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**DURING THE 2024 ICP WORLD CONVENTION –  
COUNCIL MEETING**

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**ON  
MANAGEMENT OF TEACHER DISCIPLINE**



## Introduction

The Teachers Service Commission, (TSC), is established under Article 237 of the Constitution of Kenya, to perform the following functions: -

- ❑ Register trained teachers;
- ❑ Recruit and employ registered teachers;



# Introduction

- ❑ Assign teachers employed by the Commission for service in public schools or institutions;
- ❑ Promote and transfer teachers;
- ❑ Exercise disciplinary control over teachers;
- ❑ Terminate employment of teachers;
- ❑ Review the standards of education and training of persons entering the teaching service;



## Introduction

- ❑ Review the demand for and supply of teachers; and
- ❑ Advise the national government on matters relating to the teaching profession.

Currently the Teachers Service Commission (TSC) manages a teaching service of **407,609** teachers deployed in **32,371** public educational institutions in the Country.



# Introduction

Article 237 (2) (e) of the Constitution mandates the Commission to exercise disciplinary control over registered teachers. This is further amplified in Section 34 of the TSC Act and Part XI of the TSC Code of Regulations for Teachers.

While exercising its mandate, the Commission is obligated by the requirements of Article 47 of the Constitution, to carry out the disciplinary process expeditiously, efficiently and in a fair and transparent manner.



# Introduction

Teachers are the most important input affecting learning in schools. The Commission therefore recruits, develops, deploys, manages and supports teachers and how this is done largely determine the learning outcomes in schools.

Subsequently, the Commission has put in place regulations, policies and Circulars which are released from time to time, to guide teachers, Heads of institutions and Board of Managements in handling learners in the learning environment and promote professional conduct and practice



# The Legal Framework Supporting the Teacher Discipline Function

Exercising disciplinary control over teachers is anchored in a robust legal framework that guide the discipline function.

These constitute important instruments for not only guiding teachers in handling learners and fostering professionalism but also provide for a stringent disciplinary process for errant teachers.



# The Legal Framework Supporting the Teacher Discipline Function

The legal tools for managing discipline in the Commission include: -

- a) **The Constitution of Kenya** – under Article 237 (2)(e) of the Commission is mandated to exercise disciplinary control over teachers. This is the supreme law that bestows the discipline mandate on the Commission.



# The Legal Framework Supporting the Teacher Discipline Function

Under Article 53 of the Constitution outlines the rights of Children which include protection and safety against inhuman treatment and punishment and how they are safeguarded;

**b) The TSC Act (2012)** - Sections 33 and 34 of the Act address 'Discipline of Registered Teachers' and 'Disciplinary Actions' that can be taken against teachers found guilty of professional misconduct respectively.



# The Legal Framework Supporting the Teacher Discipline Function

The Third Schedule of the Act identifies disciplinary offences for which the Commission can take disciplinary against a teacher.

- c) **The TSC Code of Regulation for Teachers (2015) - Part XI titled 'Discipline' provides for the full Disciplinary procedures to guide a fair disciplinary process;**



d) **The Code of Conduct and Ethics (2015)** regulates the conduct of registered teachers and ensures that their professional behavior is in tandem with the requirements of Chapter Six of the Constitution and guides teachers on expected conduct and relationships with learners. This Code is the compass that directs employees toward ethical decision-making, outlining the principles and values that define the Commission's culture. It serves as a comprehensive guide, establishing expectations for behavior, professionalism and adherence to shared values.



# The Legal Framework Supporting the Teacher Discipline Function

- e) The Children's Act (2006) outlines the rights of children;
- f) Guidelines on Management of Discipline of Teachers (2016)- developed to operationalize the discipline function and outlines the detailed procedure on how the process is undertaken;



## The Legal Framework Supporting the Teacher Discipline Function

- g) The Basic Education Act (2013) by Ministry of Education, under Section 36 (1) prohibits physical and psychological punishment of learners;
- h) TSC Circulars on various emerging issues that are issued from time to time



## Purpose of Discipline

Disciplinary processes are crucial for addressing misconduct or performance issues among employees. The Commission's disciplinary process helps to uphold its policies, regulations and values with a view to fostering a culture of professionalism , respect and accountability.

