

COUNTY GOVERNMENT OF LAMU



LAMU COUNTY PUBLIC SERVICE BOARD



DISCIPLINE MANUAL FOR THE COUNTY PUBLIC SERVICE

MARCH, 2019

**DISCIPLINE MANUAL FOR THE COUNTY
PUBLICSERVICE**

MARCH, 2019

FOREWORD

Disciplinary control in the public service is one of the Lamu County Public Service Board's functions as stipulated under Article 234 (2) (b) of the Constitution. Public officers are expected to maintain integrity and uphold the dignity of the office to which they are appointed. It is therefore imperative that every public officer adheres to the rules of conduct and ethics as laid out in the law. While exercising the powers of disciplinary control, the Board is alert to the fundamental principles of natural justice.

I consider that discipline in the service should be viewed not only from the aspect of imposing a punishment against the officer or deterring other officers from committing similar misconducts but also, as a way of moulding and developing a positive attitude in the officer. The ultimate objective of discipline is to create a motivated and dedicated officer who upholds proper work ethics for optimal service delivery. The easiest way to uphold discipline is to emphasize on self-discipline, that is, the conscious deliberate decision to comply with what is expected.

The first discipline manual was developed in September, 2007 to guide the process of handling disciplinary cases in the public service. Following the promulgation of the Constitution of Kenya, 2010 and enactment of the Public Service Commission Act 2012 there was need to

review the manual and realign the procedures as per the Constitution and the relevant legislation. It is expected that this manual will address any inconsistencies in the finalization of discipline cases. The manual, however, is not intended to replace Service regulations or any other relevant laws.

It is my hope, that this revised manual will play a vital role in exercising disciplinary control in the public service.

Ali M. Mbwarali
CHAIRPERSON,
LAMU COUNTY PUBLIC SERVICE BOARD

PREFACE

The Board has reviewed regulations including those that govern disciplinary control in conformity with the Constitution. In an effort to enhance consistency in handling discipline cases, the Board has revised the discipline manual to guide the ministries/state departments.

The Manual provides general guidelines and procedures to be followed in handling and finalizing of discipline cases. I am convinced that the revised Manual will greatly improve delivery of the discipline control function in the public service.

Mr. Fadhil Maamun
SECRETARY/CEO,
LAMU COUNTY PUBLIC SERVICE BOARD

DEFINITION OF TERMS

<i>‘Authorized Officer’</i>	any officer, body or authority to whom the Lamu County Public Service Board has delegated any of its functions.
<i>‘Allow’</i>	to accept an appeal or review.
<i>‘Appellant’</i>	an individual/organization appealing against a decision or process that is thought to be incorrect or unfair.
<i>‘Appeal’</i>	to apply for there-examination of a decision or process.
<i>‘Applicant’</i>	an individual requesting the Commission to review its decision.
<i>‘Application for Review’</i>	means to request that a decision be reconsidered due to new facts, evidence or a mistake that has been noted.
<i>‘Authority’</i>	means institutionalized and legal power inherent in a particular job, function, or position that is meant to enable its holder to successfully carry out his or her responsibility.

<i>‘Commission’</i>	means the Public Service Commission established under Article 233 (1) of the Constitution.
<i>‘Constitution’</i>	the Constitution of Kenya, 2010.
<i>‘Conviction’</i>	being found guilty as charged.
<i>‘County government’</i>	the county government provided for under Article 176 (1) of the Constitution
<i>‘Criminal offence’</i>	a misconduct that breaches governing laws or rules.
<i>‘Disallow’</i>	to reject an appeal or application for review.
<i>‘Delegated powers’</i>	those functions for which the Lamu County Public Service Board is responsible for but have been assigned to Authorized Officers.
<i>‘Discipline’</i>	conforming to service rules and regulations which prescribe expected conduct and behaviour of individual officers

<i>'Disciplinary Control'</i>	due process of justice and any lawful punishment.
<i>'Interdiction'</i>	barring an accused officer from performing official duties to give room for further investigation of the case.
<i>'Minor offence'</i>	any crime which upon conviction the imprisonment is six months or below.
<i>'Major offence'</i>	a serious crime which upon conviction the imprisonment is over six months (6)
<i>'Penalty'</i>	a punishment imposed for a violation of law or rule.
<i>'Public Office'</i>	an officer in the public service
<i>'Public Officer'</i>	any person holding or acting in any public office
<i>'Show cause letter'</i>	a letter requiring an officer to explain why disciplinary action should not be taken against him or her on account of misconduct.
<i>'Suspension'</i>	barring an accused officer from performing the functions of a public office on account of gross misconduct or

conviction of a serious criminal offence
pending finalization of a case.

