ELGEYO MARAKWET COUNTY GOVERNMENT

COUNTY PUBLIC SERVICE BOARD

DRAFT OF DISCIPLINE MANUAL POLICY

July, 2018

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DEFINITION OF TERMS

i	Authorized Officer	Officer Means any officer, body or authority to whom the Public Service Board has delegated any of its functions.
ii	Allow	Means to accept an appeal or review.
iii	Appellant	Means an individual/organization appealing against a decision or process that is thought to be incorrect or unfair.
iv	Appeal process	Means to apply for the re- examination of a decision.
v	Applicant	Means an individual requesting the Public Service Board to review its decision.
vi	Application for Review	Means to request that a decision be reconsidered due to new facts, evidence or a mistake that has been noted.
vii	Authority	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.
viii	Public Service Board	Means the Public Service Board established under Section 57 of the County Government Act.
ix	Constitution	Means the Constitution of Kenya,2010.
x	Conviction	Means being found guilty as charged.
xi	County government	Means the County Government provided for under Article 176 (1) of the Constitution.
xii	Criminal offence	Means a misconduct that breaches governing laws or rules.
xiii	Disallow	Means to reject an appeal or application for review.
xiv	Delegated powers	Means those functions for which the Public Service Board is responsible for but have been assigned to Authorized Officers.
xv	Discipline	Means conforming to service rules and regulations which prescribe expected conduct and behavior of individual officers.
xvi	Disciplinary Control	Means due process of justice and any lawful punishment
XVII	Interdiction	Means barring an accused officer from performing official duties to give room for further investigation of the case.

XVIII	Minor offence	Means any crime which upon conviction the imprisonment is six months or below.
IX	Major offence	Means a serious crime which upon conviction the imprisonment is over six months (6)
X	Penalty	Means a punishment imposed for a violation of law or rule.
XI	Public Office	Means an office in the public service
XII	Public Officer	Means any person holding or acting in any public office
xiii	Show cause letter	Means a letter requiring an officer to explain why disciplinary action should not be taken against him or her on account of misconduct.
xiv	Suspension	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
DHRMAC	Departmental Human Resource Management Advisory Committee
PSB	Public Service Board

PREAMBLE

A professional, efficient and effective County public service is the aspiration of many modern states. It enables a County to achieve, with relative ease, the socio-economic progress that is the hallmark of a democratic society. The commitment of employees towards the goals and aspirations of the employer are dependent on how the employees are managed and developed. Central to this theme of people-management is training and capacity building.

The County Public Service Board is conscious that human resource development is a catalyst in management and implementation of change, building learning organizations and creating a culture of performance. Effective training and development benefits both the individual and the County Government through sharing of ideas and dissemination of good practices resulting in efficient and effective performance. This policy is the Board's commitment to guide the process of handling disciplinary cases in the County Public Service. It defines standard procedures for uniformity in handling disciplinary cases and outlines the steps in disciplinary procedures and processes. Further, the policy provides a framework within which proper framing of charges is done, how cases are investigated, analysis and evaluation of cases, comprehensive recommendation on cases and implementation of decision based on different cases.

Where clarification is required in this policy, it should be sought from the BoardvSecretary/Chief Executive Officer, County Public Service Board.

Michael Lelit
Chairperson,
ELGEYO/ MARAKWET COUNTY PUBLIC SERVICE BOARD,
ITEN.

PART ONE

1.0 INTRODUCTION

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

The Manual does not substitute the service regulations made by the Public Service Board or any other legislations 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, 2010
(b) County Government Act, 2012
(c) Fair Administrative Action Act, 2015
(d) Public Service (Values and Principles) Act, 2015
(e) Employment Act, 2007
(f) Labour Institutions Act, 2007
(g) Labour Relations Act, 2007
(h) The Work Injury Benefits Act, 2007
(i) The Occupational Safety And Health Act, 2007
(j) Public Officer Ethics Act (2003)
(k) Ethics and Anti-Corruption Public Act, 2011
(m) Pensions Act (Cap 189)
(n) Code of Regulations
(o) Penal code
(p) General circulars issued by the Government from time to time.
(q) Any other law governing public service and employment.

1.1 SCOPE

This Manual provides general guidelines and instruments to be used by the Public Service Board and departments in handling disciplinary cases.

1.2 OBJECTIVES OF THE MANUAL

In an effort to enhance the processing and presentation of discipline cases, the Public Service Board has developed the Manual for use by the Board and Departments in the County.

