and relevant promotion policies.
24. Only two (2) petitioners wrote to the Commission on diverse dates requesting for promotion to Grade D1. The Commission duly responded to their requests. The Commission has not received any letter(s) from the other petitioners or Secretary General KNUT on behalf of the petitioners as alleged.

Committee Concerns

- (i) **On the utilization of resources for non-responsive advertised positions**, the CEO clarified that the Commission would re-advertise these positions with more vigorous campaigns. This approach is necessary because the National Treasury does not permit the reallocation of funds earmarked for promotions in a particular cadre to other cadres.
- (ii) **Regarding concerns about teachers remaining in the same position despite participating in multiple interviews for headship roles**, the CEO explained that TSC applies specific criteria during the promotion process. These parameters include prior acting capacity, length of service, age, involvement in co-curricular activities, and academic performance. Each of these factors is assigned a score and considered during the evaluation for headship promotions.

P/No. 54 of 2023 on Unlawful Deductions by TSC in Favor of Kenya Union of Special Needs Education Teachers (KUSNET)

Background

1. The Commission in embracing the spirit of the Constitution under Article 41 of the Constitution, has signed recognition agreements with three Teacher Unions namely including, Kenya Union of Post-Primary Education Teachers (KUPPET), Kenya National Union of Teachers (KNUT) and Kenya Union of Special Needs Education Teachers (KUSNET).
2. Pursuant to the Recognition Agreements each union in the teaching service has a distinct constituency. For example, KUPPET membership is derived from Post Primary school teachers; KNUT members are primary school teachers; and KUSNET Constituency comprises of teachers deployed to teach In Special Needs Education institutions and/or teachers duly registered as persons with disabilities under the Persons with Disabilities Act.
3. To foster the freedom of association and the right of every employee to join or leave a trade union at will as provided under Article 41(2) (c) of the Constitution and Section 4(1) of the Labour Relations Act, the Commission has developed and operationalized an online platform namely Teachers' Pay (T-Pay) to enable teachers to manage third-parties deductions in their pay slips.
4. The T-Pay system allows teachers to manage transactions in their pay slips by approving any third-party (such as unions, banks, insurances, associations, etc.) deductions that they wish to be effected on their pay slips. Similarly, a teacher who desires to exit a union is only required to log into T-Pay system and stop the deduction.

Specific Responses to the Petition

5. The Commission has over the years recognized the right of employees to join and participate in trade unionism. Further, the need for bipartisan approach to labour relations begins with the recognition of teacher unions pursuant to Section 54 of the Labour Relations Act, this cannot be understated.
6. In line with section 4(1) of the Labour Relations Act, teachers are allowed to voluntarily join teacher unions of their choice by approving deductions to the union through the Commission's T-Pay platform. Similarly, where a teacher opts to leave membership of the union, he/she stops the deductions on the same platform.
7. Accordingly, teachers join unions voluntarily by approving deduction of membership fees in their pay slips.
8. KUSNET was registered by the Register of Trade Unions as a trade union on 30th August 2011 and issued with a Certificate of Registration Number TU/160.
9. The union's leadership is as follows **James Torome, Secretary General, Amos Karanja, National Chairman and Monica Gathu**. Other details with respect to the union may be obtained from the Registrar of Trade Unions who is the Regulator.

10. Pursuant to **section 54** of the Labour Relations Act, the Commission signed a Recognition Agreement with KUSNET on **3rd March 2021** allowing the Commission to engage KUSNET in negotiation of teachers' terms of service.
11. To this end, KUSNET negotiated the terms of service for its members and signed a Collective Bargaining Agreement with the Commission dated **13th July 2021**.
12. Following the signing of the Collective Bargaining Agreement, KUSNET pursuant to section 49 of the Labour Relations Act requested the Minister for Labour and Social Protection to issue an order requiring the Commission to deduct Agency Fee from the wages of each unionisable teacher under the constituency of KUSNET who is not a member of the trade union.
13. Accordingly, the Minister issued an order vide **Legal Notice No. 10 of 2022** directing the Commission to deduct agency fee from unionisable teachers under the constituency of KUSNET who have not subscribed as members of the union.
14. To this end, the Commission deducts union dues from teachers who have duly registered as members of KUSNET and Agency Fees from members who are under the constituency of KUSNET and have not registered as members of KUSNET.
15. All teachers who are members of KUSNET or any other union recognized by the Commission joined the union(s) voluntarily by approving deduction of union dues fees in their pay slips. It is, therefore, not true that some KUSNET members joined the Union without consent, and they have been deducted union dues.
16. With regards to the Petitioners, fourteen (14) of them are deducted agency fee as they fall within the constituency of KUSNET while one (1) Petitioner, Ms. Stella Mageto is deducted membership fee as she is member of KUSNET.

Committee Concerns

- (i) **Regarding how the Commission remitted the deductions**, the CEO clarified that the deductions on behalf of the unions including KUSNET or other third-party subscriptions were made by 25th of every month and the money was in IFMIS.
- (ii) **Regarding the autonomy of TSC in managing payroll of teachers**, the CEO indicated that the Commission had fought for the autonomy to run and manage the payroll of teachers. This has caused several administrative bottlenecks and the Commission had to conduct a retreat with several State Departments to actualize certain policies.