ABBREVIATIONS

CHRAC County Human Resource Advisory
Committee

HRMAC Human Resource Management Advisory
Committee

HRM&D Human Resource Management and
Development

PSB Public Service Board

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PART ONE—BACKGROUND

INTRODUCTION

The Lamu County Public Service Board is constitutionally mandated to exercise disciplinary control over persons appointed to hold offices in the county public service. To effectively deliver this function, the Board developed the first Discipline Manual in 2015 to guide the process of handling disciplinary cases in the county public service.

Consequent to the development of new policy documents by the public service commission in the year 2016, the board found it necessary to review the Manual and realign the procedures to the new PSC policy guidelines.

The Manual does not substitute the service regulations made by the Board, Commission or any law made by Parliament as the case may be, but it is meant to guide the user. The user is therefore required to read the Manual alongside the following documents:

- (a) Constitution of Kenya
- (b) County Government Act, 2012
- (c) Public Service Commission Act, 2012
- (d) Fair Administrative Action Act, 2015

- (e) Public Service (Values and Principles) Act,2015
- (f) Employment Act,2007
- (g) Labour Institutions Act,2007
- (h) Labour Relations Act,2007
- (i) The Work Injury Benefits Act,2007
- (j) The Occupational Safety And Health Act,2007
- (k) Public Officer Ethics Act(2003)
- (l) Ethics and Anti-Corruption Commission Act,2011
- (m) Prisons Act (Cap90)
- (n) Pensions Act (Cap189)
- (o) County Human Resource Policies and Procedures
2017
- (p) Penal code
- (q) General circulars issued by the Government from time
to time.
- (r) Any other law governing public service and employment.

1.1 SCOPE

This Manual provides general guidelines and instruments to be used by the Board and Lamu County Departments in handling discipline cases.

1.2 OBJECTIVES OF THE MANUAL

One of the functions of the Lamu County Public Service Board as

outlined in the County Government Act 2012 is to under section 59 1(c), exercise disciplinary over and remove person holding or acting in the County Public Offices.

In an effort to carry out this function efficiently and effectively the Board has revised the discipline Manual for use by County Departments.

The objectives of the Manual are to:-

- (i) Define discipline and understand its meaning in the context of the existing public service regulations.
- (ii) Define standard procedures for uniformity in handling disciplinary cases.
- (iii) Outline the steps in disciplinary procedures and processes.

PART TWO – GUIDING PRINCIPLES

2.0 INTRODUCTION

The Constitution, under Article 235 (1) (c) and the County Government Act Section 59 (1) (c) vests the Lamu County Public Service Board, on behalf of the county Government the power to exercise disciplinary control over County Public Officers. Disciplinary control is an integral part in the management of human resource in the County Public Service. It is intended to help and encourage County public officers to achieve and maintain standards of conduct, contribute to improved performance and productivity. It is based on principles of fairness as envisaged in the Constitution and other enabling legislations. Where applicable, other alternative intervention mechanisms need to be explored.

2.1 GUIDING PRINCIPLES

The disciplinary control in the County Public Service is governed by the following principles:

- (a) The rules of natural justice:
 - (i) Procedural fairness, where an officer must be allowed adequate opportunity to prepare and present his/her case;
 - (ii) The deciding authority must be unbiased when hearing and making decisions;

- (iii) Decisions must be based upon logical proof or evidential material.
- (b) Fair administrative action which is expeditious, efficient, lawful, reasonable and procedurally fair. Every officer to whom disciplinary action is taken has a right to:
 - (i) Written reasons for any disciplinary action that is taken against him/her;
 - (ii) Prior and adequate notice of the nature and reasons for the intended disciplinary action;
 - (iii) An opportunity to be heard and to make representations in that regard;
 - (iv) An opportunity to attend proceedings in person or in the company of an expert of his choice, cross examine persons who give adverse evidence against him and request for adjournment of proceedings where necessary;
 - (v) Notice of the right to legal representation, where applicable;
 - (vi) Notice of a right to an appeal or review against a disciplinary decision;
 - (vii) Information, materials and evidence to be relied upon in making a decision or
 - (viii) Taking a disciplinary action.