Beyond merely correcting behavior, the way the process is conducted can significantly impact the work place culture and employee morale.



# Principles in Managing Discipline

The Commission's disciplinary process is guided by principles to ensure fair and consistent disciplinary practices that align with employment laws and promote a positive workplace culture. The Discipline process follows the 'Hot Stove' principle because the hot stove does not discriminate in burning anybody who touches it meaning any violation will be met with appropriate consequences.



# Principles in Managing Discipline

The principles used in managing Discipline in the Commission include:-

## a) Fairness

Fairness is a fundamental principle and the linchpin of any effective Disciplinary process. It ensures that every employee is treated equitably, is given an opportunity to be heard irrespective of their position. A fair process fosters trust and confidence among employees, reinforcing the belief that the organization is committed to upholding justice.



# Principles in Managing Discipline

## b) Transparency

Transparency is a crucial principle which is underpinned by clear communication about the process, the alleged violations, and the potential consequences to enable the employees understand the reasons behind any actions taken. Transparency minimizes misunderstandings, dispels rumors, and reinforces the Commission's commitment to an unbiased approach.



## Principles in Managing Discipline

### c) Upholding Integrity

Integrity is not only about adherence to ethical standards but also about the consistency and aligning of disciplinary actions with the rules, regulations and the labour laws. Therefore, every decision, from initial investigations to final outcomes, is guided by a commitment to the Commission's rules and regulations. This prevents perceptions of favoritism or discrimination.



# Principles in Managing Discipline

## d) Innocent until Proven Guilty

The dignity of an employee going through the disciplinary process must be safeguarded. The presumption of innocence of the accused employee is based on the fact that charges against the employees are just allegations and thus the employee must be treated with respect and due process undertaken before making a verdict of guilty or not guilty.



## Principles in Managing Discipline

### d) Cultivating a Culture of Continuous Improvement

The Commission is a dynamic organization which recognizes that the regulations, processes and procedures governing the Disciplinary process are not static documents but evolve with the changing needs and dynamics of the workforce. We therefore create a culture of continuous improvement which involves soliciting feedback from employees, conducting periodic reviews of the regulations and procedures, and refining the Disciplinary process based on lessons learned.



# Managing Discipline

- a) The process of discipline is undertaken by the Commission at two levels:
  - i. Panels of the Commission
  - ii. Boards of Management through Agency

The panels of the Commission are constituted as provided in the regulations and consists of at least three(3)members. Any member who is conflicted in any case recuses him/herself from the hearing the case to avoid conflict of interest.



## **b) Managing Discipline through Agency**

Due to the expansive nature of the Commission's workforce, management of Discipline has been delegated to the school Boards of Management who undertake investigations and take disciplinary on the teachers in their respective schools. The agency is anchored in law .



# Disciplinary Offences

The disciplinary offences include simple cases like absenteeism, desertion of duty to complex cases that include administration of corporal punishment, misappropriation of school funds, immoral behavior (sexual relationship with learners) forgery of documents and examination malpractices among others.



# Disciplinary Process

Disciplinary process is a formal tool for managing and correcting poor performance or professional misconduct. The disciplinary process begins with the complaint being received and recorded, prompting investigation into the allegation. The outcome of the investigation informs whether the teacher has a case to answer or not. Those with a case to answer may be interdicted (stopped from performing their duties)



## Disciplinary Process

The investigation process and findings are documented, which informs the decision to be made on the case. Based on the findings, the employee is either warned administratively if the evidence does not warrant a severe disciplinary action.

Where the evidence points to a teacher having a case to answer, then an interdiction is done.



# Disciplinary Process

## Hearing of the case

Hearing and determination of discipline cases is done by a disciplinary panel chaired a member of the Board as provided in the Code of Regulations for Teachers 2015.