Background

1. Pursuant to the provisions of **Article 237(2)(d)** of the Constitution, the Commission has the mandate to promote teachers under its employment.
2. In discharging this mandate to promote teachers, the Commission observes the values and principles of public service under Article 232 of the Constitution. To this end the Commission has endeavoured to apply the principle of fair competition and merit, integrity, transparency and accountability, equity, fairness and impartiality, inclusiveness, non-discrimination and gender equity in the selection and appointment process.
3. Further, the promotion of teachers in public service is premised on CORT, Career Progression Guidelines (CPG) for teachers and the Policy on Selection and Appointment of Institutional Administrators.
4. Specifically, **Regulation 73 of the CORT** provides for general guidelines in promotion of teachers including: **merit and ability as reflected in the teacher's work, performance and results; seniority and experience as set out in the scheme of service; existence of a vacancy; and academic and professional qualifications.**
5. On the other hand, the Career Progression Guidelines (CPG) and the policy on Selection and Appointment of Institutional Administrators outlines the skills and competencies necessary for advancement in the profession by providing for minimum requirements for selection, appointment and promotion of teachers at different grades.
6. To this end, all promotion vacancies are filled competitively with the objective for recognize or reward effort or align teachers for succession management/career progression and to motivate employees to perform better in their duties and responsibilities with the aim of improving quality teaching and learning.

Specific Response to the Petition

7. Promotions in the teaching sector are done under two limbs as follows:

Common Cadre Promotions:

8. Promotions under the Common cadre is considered based on the following categories:
 - a) *Primary school teachers*: Employed with a P1 qualification and are placed in grade B5. Upon completion of three years of satisfactory service, they are automatically promoted to grade C1 in the common cadre establishment.
 - b) *Secondary school teachers*: Employed with a Diploma qualification and placed in grade C1. Upon completion of three years of satisfactory service, they are

automatically promoted to grade C2 in the common cadre establishment. Additionally, for Secondary school teachers who are employed with a degree qualification, they are placed in grade C2. Upon completion of three years of satisfactory service, they are automatically promoted to grade C3 in the common cadre establishment.

9. Accordingly, the Commission has promoted a total of **168,389 teachers** on Common cadre promotions between Financial Years 2017/2018 and 2023/2024.

Competitive Promotions

10. Promotions from the common cadre establishments are competitively filled with the objective to promote national values, fairness, non-discrimination, and equity. The promotions are premised on inter alia availability of funds and existence of vacancies in authorized establishments.
11. Promotion of institutional administrators is guided by the Policy on Appointment and Deployment of Institutional Administrators. The policy provides for clear career progression structures to ensure systematic progression, growth and professional development for all teachers. It outlines the experience, academic and professional requirements necessary for appointment and deployment of institutional administrators and further sets the process for career advancement and succession management in institutions.
12. A teacher must meet all the requirements set out in the Policy on Appointment and Deployment of Institutional Administrators to qualify for appointed as an administrator. Additionally, the teachers must show interest by applying when the Commission advertises for the said posts.
13. A summary of teachers promoted between Financial Years 2019/2020 and 2023/2024 on competitive basis were **73,902**.
14. Pursuant to the implementation of the 2017-2021 CBA and the Career Progression Guidelines, all teachers were promoted in 2017 and thereafter, automatically promoted after 3 years for common cadre promotions.
15. Accordingly, it is not true that teachers have stagnated for 15 years. While some teachers may have stayed in one job group more than three years, the delay in promotion is majorly caused by budget constraints to undertake competitive promotions.
16. Further, the Commission has severally engaged KUPPET on issue of promotions with the most resent engagement being from 9th to 12th April, 2024 at a workshop in Naivasha where the Commission extensively elaborated to the union the challenges causing delay in promotion of teachers.

Committee Concerns

- (i) **Regarding communication with teachers regarding vacancies and requirement for promotions**, the CEO noted that the Job Evaluation (JE) was conducted in consultation with union representatives and associations, including the Kenya

Secondary Schools Heads Association (KESSHA) and the Kenya Primary Schools Headteachers Association (KEPSHA). This ensured that teachers were represented through their respective cohorts. Following the JE-based Collective Bargaining Agreement (CBA), the TSC issued a circular to every school and disseminated it via its website, newspapers, television, and field officers who represent the Commission at the zonal level.

- (ii) **Addressing concerns about whether the Schemes of Service constituted a "moving target" during promotions**, the CEO clarified that a standardized policy exists under the Career Progression Guidelines (CPG). Other criteria, such as performance in curriculum delivery and years of experience, are only applied in exceptional cases to determine promotion eligibility.
- (iii) **On the issue of funding required to prevent career stagnation among teachers**, the CEO emphasized the need for an annual budget dedicated to promotions. The last budget allocation for promotions was ten years ago, which has led to significant stagnation and demotivation among teachers. While TSC had proposed an annual budget of Kshs 2 billion, the current administration provided only Kshs1 billion. This is insufficient to meet the needs of the 400,000 teachers, some of whom have stagnated for over a decade. Moreover, with 46,000 additional teachers recently employed on permanent and pensionable terms, the proposed budget may need further revision to accommodate their eventual promotions.
- (iv) **Regarding the estimated number of advertised positions for the Financial Year 2024/2025**, the CEO stated that the most recent advertisement sought to fill 5,690 positions, mainly to support the new Competency-Based Curriculum (CBC). Among these were 2,911 deputy headteacher roles. However, the advert attracted only 2,566 applications, as many qualified teachers were reluctant to apply for promotions due to concerns over potential transfers.
- (v) **Addressing allegations of corruption in teacher recruitment**, the CEO reported that investigations conducted in collaboration with relevant stakeholders found no evidence of malpractice. Nonetheless, the Commission remains open to new evidence to improve the process. The recruitment portal was established to minimize human interference, ensuring only applicants who met the qualifications were considered. Out of approximately 150,000 qualified applicants, only 36,000 vacancies were available, with unqualified candidates automatically filtered out by the system.
- (vi) **On the frequency of TSC policy reviews**, the CEO mentioned that the last review of the Career Progression Guidelines (CPG) took place in 2018. The next review is scheduled for July 2025 to align with the upcoming CBA for 2025-2029.