2.2. ALTERNATIVE INTERVENTIONS IN THE DISCIPLINE PROCESS

Alternative interventions are an effort, undertaken by an employer, to address employee misconduct using a method other than traditional disciplinary action. This may, under the right circumstances, be a more efficient and more effective approach than traditional discipline. While alternative intervention requires more thoughtful decision-making and thus poses a greater challenge for supervisors than traditional discipline, the results can be worth the time and effort. Alternative intervention may result in modified behavior if used early in the discipline process for less serious offences but may not be effective in more serious issues or habitual offences. The appropriateness of the particular approach will vary based upon the nature of the offence and personality of the individual whose conduct needs correcting.

Alternative discipline interventions in the County Public Service can take many forms such as counseling, guidance, training or dispute resolution.

(a) Counseling

A counseling intervention is not a discipline action, as its purpose is not to create a negative experience, but rather to communicate helpful information and provide necessary support in management of psychological challenges. The County Government shall establish

County Public Service Guidance and Counseling Services Unit. The County departments should refer officers to this unit for Counseling.

(b) Guidance and Training

Traditional disciplinary action is not appropriate for situations in which an officer is trying hard to do well, but performs poorly despite his/her best efforts. Guidance and training is an intervention which can be used by supervisors to address poor performance of an officer when there is no misconduct contributing to the problem. Supervisors have the responsibility to have regular meetings with employees to explain workplace rules or whenever an employee is unclear about management expectations. Supervisors should also identify individual officer's shortcomings which can be addressed through training and recommend appropriate training. The training intervention may include; role play, coaching, mentoring, induction and job rotation.

(c) Dispute Resolution Mechanism

Dispute Resolution Mechanisms can be used effectively to resolve, reduce, or even eliminate workplace disputes that might come from a circumstance where disciplinary action is appropriate. Alternative dispute resolution affords an opportunity to create solutions that are uniquely tailored to address issues at hand. The method shall be applied in accordance with the set Guidelines.

When applying alternative interventions the following should be

observed:

- (i) The specific offense/short coming that needs to be addressed;
- (ii) Officer's admission of wrongdoing/willingness to participate in the appropriate intervention;
- (iii) The specific form of alternative intervention that will be used and its duration; and
- (iv) Notification of the possible penalty for a subsequent offense.

PART THREE—DELEGATION OF POWERS AND INSTITUTIONAL FRAMEWORK

3.1 DELEGATION OF POWERS TO AUTHORIZED OFFICERS

The Lamu County Public Service Board has delegated the following disciplinary powers to Authorized Officers as per the Lamu County Public Service Board regulations and instructions issued to the service from time to time—

- (i) Interdict any public officer;
- (ii) Suspend any public officer;
- (iii) Inflict a severe reprimand or a reprimand on any officer;
- (iv) Stop any public officer's pay or salary;
- (v) Recovery of the cost or part of the cost of any loss or breakage caused by default or negligence, provided no such cost has been recovered by surcharge action under the appropriate financial instructions or regulations;
- (vi) Withholding, deferment and stoppage of salary increment.

Where the powers have been delegated, the cases shall be considered and finalized at the County Department level through the County Human Resource Management Advisory Committee

A person who is dissatisfied with a decision made by the Committee

(CHRMAC) in exercise of delegated powers has a right of appeal to the Board through the Authorized Officer within a period of four weeks from the date of communication.

3.2 INSTITUTIONAL FRAMEWORK

The institutional framework for handling disciplinary cases is as follows:

(a) Head of Department:

Reports the misconduct to the Authorized Officer at the County department.

(b) Authorized Officer (Chief Officer)

(i) Analyzes the misconduct and commences the disciplinary action by issuing a show cause letter.

(ii) Summarizes the cases upon receipt of the officers' representations, if any, and submits the case to the CHRMAC.