The employee is accorded an opportunity **to be heard in person and to** respond to the allegations. They are allowed to present their side of the story and provide any evidence or witnesses in their defense



# Disciplinary Process

The evidence gathered is brought to his attention and is allowed to challenge the evidence through cross examination of witnesses.

When the employee is invited for hearing, adequate notice (30 days) is given so enable them prepare their case.



## Disciplinary Process

When determining the appropriate level of discipline, the employee's work history, severity of the offence and any other mitigating circumstances are considered in consistency with the policy.

The employee may be warned, suspended for a period not exceeding six (6) months, dismissed and in very severe circumstances the name is removed from the register of teachers.



## Review/ Appeal Process

Any employee aggrieved by the decision of the disciplinary panel can appeal for review of the decision. The parameters that guide the appeal include a procedural flaw in the process, lacking sufficient evidence to make the decision, acting unfairly in comparison to similar cases or when an employee thinks there was a breach of law when arriving at a decision.



## Review/ Appeal Process

Upon review of the parameters, the Appeals Committee (consisting of three members of the Board) can either reject the appeal and uphold the disciplinary decision, waive earlier decision and vary it or revoke the interdiction. The decision of the Appeals Committee is final and any employee still aggrieved can go to Court.

Teachers removed from the Register of Teachers can also apply for Reinstatement after a period of 18 months from the date of the decision to remove them from the register.



# Challenges in Management of Discipline

In the course of the disciplinary process several challenges are experienced which include:-

- a) Many unreported cases and compromise of victims/ witnesses especially in immoral behavior cases;
- b) Increased litigations from teachers and sometimes parents;
- c) Limited resources to support preventive measures/ positive discipline;
- d) Disciplinary offences that are as a result of Psycho-social and mental issues among teachers.



## Mitigation Strategies

The TSC has focused on efficient and effective dispensation of discipline cases and putting in place mechanisms to promote positive discipline by improving professional practice, conduct and performance of teachers. In the Service Charter the Commission commits to dispense discipline cases within three (3) months after registration. To achieve this the Commission has implemented the following strategies;



# Mitigation Strategies

- a) Decentralization of some of the discipline function to the Schools' Boards of Management through agency to allow faster investigation and interdiction where recommended;
- b) Continuous induction of the Commission's staff and Agents to promote efficient and expeditious disciplinary processes especially in investigations.



## Mitigation Strategies

- c) Inter-agency linkages to prevent and respond to sexual abuse or violence against children through linkages with the Police, Children's Departments, NGOs involved in child protection and Gender Based Violence etc.
- d) Implementation of the Teacher Induction, Mentorship and Coaching (TIMEC) Programme to promote positive discipline through a preventive approach which targets:-
- Induction of newly recruited teachers on professionalism and integrity;



# Mitigation Strategies

- Coaching and Mentorship of school administrators to build their capacity on leadership, management/supervision as well as aspects such as financial management;
- Provision of support to teachers who have gone through the discipline process to settle back into the profession and uphold professionalism and good conduct.



# Mitigation Strategies

- e) Building capacity of BOMs and improving community awareness on management of discipline and safety and well being of learners in Schools;
- f) Strengthening partnership and collaboration with relevant stakeholders to sponsor/ support the capacity building programmes. These stakeholders include County Governments, the Heads Associations, Religious Organizations as sponsors of schools, SACCOs, Banks etc.



## Conclusion

In the dynamic landscape of the modern workplace, and considering the large workforce managed by the Commission, we increasingly recognize the pivotal role that employee accountability, fairness, and integrity play in sustaining a healthy and productive work environment.

The Commission therefore applies disciplinary control to correct behavior and maintain a positive work environment. In managing discipline, the Commission follows due process so as to protect the organization from any legal challenges.



## Conclusion

Both the corrective and preventive approaches in managing discipline is key in ensuring that the behavior is not only corrected but also our teachers are supported in order to prevent any form of misconduct.

Thank you ICP for extending this invitation to the Commission I believe this meeting will be mutually beneficial to all of us since it provides us with an opportunity to share and learn from each other. We are grateful for the partnership and linkages that have been forged between the Principals from the participating Countries.



Thank you!