Background

1. Prior to the JE, teachers job groups were not in sync with their responsibilities. For example, a Head teacher would be **Job Group G** and a classroom teacher at **Job Group M**.
2. The JE addressed this disparity by categorising the teaching the teaching service into two (2) groups, Institutional administrators and non-administrators. The administrators in primary schools comprised of Head teachers, Deputy headteachers and Senior headteachers.
3. Conversion of teachers at the primary school level were done based on the role of the teacher at the time and their substantive job group.
4. Noting that special schools and units are categorised as either primary or secondary, SNE teachers were converted using the same formula and thus they acquired the grades associated with primary or secondary teachers whichever was applicable.
5. Pursuant to the conversion and in line with the new grading structures, SNE teachers retained similar title as teachers in regular schools in the payroll, for example, SNE teacher converted to C2 retained the name **Senior Teacher II** instead of **Primary Teacher II (SNE)**.
6. Admittedly, the Job titles in the Commission's payroll and those in the CPG 2018 are yet to be aligned with respect to SNE teachers.
7. This has been occasioned by the fact that the Government's payroll system which is managed by the State Department of Public Service has been undergoing re-configuration to facilitate migration to a new payroll system.
8. Despite the lack of change in the job title of SNE Teachers in the payroll, the Commission has ensured that the teachers are paid salaries that are commensurate to their designation. Accordingly, there has not been any discrimination on the salary structure of the SNE Teachers.
9. Noting the confusion created by the lack of change in the job title of SNE Teachers in the payroll, the Commission is working closely with the State Department of Public Service to align the grades for the Job Titles in the payroll to reflect those in the CPG.

General Committee Concerns

- (i) **Regarding effective communication with teachers during recruitment and promotion processes**, the TSC clarified that every teacher is eligible for automatic promotion to the next grade after three years. However, due to limited vacancies and the need to ensure equity and fairness, not all eligible teachers can be promoted simultaneously, necessitating a competitive selection process. The

TSC emphasized that unsuccessful candidates are considered for subsequent opportunities and are issued regret letters to acknowledge their applications.

- (ii) **On whether a classroom teacher could be promoted to the highest grade without holding a headship or management position**, the TSC explained that while this was possible in the past, the current structure under the Job Evaluation (JE) framework assigns higher ranks to administrators. The JE framework was developed through consultations with multiple stakeholders, including teachers. Notably, institutional heads continue to fulfil their roles as classroom teachers.
- (iii) **Regarding the balance between teacher demand and supply**, the TSC CEO noted that while budget constraints remain a significant challenge, the Commission regularly engages the Ministry of Education through advisory proposals. For example, the Ministry paused the training of P1 teachers for two years to facilitate the transition from P1 certification to diploma-level qualifications. The CEO underscored the importance of aligning teacher training projections with periodic advisory updates.
- (iv) **On the gradual implementation of the delocalization policy**, the TSC clarified that the process ensures seamless replacements for transferred teachers to avoid disruptions to learning.

Committee Resolutions

After deliberations, the Committee resolved to proceed with report writing for the petitions except **P/No. 46 of 2023 on Payment of Retirement Dues and Pension for Retired Teachers** which was pending engagement with the National Treasury and the Retirements Benefits Authority (RBA).

MIN./PPETC/2024/410:

CONSIDERATION OF P/NO. 40 OF 2023 REGARDING DELIMITATION OF ELECTORAL UNITS

Meeting with the IEBC

The CEO IEBC, Mr. Marjan Hussein Marjan appeared before the Committee and submitted as follows—

Introduction

1. The Independent Electoral and Boundaries Commission (IEBC) is a Constitutional Commission established under Article 88 of the Constitution.
2. Article 88 (4) outlines its mandate to conduct or supervise referenda and elections to any elective body or office established by the Constitution and any other election as prescribed by an Act of Parliament.
3. Specifically, Article 88(4)(c) of the Constitution provides that the IEBC is responsible for "the delimitation of constituencies and wards". Further, Article 82(1)(a), requires Parliament to enact legislation to provide for "the delimitation by the Independent Electoral and Boundaries Commission of electoral units for election of members of the National Assembly and County Assemblies."