(c) Director, HRM&D:

(i) He/she is the secretary to the CHRMAC and provides technical advice;

(ii) Communicate to the Board the recommendations of the CHRMAC

- (iii) Implements the decisions of the CHRMAC and Authorized Officer
- (d) CHRMAC:
 - Deliberates on the case and makes recommendations to the Board on the next course of action.
- (e) County Secretary:
 - (i) He/She is the Chairperson to the CHRMAC.
 - (ii) Implements the decision of the board.
 - (iii) Communicate the decisions of the board to the affected officers.
- (f) County Public Service Board:
 - (i) Considers the recommendations of the CHRMAC, make decisions and communicates the same to the office of the County Secretary
 - (ii) Hears and determines appeals in relation to delegated powers.
 - (iii) Forwards appeals with comments and recommendations to the Public Service Commission for decision where applicable
- g) Public Service Commission
 - i. Receive, hear and determine appeals and reviews from officers who are dissatisfied with decisions made by the County Public Service Board.

PART FOUR – DISCIPLINARY PROCEDURE

4.1 GENERAL PROVISIONS

The following shall be observed while processing discipline cases:

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

- (f) Thorough investigation of an alleged offence shall be undertaken before any disciplinary action is taken.
- (g) Application of other interventions in resolving discipline cases such as counseling and dispute resolution mechanisms.
- (h) Right of appeal and application for review of disciplinary related decisions.
- (i) Disciplinary cases shall be dealt with promptly and finalized within a period of six (6) months. Where it is found impracticable to do so the Authorized Officer shall report individual cases to the Lamu County Public Service Board explaining the reason for the delay.

4.2 SPECIFIC PROVISIONS

(a) Procedure to be followed in initial disciplinary action

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

warning should be given to the officer by his or her supervisor. The warning letter should state the exact nature of offence(s) and indicate future disciplinary action which will be taken against the officer if the offence is repeated.

Where an officer fails to reform despite being issued with verbal and written warnings, or where he or she commits serious offence(s) as those referred to in Section 4.6 of this Manual, the following procedure shall apply:

(b) The Procedure to be followed by the Authorized Officers in respect of officers in Job Group ‘M’ and above:

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

Committee (CHRMAC) for deliberation and recommendation.

- v. In the event the investigation reveals further offence(s) against the officer, a new show cause letter shall be issued to him or her and the steps in (iii) to (iv) above shall apply.
- vi. Thereafter, the case shall be forwarded to the Board with the CHRMAC comments, recommendation, material evidence, records and other requirements as outlined in Section 4.9 of this Manual.
- vii. However, if the Board is of the opinion that further investigation is necessary before a decision is made, it will direct the CHRMAC to do so.

(c) The procedure to be followed in respect of officers in Job Groups ‘L’ and below but who have qualified for pension:

All cases of dismissal from the service, reduction in rank or seniority in respect of officers in Job Groups ‘L’ and below who have qualified for pension benefits, shall be dealt with by the Authorized officer as is in cases of officers in Job Groups ‘M’ and above as outlined in (b) above.

(d) The procedure to be followed in respect of officers in Job Groups ‘L’ and below but who have not qualified for pension:

- i. All the steps in (b) (i-iv) above shall be observed and where the Authorized Officer is of the opinion that further investigation is not necessary, he/she shall decide on the punishment to be inflicted on the accused officer.

ii. Where the Authorized Officer finds it necessary to carry out further investigation, the requirements for carrying out investigations as indicated in Section 4.8 of this manual shall be observed.

iii. On receipt of the investigation report, the Authorized Officer shall decide on the appropriate action based on the recommendations of the CHRMAC.

4.3 INTERDICTION

The interdiction process entails the following:

(a) An officer may be interdicted where gross misconduct which is likely to lead to dismissal is reported and requires investigation or a report that an officer has been charged in criminal proceedings is received.

(b) If the case relates to a criminal charge, the officer is served with an interdiction letter, a sample of which is provided in *Appendix I*.

(c) If the misconduct is one which can lead to dismissal but is not of criminal nature the officer shall be served with a ‘show cause letter’ which shall also contain a communication on interdiction, a sample of which is provided in *Appendix II*.

(d) A public officer on interdiction shall be entitled to half of his basic salary, full house allowance and medical insurance cover.