The objectives of the Manual are to:-

(a) Define discipline and understand its meaning in the context of the existing public service regulations.

(b) Define standard procedures for uniformity in handling disciplinary cases.

(c) Outline the steps in disciplinary procedures and processes.

(d) Create understanding on the roles and responsibilities of the Public Service and Authorized Officers in handling of the disciplinary cases.

Further the manual provides guidelines on the following—

(i) Proper framing of charges;

(ii) Investigation of cases;

(iii) Analysis and evaluation of cases;

(iv) Making comprehensive comments and recommendations on cases;

(v) Application of other forms of punishment other than dismissal;

(vi) Prompt handling of cases including implementation of decisions.

PART TWO GUIDING PRINCIPLES

2.0 INTRODUCTION

The County Government Act, 2012 under Section 59 (c), vests in the Public Service Board the power to exercise disciplinary control over public officers. Disciplinary control is an integral part in the management of human resource in the public service. It is intended to help and encourage 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 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;

(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 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 on 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 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 Departments shall refer officers to departmental Guidance and Counselling Services Unit. The Unit will provide appropriate services in accordance with the Public Service Guidance and Counselling Policy.

(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 Guidelines for Mediation, Conciliation and Negotiation in the Public Service.

When applying alternative interventions the following should be observed:

(i) The specific offense/shortcoming 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

3.0 DELEGATION OF POWERS TO AUTHORIZED OFFICERS

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

3.1 INSTITUTIONAL FRAMEWORK

The institutional framework for handling disciplinary cases is as follows:

(a) In respect of officers in job Group 'M' and below

Immediate supervisor Reports the misconduct to the Authorized Officer in the Department who;

i. Analyzes the misconduct and commences the disciplinary action by issuing a show cause letter;
ii. Interdict 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 underthe appropriate financial instructions or regulations;
vi. Withholding, deferment and stoppage of salary increment
vii. Recommend Reduction in rank or seniority for all officers to the county public service board.
viii. He/she also forwards cases with comments and recommendations to CHRMAC and the Public Service Board for decision where applicable.
ix. Communicates decisions to affected officers.

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

(b) CHRMAC:

County secretary is the chair
Members consists of all Chief Officers.
Secretary is the director County Human Resource

Functions of Director, HRM&D:

i. Provide technical advice to CHRMAC;
ii. Receive cases from departments and presents to the CHRMAC
iii. Submits the summarized report to CHRMAC for deliberations.
iv. Communicates the decisions of CHRMAC to the respective authorized officer and a copy to the CPSB

CHRMAC; Deliberates on the case and makes recommendations to the Authorized Officer on the next course of action.

A person who is dissatisfied with a decision made in exercise of delegated powers has a right of appeal to the Public Service Board through the Authorized Officer within a period of forty two (42) calendar days.

(e) County Public Service Board:

(i) Considers the recommendations of the Authorized Officers and makes decisions related to powers which are not delegated.

(ii) Hears and determines appeals and applications for review.

(iii) Communicates decisions to Authorized Officers for implementation.

(iv) Forward appeals and communicates decisions of public service commission to the affected officers

PART FOUR – DISCIPLINARY PROCEDURE

4.0 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 dismissing him or otherwise punishing him on any other charge arising out of his conduct in the matter.

(c) Where an officer has been charged with desertion of duty, the 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 Public Service Public Service Board explaining the reason for the delay.

4.1 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 'N' 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 Public Service Board with the Authorized Officer's comments, recommendation, material evidence, records and other requirements as outlined in Section 4.9 of this Manual.

vii. However, if the Public Service Board is of the opinion that further investigation is necessary before a decision is made, it will direct the Authorized Officer to do so.

(c) The procedure to be followed in respect of officers in Job Groups 'N' 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 'N' 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 'N' and above as outlined in (b) above.

(d) The procedure to be followed in respect of officers in Job Groups 'N' 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.

4.2 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.

4.3 SUSPENSION

Suspension process is as follows:

(a) 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.

(b) 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.

(c) 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.

(d) 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.

4.4 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 Public Service 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 relevant 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 committee for recommendation to the Authorized Officer.
(e) The decision of the Public Service Board or Authorized Officer 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.