4. Pursuant to the aforesaid requirement, Parliament enacted the Independent Electoral and Boundaries Commission Act, 2011 (the IEBC Act) effectively granting a lifeline to the provisions of Article 82(1)(a) as read together with the provisions of Articles 88 and 89.
5. In addition, under Sections 2, 4(c), 36 and the Fifth Schedule of the IEBC Act, CAP 7C, the IEBC was required to resolve all issues arising from the first review and therefore, complete the first review. Following the review, the Commission was required to publish its final report within a period of four (4) months of the date of appointment of its Chairperson and Members as provided under the IEBC Act.
6. By dint of Sections 2, 4(c), 36 and the Fifth Schedule of the IEBC Act, the IEBC resolved all issues, completed the first review of electoral boundaries and published the final report of the National Assembly Constituencies and County Assembly Order, 2012 dated 6th March, 2012 in the Kenya Gazette as Legal Notice No. 14 of 2012.

Response to the issues raised in the Petition

The IEBC noted the concerns raised in the Petition and responded as follows—

Complaints were raised after the last boundary delimitation exercise regarding the way 80 extra constituencies and 1450 county assembly wards were created.

7. The Interim Independent Boundaries Review Commission (IIBRC) was established pursuant to the Constitution of Kenya (Amendment) Act, No. 10 of 2008 as part of the four (4) main reform agendas towards electoral transformation. This was as a result of the aftermath of the disbandment of the Electoral Commission of Kenya (ECK), whose functions were subsequently spread between the IBRC and the Interim Independent Electoral Commission (IIEC).
8. The IIBRC Chairperson and eight Commissioners were duly appointed by the President and gazetted vide Gazette Notice No. 4796 of 12th May, 2009 and sworn into office on 18th May, 2010. The functions of the Commission were set out in section 41C of the said Constitution (Amendment) Act as being inter alia—
 - (a) To make recommendations to parliament on the delimitation of constituencies and local authority electoral units and the optimal number of constituencies on the basis of equality of votes taking into account:
 - i. Density of population, and in particular the need to ensure adequate representation of urban and sparsely populated rural areas;
 - ii. Population trends;
 - iii. Means of communication;
 - iv. Geographical features; and
 - v. Community of interest.
 - (b) To make recommendations to parliament on administrative boundaries, including the fixing, reviewing and variation of boundaries of districts and other units; and

- (c) And any other functions as may be prescribed by parliament.
9. This mandate was further modified by the new Constitution promulgated on 27th August, 2010 under paragraph 27 of the Sixth Schedule which charged the IIBRC with the mandate to determine the boundaries of constituencies and wards using the criteria mentioned in the Constitution.
 10. It was pursuant to this constitutional imperative that the IIBRC completed its work, determined eighty new constituencies in addition to the existing two hundred and ten and published the list in the print media on 17th November, 2010.
 11. Following this publication and determination of the disputes that ensued thereafter, the IEBC was required, pursuant to the provisions of paragraph 2 (1) (a) and (b) of the Fifth Schedule to the IEBC Act, to address the issues arising out of the first review by:
 - (a) Using as its primary reference material the report of the former Boundaries Commission (IIBRC) on the first review as adopted by the National Assembly; and
 - (b) Using as its secondary reference material, the report of the Parliamentary Committee on the report of the former Boundaries Commission on the first review.
 12. In carrying out the exercise, the IEBC sought to resolve issues arising from the first review as stated in paragraph 2(2) (a). (b) as follows:
 - (a) Re-distribution of such wards or administrative units in the affected constituencies as may be appropriate; and
 - (b) Subject to the Constitution, addressing issues of new constituencies falling outside the population quota as provided for by Article 89(6) of the Constitution.
 13. Pursuant to this, the IEBC conducted public participation to resolve all issues arising from the first review conducted by IBRC while sensitizing the publics on the proposed boundaries of constituencies and wards before the preparation of the final report.
 14. Any resultant disputes were handled through the appropriate dispute resolution fora, that is, the Courts. In strict adherence to the rule of law, the Commission implemented the decisions of the Courts.
 15. The next review of boundaries should have been undertaken and concluded not later than March 2024 but since the recruitment of Commissioners is pending no substantive constitutional functions can be discharged by the Commission.
 16. Articles 82(1) (a) and 89 confer upon the IEBC the mandate to review the names and boundaries of constituencies and the number, names and boundaries of wards. The criteria to consider in delimitation of electoral boundaries is espoused under Article 89.

17. The stipulated constitutional timelines for review of the names and boundaries of Constituencies is not less than eight (8) years and not more than twelve (12) years while the timelines for review of the number, names and boundaries of Wards is periodic.
18. The import of this, is that the eight-year period took effect in 2020 with the twelve-year outer limit terminating in March, 2024. The IEBC has not undertaken the delimitation of boundaries owing to vacancies in the membership of the IEBC.
19. It is imperative to point out that during the intervening period, the legislative framework on review of electoral boundaries morphed through various amendments to Acts of Parliament including but not limited to:
 - i. Section 36 of the IEBC Act, 2011;
 - ii. The Fifth Schedule to the IEBC Act (now spent) and
 - iii. Section 26 of the County Governments Act, 2012,
20. In the review of electoral boundaries, the IEBC has and continues to rely on the following legislative framework for purposes of compliance:
 - i. The Constitution of Kenya, 2010;
 - ii. The IEBC Act, 2011;
 - iii. The County Governments Act, 2012;
 - iv. The Urban Areas and Cities Act, 2011;
 - v. The Survey Act, 1961 (Rev 2020) and
 - vi. Statistics Act, 2006.
21. The term of the Commissioners lapsed on 17th January, 2023. Prior to that, IEBC had prepared a Boundaries Review Operation Plan (BROP) to provide a road map for the delimitation exercise. It used a phased approach as follows:

Phase I: Pre-Delimitation-Preparatory: Activities such as planning, development of documents, legal framework, capacity building, collection, and validation.