(e) A public officer who is on interdiction should not leave the duty station without the permission of the Authorized Officer or any other public officer who is empowered to give such permission.

(f) A public officer whose interdiction has been lifted shall promptly be served with a decision letter, a sample of which is provided in *Appendix III*. Any withheld salary, allowances and benefits will be restored with effect from the date it was withheld.

4.4 SUSPENSION

Suspension process is as follows:

(g) If a public officer has been convicted of a serious criminal offence or is found culpable of a gross misconduct which can lead to dismissal, he or she shall be served with a suspension letter, a sample of which is provided in *Appendix IV*.

(h) A public officer who is on suspension shall not leave the duty station without the permission of the Authorized Officer or any other public officer who is empowered to give such permission.

(i) A public officer who is on suspension shall not be entitled to any salary but shall be paid full house allowance, and medical allowance or medical insurance premium remitted whichever is the case.

(j) A public officer whose suspension has been lifted shall promptly be served with a decision letter, a sample of which is provided in *Appendix V*. Any withheld salary, allowances and benefits shall be

restored with effect from the date it was withheld.

Interdiction and suspension shall be lifted by the Authorized Officer on recommendation by the CHRMAC.

4.5 ABSENCE FROM DUTY WITHOUT LEAVE

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

- a) Establish the exact dates the officer was absent from duty. If not traced through personal contacts and next of kin within a period of ten (10) days from the commencement of such absence, the salary and other remunerative allowances shall be stopped with effect from the date of absence, and a report of the missing officer be made to the nearest police station and the Board for appropriate action.
- b) The officer shall be addressed a registered 'show cause letter' through his/her last known address, giving a reasonable period within which to respond but not less than ten (10) days. The nature of the offence and the contemplated action shall be stated clearly in the letter. A scanned copy of the show cause letter may be sent to the officer through electronic mail. (Sample letter is provided as *Appendix VI*.)
- c) If the officer does not respond, the case shall be submitted to the County Human Resource Management Advisory Committee which

shall make a recommendation to the relevant authority empowered under the regulations for decision.

- d) If the officer has responded, the representations shall be analyzed alongside the charges and the findings submitted to the relevant departmental committee for recommendation to the Authorized Officer.
- e) The decision of the Board or CHRMAC and the right of appeal or application for review shall promptly be communicated to the officer.
- f) Such decisions will also be communicated to the relevant professional body, where applicable.

4.6 RETIREMENT IN THE PUBLIC INTEREST

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

- (a) the public officer has nevertheless raised a mitigating factor which renders imposition of a punishment too harsh in view of the circumstances of the case;
- (b) the length of service, benefits accrued and previous good record of the public officer justifies the retirement;

- (c) imposing a punishment against the public officer is likely to adversely affect the reputation of the public body concerned or the public service generally:

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

- (d) The Authorized Officer shall address a letter, a sample of which is provided in *Appendix VII*, requiring an officer to show cause why he or she should not be retired on grounds of public interest and stating a reasonable period within which he/she must respond.
- (e) The public officer's representations shall be submitted to the CHRMAC for deliberation and recommendation on the case.
- (f) The details of the case and the CHRMAC recommendations shall be submitted to the Board for decision.
- (g) Where the Board is of the opinion that an alternative punishment be applied, the case shall be returned to the CHRMAC with instructions that a fresh show cause letter be issued in line with the contemplated disciplinary action.
- (h) Where the Board concurs with the recommendation, the County Secretary shall convey the Board's decision to the officer, informing him/her of the benefits, if any and the

right of application for review within the time provided for in the regulations as per the sample letter provided in *Appendix VIII*.

4.7 OFFENCES UNDER GROSS MISCONDUCT

The offences that amount to gross misconduct which may lead to summary dismissal are, but not limited to the following:

- i. Negligence of duty;
- ii. Intoxication during working hours;
- iii. Using abusive or insulting language or behaving in a manner likely to cause a breach of the peace;
- iv. Insubordination;
- v. Criminal conviction;
- vi. Incarceration for more than fourteen (14) days following arrest for cognizable offence;
- vii. Willful destruction of government property;
- viii. Theft by public servant;
- ix. Unauthorized use or disclosure of confidential information;
- x. Falsification of information or references on appointment; and
- xi. Acceptance of any bribe, secret profit or unauthorized commission.