4.5 RETIREMENT IN THE PUBLIC INTEREST

Retirement in the public interest may be allowed instead of the prescribed punishments if the Public Service Board or Authorized Officer considers upon proof of the misconduct that:
(a) The public officer has nevertheless raised a mitigating factor which renders imposition of a punishment too harsh in view of the circumstances of the case;
(b) The length of service, benefits accrued and previous good record of the public officer justifies the retirement;
(c) Imposing a punishment against the public officer is likely to adversely affect the reputation of the public body concerned or the public service generally:

In retiring a public officer in the public interest, the following process shall apply:
(a) 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.
(b)The public officer's representations shall be submitted to the relevant HRMAC for deliberation and recommendation on the case.
(c) The details of the case and the HRMAC recommendations shall be submitted to the Public Service Board for decision.
(d) Where the Public Service Board is of the opinion that an alternative punishment be applied, the case shall be returned to the Authorized Officer with instructions that a fresh show cause letter be issued in line with the contemplated disciplinary action.
(e) Where the Public Service Board concurs with the recommendation, the Authorized officer shall convey the Public Service 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.

4.6 OFFENCES UNDER GROSS MISCONDUCT

The offences that amount to gross misconduct which may lead to summary dismissal are, but not limited to the following:
(a) Negligence of duty;
(b) Intoxication during working hours;
(c) Using abusive or insulting language or behaving in a manner likely to cause a breach of the peace;
(d) Insubordination;

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

4.7 PUNISHMENTS

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

(a) 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.
(b) Reprimand (including severe reprimand). (c) Deferment of increment.
(d) Withholding of increment.
(e) Stoppage of increment.
(f) Reduction in rank or seniority.
(g) Dismissal.

4.8 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:

(a) Investigating committee should comprise officers senior to the accused officer and should not have dealt with the case before.

(b) 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).

(c) The officer under investigation must be interviewed by the investigating committee.

(d) The investigating committee shall record details of any matters which may aggravate or mitigate the case.

(e) 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.

(f) The investigation report submitted to the relevant HRMAC shall not contain any recommendation on the form of punishment to be inflicted on the accused officer but should contain:

i.A statement on whether the charges against the officer have been proved.

ii.Evidence collected by the team, including any statements by witnesses;

iii. Analysis of the evidence and statements; and

iv. Details on any matter that may affect the gravity of the case if any.

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

4.9 CHECKLIST FOR SUBMISSION OF CASES TO THE PUBLIC SERVICE BOARD

The authorized officer shall present cases to the Public Service Board in the format prescribed, a sample of which is provided in Appendix IX. When submitting cases to the Public Service Board, the following must be provided:

(a) The officer's personal files.

(b) Authorized Officer's comments on each and every issue raised by the accused officer and recommendations.

(c) Investigation report and material evidence where applicable.

(d) Signed CHRMAC minutes.

(e) All correspondence related to the matter.

(f) 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 Authorized Officer may decide to appeal to the Public Service Board. If an officer is dissatisfied with the decision of the Public Service Board he/she may apply to the Public Service Board 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. If the officer is not certified with decision of County public service board the officer can appeal to the public service board.

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 and applications for review 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 Public Service Board may entertain an appeal or application for review out of time if, in the opinion of the Public Service Board, the circumstances warrant it.

(b) All appeals and reviews shall be addressed to the Secretary, Public Service 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. While forwarding his/her appeal or application for review, an officer may submit an advance copy to the Public Service Board.

(c) An appeal shall be accompanied by copies of all material evidence or documents that the appellant wishes to rely on.

(d) All appeals and applications for review shall be forwarded to the Public Service Board even where they are made out of time.

(e) 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 COURT CASES

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

(a) The authorized officer shall promptly bring to the attention of the County Public Service Board the filing of such court cases and forward all the relevant information as well as documents relating to the case.

(b) the authorized officer shall ensure that they cooperate with the County Public Service 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 Public Service Board unless a notice of appeal has been filed.

(d) All appeals and review mechanisms on all disciplinary case shall be exhausted before the county government is taken to court.

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
……. (Set out particulars).

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

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

(Signed)

Authorized Officer
Copy to: Supervisor

APPENDIX II—Interdiction following gross misconduct leading to dismissal

(Letter Head) To.....
..... Thro'.....
(Supervisor)

Dear Sir or Madam,

INTERDICTION

It has been reported to this office that you.....
(Set out the particulars of the misconduct together with dates) To facilitate investigations on the alleged misconduct, it has been decided that you be and are hereby interdicted from exercising the duties of your office from the date of this letter pending finalization of your case.

While on interdiction, you will be paid half salary 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.

Your 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—IX Format for Presenting Disciplinary Cases, Appeals and Reviews by the Authorized Officer to the Public Service Board

(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