Phase II: Delimitation: Gazettement of intent to conduct delimitation, Conduct of stakeholder engagement and education, collection and analysis of memoranda, public hearing and gazette of descriptions of new electoral units and generation of new electoral maps.

Phase III: Post-Delimitation: Post-delimitation report, petitions and implementation of high court decisions.

22. The IEBC has not completed phase one while phases two and three are yet to commence. The pending work in phase one encompasses geo-data validation and capacity enhancement of all necessary staff.
23. It is worth noting that while vacancies exist within the membership of the Commission, the IEBC remains legally and constitutionally obligated to undertake the delimitation of boundaries. It is not clear whether the Constitution permits the timelines under Article 89 to be extended.

24. The IEBC invoked Section 29 of the IEBC Act and sought the guidance of the Attorney General whose office advised that the IEBC Secretariat cannot conduct functions under Article 88 (4) of the Constitution. The Attorney General also laid emphasis that the failure to conduct boundary delimitation would likely result in legal challenges as well as compromising the right to fair representation, political stability, social cohesion and electoral integrity.
25. In this regard, the IEBC in July, 2024, filed a Reference requesting an Advisory Opinion from the Supreme Court on how to proceed taking into account the lapsed constitutional timelines and absence of Commissioners necessary for the electoral process. The matter is pending before the Supreme Court.
26. As a matter of information and owing to the lacunae in the membership of Commissioners, the Commission has sought an advisory from the Supreme Court with regard to the lapsed timelines for delimitation of boundaries in order to get guidance on the next steps given the current legal crisis.
27. The IEBC craves for the Supreme Court's advisory opinion of the following issues—
 - i. Whether the applicant can undertake the process of delimitation of electoral boundaries and other electoral processes in the absence of Commissioners or the requisite quorum of Commissioners;
 - ii. Whether the applicant can conduct a review of the names and boundaries of constituencies and wards when the timelines envisage under Articles 89(2) and (3) as read together with Section 26 of the of the County Governments Act have lapsed; and
 - iii. Whether the constitutional timelines envisaged under the provisions of Articles 89(2) and 89(3) as read together with Section 26 of the of the County Governments Act can be extended, if so, by whom and under what circumstances.

Parliament has not developed a legal framework for the creation and determination of sub-locations that takes into account the obligation of the IEBC to progressively achieve population parity

28. The IEBC is guided by an elaborate legal framework streaming from the Constitution and operationalized by the IEBC Act and the Procedures for Delimitation of Electoral Units enacted by Parliament on 15th July, 2024.
29. Notably, during delimitation of electoral boundaries, the IEBC utilizes data resident in other state agencies. In addition, the respective agencies would be required to submit the necessary data to the IEBC to facilitate its process of delimitation of electoral boundaries.
30. Specifically, Kenya National Bureau of Statistics (KNBS) will submit population data which is in Geodata format.
31. As a matter of information, sub-locations are administration structures of the National Government. The sub-location population data is drawn from collating

enumerated population of contiguous enumeration blocks. It is neither a basic unit of population census nor elections.

The National Assembly to engage the relevant authorities and stakeholders to ensure the review of electoral units is carried out in a constitutionally compliant manner.

32. In pursuit of its electoral legal reform agenda, the IEBC ensures robust engagements and public participation with relevant stakeholders. Parliament enacted the IEBC (Amendment) Act, 2024 on 15th July, 2024, that provides the mechanisms for the IEBC to engage stakeholders on the delimitation of boundaries under the Fifth Schedule.
33. As such, the process of boundary delimitation would be able to be sufficiently undertaken under the current legal framework once the Commissioners are appointed. This is of course dependent on the advisory opinion that the supreme Court will render on the constitutional timelines for delimitation of electoral units.

Conclusion

34. The Commission notes with appreciation the intention of the Petition to ensure the delimitation of boundaries as provided under Article 89 is undertaken. However, for the reasons discussed above, the Commission submits that it cannot currently undertake delimitation and awaits further direction on the matter.
35. The Commission recommends that the process of recruitment of Commissioners be fast tracked to enable the Commission to discharge its constitutional mandate which includes delimitation of constituency and ward boundaries.

Committee Concerns

(i) Possible outcomes from the Supreme Court's determination

The Commission outlined potential outcomes from the Supreme Court's decision. If the Court allows the Secretariat to proceed with delimitation, the process can continue. However, a critical question remains about who has the authority to extend the guidelines. If the Commission's constitution is expedited, they can fulfill their mandate accordingly. The Supreme Court's involvement became necessary due to lapsed timelines. A bench has since been constituted to address the issues presented by the IEBC Secretariat.