4.8 PUNISHMENTS

All punishments inflicted on a public officer shall be within the law and the County Public Service Board Regulations. The following are the punishments which may be inflicted on officers facing disciplinary action:

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

4.9 REQUIREMENTS FOR CARRYING OUT INVESTIGATIONS

Accurate evidence is the foundation of fairness in discipline cases and this can be achieved through investigation of alleged offences. Such investigations should be carried out by committees appointed in writing by the Authorized Officer stating the terms of reference and specific timeline within which to carry out the investigation.

While carrying out the investigations the following shall be observed:

- i. Investigating committee should comprise officers senior to the accused officer and should not have dealt with the case before.
- ii. The team should comprise of not less than three (3) officers (where the team is more than three members, the team shall consist of an odd number).
- iii. The officer under investigation must be interviewed by the investigating committee.
- iv. The investigating committee shall record details of any matters which may aggravate or mitigate the case.
- v. After listening to all witnesses and studying all the documents, the committee shall sum up the case and record its findings as evaluated against the evidence.
- vi. The investigation report submitted to the CHRMAC shall not contain any recommendation on the form of punishment to be inflicted on the accused officer but should contain:
 - (a) A statement on whether the charges against the officer have been proved.
 - (b) Evidence collected by the team, including any statements by witnesses;
 - (c) Analysis of the evidence and statements; and

(d) Details on any matter that may affect the gravity of the case if any.

- v. Where further investigations are required as provided for in the regulations, such investigations shall be conducted in accordance with the process in (a) to (d) above.

4.10 CHECKLIST FOR SUBMISSION OF CASES TO THE BOARD

County Departments shall present cases to the Board in the format prescribed, a sample of which is provided in *Appendix IX*. When submitting cases to the Board, the following must be provided:

- 4.10.1 The officer's personal files.
- 4.10.2 Authorized Officer's comments on each and every issue raised by the accused officer and recommendations.
- 4.10.3 Investigation report and material evidence where applicable.
- 4.10.4 Signed CHRMAC minutes.
- 4.10.5 All correspondence related to the matter.
- 4.10.6 Details of any matter which may aggravate or alleviate the gravity of the case.

PART FIVE — APPEALS AND REVIEWS

5.0 RIGHT OF APPEAL AND APPLICATION FOR REVIEW

Any officer dissatisfied by the decision of the CHRMAC may decide to appeal to the Board. If an officer is dissatisfied with the decision of the Board he/she may appeal to the Commission. If the officer is further dissatisfied with the decision of the Commission he/she may apply to the Commission for review of the decision. A right of appeal or review shall be communicated to the concerned officer in the letter containing a decision which may be appealed against or reviewed as the case may be.

5.1 LODGING AN APPEAL OR APPLICATION FOR REVIEW

The process of lodging an appeal or application for review is as follows:

- (a) All appeals in relation to delegated powers shall be made in writing to the Board within two weeks from the date of letter conveying the decision.
- (b) All appeals and applications for review to the Public Service Commission shall be in writing and made within a period of forty-two (42) calendar days and one (1) year respectively, from the date of the letter conveying the decision. The Commission may entertain an appeal or application for review out of time if, in the opinion of the Commission, the circumstances warrant it.

- (c) All appeals shall be addressed to the Secretary, Lamu County Public Service Board through the Authorized Officer who shall give comments and a recommendation on issues raised in the form provided for in *Appendix IX*. The officer may submit an advance copy to the Board.
- (d) While forwarding his/her appeal or application for review, an officer may submit an advance copy to the Commission.
- (e) An appeal shall be accompanied by copies of all material evidence or documents that the appellant wishes to rely on.
- (f) All appeals and applications for review shall be forwarded to the Commission even where they are made out of time.
- (g) Decisions on appeals shall be promptly conveyed and the officer informed of the right of application for review.

PART SIX — COURT CASES

6.0 HANDLING COURTCASES

In the event that the County Government is taken to court in matters relating to the Board's disciplinary powers, including where the powers have been delegated, the following shall apply:

- a. County Departments shall promptly bring to the attention of the Board the filing of such court cases and forward all the relevant information as well as documents relating to the case.
- b. County Departments shall ensure that they cooperate with the Board in availing evidence and witnesses as may be required for successful handling of court cases.
- c. Court decisions shall be complied with in consultation with the Board unless a notice of appeal has been filed.