(ii) Supreme Court's role vs. the Commission's independence

The CEO explained that the Supreme Court's role is to interpret the Constitution. The Court will likely consider the elapsed timelines, the rationale behind these timelines, and the circumstances following the departure of the Commissioners a year prior. It may examine which institution is responsible for ensuring a quorum within the Commission and whether external factors contributed to the delays. A purposive interpretation of the timeline provisions is needed. For instance, as the 2027 General Election approaches, a second review of boundaries is essential to avoid conducting

the election without updated delimitations. The Supreme Court may extend timelines, as delimitation must not exceed one year before the 2027 elections. Parliament may also need to amend the timelines legislatively.

(iii) **Fate of wards and constituencies without representatives**

The Commission clarified that byelection matters require intervention from the Commission itself. The Secretariat handles administrative tasks and implements the Commission's policy resolutions.

(iv) **Establishment of additional polling stations**

Citing Article 88, the Secretariat emphasized that establishing additional polling stations requires voter registration, which necessitates the presence of the Commission.

(v) **Livestreaming of presidential results**

Regarding efforts to bar the livestreaming of presidential results, the Commission explained that the proposal stemmed from the Election Amendment Bill 2024, which underwent public participation in the Senate. Section 39G of the Elections Act, enacted in 2017 during the period between the nullification of the 2017 presidential election and the fresh election on October 26, 2017, allowed livestreaming for public information only, excluding such results from official declarations.

After Parliament approved the Bill, the President declined to assent, and the Bill became law. However, the Katiba Institute and other civic organizations challenged this provision in court, which declared it unconstitutional. During public participation, it was suggested that the Elections Act be amended to reflect the court's ruling. As it stands, the transmission of election results in the 2027 General Election will proceed.

Committee Resolutions

After deliberations, the Committee resolved to proceed to write the report on the Petition with a view of responding to the Petitioner's prayers.

MIN./PPETC/2024/411:

ADJOURNMENT AND DATE OF NEXT MEETING

The Chairperson adjourned the meeting at 01:30 p.m. The next meeting will be held on Tuesday 3rd December, 2024.

Sign: 

Joa (CHAIRPERSON)

Date: *28/11/2024*



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

MINUTES OF THE 6TH SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON FRIDAY, APRIL 11, 2025, IN ACACIA A CONFERENCE ROOM, SAWELA LODGE, NAIVASHA AT 10.00. AM

PRESENT

1. Hon. Ernest Ogesi Kivai, M.P.	Chairperson
2. Hon. Joshua Chepyegon Kandie, M.P.	Member
3. Hon. Maisori Marwa Kitayama, M.P.	Member
4. Hon. Edith Vethi Nyenze, M.P.	Member
5. Hon. Bidu Mohamed Tubi, M.P.	Member
6. Hon. (Eng.) Bernard Nebart Muriuki, M.P.	Member
7. Hon. Peter Irungu Kihungi, M.P.	Member

APOLOGIES

1. Hon. Janet Jepkemboi Sitienei, CBS, M.P.	Vice-Chairperson
2. Hon. Patrick Makau King'ola, M.P.	Member
3. Hon. Nimrod Mbithuka Mbai, M.P.	Member
4. Hon. Beatrice Kadeveresia Elachi, CBS, M.P.	Member
5. Hon. Peter Mbogho Shake, M.P.	Member
6. Hon. Suzanne Ndunge Kiamba, M.P.	Member
7. Hon. John Bwire Okano, M.P.	Member
8. Hon. Sloya Clement Logova, M.P.	Member

SECRETARIAT

1. Mr. Ahmed Kadhi	Principal Clerk Assistant II
2. Ms. Roselyne Ndegi	Senior Serjeant-At-Arms
3. Ms. Patricia Gichane	Legal Counsel II
4. Mr. Willis Obiero	Clerk Assistant III
5. Mr. Calvin Karungo	Media Relations Officer
6. Ms. Nancy Akinyi	Research Officer III
7. Mr. Peter Mutethia	Audio Officer

MIN./PPETC/2025/026: PRELIMINARIES

The Chairperson called the meeting to order at 10:00 am. and proceedings began with prayers by Hon. Peter Irungu Kihungi, M.P.

MIN./PPETC/2025/027: ADOPTION OF AGENDA
AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of previous sittings
4. Matters Arising
5. Consideration of Public Petition No.40 of 2023 regarding Delimitation of Electoral Units;
6. Consideration of Public Petition No.46 of 2023 regarding Payment of Retirement Dues and Pension for Retired Teachers; and
7. Consideration of Public Petition No. 47 of 2023 regarding Deployment of Classroom Teachers as Headteachers in Schools Across the Country
8. Any Other Business
9. Adjournment

The Agenda was adopted to constitute business of the Meeting having been proposed by Hon. Peter Irungu Kihungi, M.P. and seconded by Hon. Edith Vethi Nyenze, M.P.

MIN./PPETC/2025/028: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Agenda was deferred.

MIN./PPETC/2025/029: CONSIDERATION OF PUBLIC PETITION NO.40 OF 2023 REGARDING DELIMITATION OF ELECTORAL UNITS

The Committee considered the draft report and made the following observations—

- (i) That pursuant to Article 89 (2) of the Constitution the timeline for the delimitation of boundaries and review of names and boundaries lapsed in March 2024.
- (ii) That at the time of considering this report the recruitment process of the IEBC Commissioners was ongoing consequently there was no Commission to discharge the mandate under Article 89 of the Constitution.
- (iii) Pursuant to Article 82 (1)(a) the Independent Electoral and Boundaries Commission Act was amended in July 2024 to provide a framework for the delimitation process in part IIIA of the Act and the Fifth Schedule of the Act.
- (iv) That the issue of sublocations as raised by the Petitioner was distinct from the issue of delimitation as they do not equate to electoral units but are administrative units.
- (v) Wards and sublocations may overlap however the process of creation of these two units are distinct. The IEBC has the mandate for the creation or review of new electoral units while the Cabinet Secretary Ministry of Interior has the power to gazette sublocations for service delivery pursuant to Section 14 of the National Government Co-ordination Act 2013.

- (vi) On the issue of the twenty-seven (27) constituencies in section 27(4) of the Sixth Schedule of the Constitution that were saved during the first review, the committee observed that pursuant to Article 89 (2) the Commission has the mandate of review of boundaries for Constituencies and therefore Parliament cannot dictate over the process of review.
- (vii) On the issue of the Boundaries Review Operations Plan (BROP) by IEBC, the committee observed that the Plan was not in the public domain.

Committee Resolutions

After deliberations, the Committee resolved to adopt the report with the following recommendations—

- (i) On the prayer that the National Assembly through the Public Petitions Committee engages the relevant authorities and stakeholders to take a more proactive role to ensure the review of the electoral units is carried out in a constitutionally compliant manner including meeting the deadline established under Article 89(2) of the Constitution, the Committee recommends that—
 - (a) Upon reconstitution of the Independent Electoral and Boundaries Commission, the Commission should commence the delimitation process expeditiously with a view to concluding the process in compliance with Article 89 (4);
 - (b) Upon reconstitution, the IEBC appraises the National Assembly Departmental Committee on Justice and Legal Affairs on the Boundaries Review Operations Plan (BROP) within three months from the date of reconstitution;
- (ii) On the issue of provision of a framework for the creation and determination of sub-locations, the Committee recommends the amendment of section 14 of National Government Coordination Act to provide criteria for determination of sub-locations.

MIN./PPETC/2025/030:

CONSIDERATION OF PUBLIC PETITION NO.46 OF 2023
REGARDING PAYMENT OF RETIREMENT DUES AND
PENSION FOR RETIRED TEACHERS

The Committee considered the draft report and made the following observations—

- (i) There was a significant delay in the processing and payment of pension benefits to retired teachers attributed to among others incomplete documentation required to support pension dues, succession disputes, and court cases stopping processing of pension claims pending determination among others.
- (ii) Lack of coordinated effort between the Teachers Service Commission (TSC) and the National Treasury due to delays and challenges experienced from the time of

submission of the pension claims by the TSC to payment of the same by the National Treasury.

- (iii) The Teachers Service Commission as of 1st July, 2024 had submitted to the Director of Pensions a total of 35,254 pension claims for the period between 2019 and 2023 for all teachers across the country out of which 5,016 claims were still pending due to incomplete documents, court injunctions and succession related disputes.
- (iv) The mandate to pay pensions claims falls under the ambits of the National Treasury pursuant to the provisions of the Pension Act and not the Teachers Service Commission
- (v) The TSC had committed to submit all the pending cases to the National Treasury by 31st December, 2024 ensuring that no claim remained outstanding beyond that date. It therefore followed that, all the affected twenty-one (21) retired teachers from Mwatate Constituency had been paid their pension benefits in full and enrolled on the Treasury's monthly payroll on diverse dates between the years 2022 to 2024 as highlighted in paragraph 42.
- (vi) The National Treasury in collaboration with the Teachers Service Commission (TSC) had undertaken various measures to expedite the processing of retirement benefits to teachers including data verification and clean-up exercise, coordination with the courts to fast track determination of matters halting processing of pensions claims and enhancement of communication channels to keep retirees and beneficiaries informed on the status of their claims among other initiatives.
- (vii) The National Treasury was engaged in modernizing pension administration to improve service delivery aimed at fast tracking processing and payment of pension benefits to retirees across the country.
- (viii) The delays had been occasioned among others by submission of incomplete documents by the retired teachers or their beneficiaries, court cases and succession disputes.
- (ix) In light of the affected petitioners, the Commission had prepared and submitted to the Director of Pensions, pension claims of all the twenty-one (21) petitioners on various dates as indicated in Table 1 in the Report and the same were processed and paid to the affected teachers between the periods 2022 and 2024.
- (x) The the affected teachers had already been paid their retirement benefits and enrolled with the National Treasury's monthly payroll.
- (xi) The National Treasury had deployed officers to all Huduma Centres across the Country to manage pension benefits for retired civil servants.