PART SEVEN – APPENDICES

Appendix I	Interdiction following a criminal charge
Appendix II	Interdiction following gross misconduct leading to dismissal
Appendix III	Letter Lifting Interdiction
Appendix IV	Suspension Letter
Appendix V	Letter Lifting Suspension
Appendix VI	Show Cause Letter (absence from duty without)
Appendix VII	Notice of Intention to Retire on Grounds of Public Interest
Appendix VIII	Decision letter on Retirement in Public Interest
Appendix IX	Format for Presenting Disciplinary Cases, Appeals and Reviews

APPENDIX I– Interdiction following a criminal charge

(Letter head) To.....

..... (Registered mail to last known address) Dear Sir/Madam,

INTERDICTION UPON CRIMINAL CHARGE

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

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

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

(Signed)

Authorized Officer Copy to: Supervisor

APPENDIX II—Interdiction following gross misconduct leading to dismissal

(Letter Head) To.....

.....

Thro'

(Supervisor) Dear Sir or Madam,

INTERDICTION

It has been reported to this office that you.....

(Set out the particulars of the misconduct together with dates)

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

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

Your faithfully

(Signed) Authorized Officer

APPENDIX III—Letter Lifting Interdiction

(Letter head) To.....

.....

Thro'..... (Supervisor)

..... Dear Sir/Madam

LIFTING OF INTERDICTION

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

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

Your faithfully (Signed)

Authorized Officer

APPENDIX IV—Suspension Letter (Letter Head)

To.....

.....

Thro' (Supervisor)

Dear Sir or Madam, SUSPENSION

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

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

Consequently, it has been decided that you be and are hereby suspended from exercising the duties of your office from the date of this letter pending finalization of your case. While on suspension, you will not be entitled to any salary but you will be paid full house allowance, medical allowance or where applicable medical insurance premium will be remitted.

Yours faithfully (Signed)

Authorized Officer

APPENDIX V—Letter Lifting suspension (Letter head)

To.....
.....

Thro'

(Supervisor)

..... Dear Sir/Madam,

LIFTING OF SUSPENSION

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

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

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

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

Your faithfully (Signed)

Authorized Officer

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

(Letter Head) To.....

.....

Thro'

(Supervisor) Dear Sir or Madam,

ABSENCE FROM DUTY WITHOUT REASONABLE CAUSE

It has been reported that you absented yourself from duty on.....

(State the particulars of the absence including number of days and specific dates)

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

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

Your faithfully (Signed)

Authorized Officer

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

(Letter head) To.....

.....

Thro'.....

(Supervisor) Dear Sir or Madam,

NOTIFICATION OF RETIREMENT IN THE PUBLIC INTEREST

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

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

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

Yours faithfully

(Signed) Authorized Officer

APPENDIX VIII—Decision Letter on Retirement in Public Interest

(Letter head) To.....

.....

Thro'.....

(Supervisor) Dear Sir or Madam,

RETIREMENT IN THE PUBLIC INTEREST

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

In view of this decision, you are required to report to this office within thirty days with a view to submitting a handover report and to conclude arrangements for processing your pensions and other terminal benefits. Consequently, you are requested to complete the following documents and return them to this office duly signed for further action:

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

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

Yours faithfully

(Signed) Authorized Officer

APPENDIX—IX Format for Presenting Disciplinary Cases, Appeals and Reviews by the Authorized Officer to the Commission

(i) Name.....
Date of First Appointment.....
Personal Number.....
Current designation.....
Job group/Salary scale.....
Terms of service.....

(ii) Date of Birth.....

B. Nature of Charge, Offence or Misconduct against the officer

.....
.....
.....

(Set out the particulars in full)

C. Discipline case/Appeal/Reviews

.....
.....
.....

(Specify)

D. Previous charge or offences or misconduct and punishments (if any)

Charge	Decision	Date
1.		
2.		
3.		
4.		

E. Criminal convictions

(If any)

Criminal charge/offence	Date	Judgment/Ruling/Order by court