Committee Resolutions

After deliberations, the Committee resolved to adopt the report with the following response to the petitioners—

- (i) On the prayer that the Committee engages the TSC to establish the circumstances that have occasioned the delayed payment of retirement benefits to the retired teachers in Mwatate Constituency, the Committee engaged TSC and notes that TSC's only prepares pension claims and forwards them to the Director of Pensions at the National Treasury for processing and payment.
- (ii) On the prayer that the Committee engages the TSC to provide data and statistics of all unpaid retired teachers in the entire country and indicate when they will pay all the retirement dues of the said teachers, the Committee engaged TSC and notes that as of 1st July, 2024, the Teachers Service Commission had prepared and submitted 35,254 Pension Claims to the Director of Pensions at the National Treasury for all retired teachers across the country, out of which 5,016 were pending due to incomplete or lack of statutory documents to support pension claims, succession related disputes between beneficiaries and injunctive orders from the courts stopping processing of some of the claims pending court's determination

The Committee therefore recommends that the Teachers Service Commission in liaison with the National Treasury—

- (i) Streamline processes which are essential in expediting pension claims for teachers and improves accountability through digital verification systems for all claims.
- (ii) Develop an up-to-date database that tracks unpaid retirement claims for teachers across the country and fast-track payment of the claims.
- (iii) Establish a communication framework on delay in payment of pension claims to the affected teachers on time through designated offices in the forty-seven (47) counties.
- (iv) Establish designated complains contact centers in every County where teachers can report fraudulent activities and seek guidance regarding the processing of claims in order to mitigate fraud targeted at the vulnerable retirees;
- (v) Sensitize teachers on the pension process, specifically, on the GP178 Form with a view of simplifying the pension process and enhancing efficiency and user friendliness.
- (vi) The National Treasury develops a National Retirement Benefits Policy aimed at improving governance within retirement schemes to ensure sufficient income security and allow for dignified post-retirement lives for retirees.
- (vii) The Ministry of Public Service and Human Capital Development in liaison with the National Treasury to deploy more Pension Officers to all Huduma Centres to

enhance accessibility and efficiency in the management of pension benefits for public servants and ensure all retirees.

MIN./PPETC/2025/031:

CONSIDERATION OF PUBLIC PETITION NO. 47 OF 2023
REGARDING DEPLOYMENT OF CLASSROOM TEACHERS
AS HEADTEACHERS IN SCHOOLS ACROSS THE
COUNTRY

The Committee considered the draft report and made the following observations—

- (i) In 2015/2016, the Commission in consultation with the Salaries and Remuneration Commission (SRC) conducted a Job Evaluation (JE) for the Teaching Service that proposed a new grading and remuneration structure for teachers in the Public Service. The main objective of the JE exercise was to determine the relative worth of the jobs/assignments within the teaching service with a view to link teacher remuneration and benefits to the respective responsibility assigned to them.
- (ii) The Job Evaluation exercise introduced among others the position of Senior Master in post primary institutions, Responsibility-Based Grading System, remuneration structure replacing the Qualification-Based System, removal of Responsibility Allowance and substantive appointment to administrative positions in teaching service.
- (iii) Prior to the JE exercise, teachers' job groups were not in sync with their responsibilities and the 2017-2021 CBA between the Commission and teacher unions was meant to address disparities by categorizing the teaching service into two groups namely the Administrators comprising of Head teachers, Deputy Head Teachers and Senior Teachers in Primary Schools and Non-Administrators comprising of classroom teachers in Job Groups H, J and G.
- (iv) In 2017, before the Job Evaluation and signing of the 2017-2021 CBA, the Commission advertised for promotions of teachers to Job Group M and consequently, all the 9 Petitioners, successfully applied for the promotion and accordingly were competitively promoted to Senior Graduate Teachers, at Job Group 'M' with effect from May, 2017. Thereafter, in July 2017 in accordance with the recommendations of the JE and the terms of 2017-2021 CBA, the Commission converted teachers into the new Job Grades and all the nine (9) Petitioners who were then in Job Group M were converted to Grade C5 under the category of non-administrators in the new grading system.
- (v) Teachers who were holding administrative grades and were in Job Group M and N were converted to Job Group D1 while teachers not holding any administrative positions but in similar job groups were converted to C5. Conversions were based on two factors namely; position a teacher was holding at the time of conversion and the job group they were in. Accordingly, the teachers were correctly converted in line with the existing policy.

After deliberations, the Committee resolved to adopt the following recommendations—

- (i) On the prayer that the Committee engages the TSC to review the salaries and allowances of the deployed teachers and place them at par with their colleagues who had undergone the same interview and became headteachers before the 2017 July CBA, the Committee recommends that Teachers Service Commission sensitizes all teachers on the outcome of the job evaluation of 2015/2016, and the conversion process in 2017 and any other future job evaluation outcomes.
- (ii) On the prayer that the Committee engages the TSC to pay the teachers their arrears from the period between their deployment as headteachers till now, the Committee recommends rejects the prayers the prayer on the premise that the outcome of the job evaluation in 2015/2016 and the subsequent conversion process in 2017 from the previous grading structure.

The Committee further recommends that—

- (i) The Teachers Service Commission continuously appraises the National Assembly on its periodic reviews of career progression policies including Career Progression Guidelines to enhance transparency in its processes;
- (ii) The Teachers Service Commission continuously sensitizes all teachers on job evaluation and conversion processing; and
- (iii) The National Assembly considers appropriating funds in subsequent financial years 2025/2026 for promotion of teachers to address the concerns raised in the petition.

MIN./PPETC/2025/025:

ADJOURNMENT AND DATE OF NEXT MEETING

The Chairperson adjourned the meeting at 11:45 a.m. The date of the next meeting will be Friday, 11th April 2025.

Sign: 

(CHAIRPERSON)

Date: 23/04/2025