



**REPUBLIC OF KENYA**

**PUBLIC SERVICE COMMISSION OF KENYA**

**DISCIPLINE MANUAL**

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## **FOREWORD**

The Public Service Commission of Kenya is charged with the Constitutional responsibility of exercising disciplinary control in the Public Service. It is expected that Public Servants will maintain integrity and uphold the dignity of the office to which they are appointed. It is therefore imperative that every Public Servant adheres to the rules of conduct and ethics as laid out in the law. While exercising the powers of disciplinary control, the Commission is alert to the fundamental principles of natural justice. The Commission is conscious of the fact that the officers' career and livelihood are at stake and therefore it is important that the officers' past work performance and period of service are taken into account before a decision is made.

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, from the aspect 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 i.e. the conscious deliberate decision to comply to what is expected of you because you believe it is the right thing to do.

Over the years, the Commission has noted inconsistencies in the way Ministries, Departments and Local Authorities have been processing discipline cases thus occasioning delays. The delays cause anxiety to the affected officer and the productivity is likewise affected. It is expected that this manual will address the inconsistencies in the disposal of discipline cases. The manual, however, is not intended to replace Service regulations or any other relevant laws. It is my hope, that Ministries, Departments and Local Authorities will find the manual useful in the administration and processing of discipline cases.

**TITUS J. K. GATEERE, MBS**  
**CHAIRMAN**  
**PUBLIC SERVICE COMMISSION OF KENYA**

## **PREFACE**

In an effort to enhance expeditious and timely processing of discipline cases the Commission found it necessary to develop and issue this manual to be used by Ministries, Departments and Local Authorities as a guide in processing discipline cases.

The Manual provides general guidelines and procedures to be followed in handling and disposal of cases. It is important therefore that Ministries, Departments and Local Authorities adhere to the procedures as laid out in the manual.

I wish to commend the officers from the Ministry of State for Public Service, Provincial Administration and Internal Security, Ministry of Labour and Human Resource Development and the Public Service Commission who were involved in the development of this Manual for their efforts and timely completion of the exercise.

I am convinced that the Manual will greatly improve the Service.

**BERNADETTE M. NZIOKI, EBS**  
**SECRETARY**  
**PUBLIC SERVICE COMMISSION OF KENYA**

## **PART I BACKGROUND**

### **1. INTRODUCTION**

#### **Definition**

(a) Dictionary Definition

The Oxford Advanced Learners dictionary defines discipline as training especially of the Mind and Character, aimed at producing self control, obedience, skillfulness etc.

(b) Definition/Meaning in the Public Service

Discipline within the Public Service means “conforming to service rules and regulations which prescribe expected conduct and behaviour of individual officers”

### **2. GENERAL DISCIPLINARY PROCEDURES**

Disciplinary control is an integral part of Human Resource Management. It is intended to contribute to performance improvement and productivity and should be governed by principles of natural justice. Disciplinary procedures are aimed to encourage improvement in individual conduct. It sets out the action which will be taken when powers and responsibilities for the staff in the Public Service rest with the Public Service Commission of Kenya as stated in the Constitution of Kenya. Under Section 13 of the Service Commissions Act (Cap 185) the Commission is empowered to make regulations for the better carrying out of its functions. The Commission has made regulations including those that govern disciplinary control, powers to issue instructions and to prescribe forms disciplinary action. In an effort to enhance the processing and presentation of discipline cases, it was found necessary that a manual be issued to assist Ministries, Departments and Local Authorities as a guide in handling of cases. The manual is intended to address the following:

- (a) Proper framing of charges with full particulars of the case.
- (b) Thorough investigations of cases.
- (c) Assist in the analysis and evaluation of cases.
- (d) Making of comprehensive comments and recommendations.
- (e) Application of other forms of punishments other than dismissal.
- (f) Prompt handling of cases including implementation of decisions.

## **Note**

Ministries, Departments and Local Authorities shall present cases to the Commission in the format prescribed, a sample of which is provided in Appendix D/7. When submitting discipline cases to the Commission, the following must be provided:

- (a) The officer's personal files.
- (b) Authorized Officer's comments on issues raised and recommendations.
- (c) Investigation report and evidence gathered.
- (d) Details of any matter which may aggravate or alleviate the gravity of the case.

## **3 SCOPE**

This manual provides general guidelines and forms to be used by the Commission, Ministries, Departments and Local Authorities in handling discipline cases. In applying the manual, the user's attention is drawn to the provisions of section 72 of the Interpretation and General Provisions Act (Cap 2) which permits deviation from a prescribed instrument or form provided that the deviation is not calculated to mislead and does not affect the substance as required in the form or instrument. The manual does not substitute the service regulations made by the Commission or any law made by Parliament as the case may be, but it is meant to guide the user. The user is therefore advised to read the manual alongside the following documents:

- (a) Constitution of Kenya
- (b) Service Commissions Act (Cap 185)
- (c) Employment Act (Cap 226)
- (d) Trade Disputes Act (Cap 234)
- (e) Public Officer Ethics Act (2003)

- (f) Trade Unions Act (Cap 233)
- (g) Police Act (Cap 84)
- (h) Prisons Act (Cap 90)
- (i) Local Government Act (Cap 265)
- (j) Pensions Act (Cap 189)
- (k) Other relevant Acts
- (l) Code of Regulations
- (m) General circulars issued by the Government

#### **4. OBJECTIVES OF THE MANUAL**

The objectives of the Manual are the following:-

- (a) To define discipline and understand its meaning in the context of the Public Service Regulations.
- (b) Create understanding on the Roles and Responsibilities of the Authorized Officers and the Public Service Commission on the disciplinary cases.
- (c) Internalize and appreciate the procedures governing the handling of disciplinary cases in the Public Service.
- (d) Outline the steps in disciplinary procedures and processes within the context of the Public Service Commission Regulations.

#### **5. PART II: DISCIPLINE ISSUES:**

##### **(a) BASIC PRINCIPLES OF DISCIPLINARY PROCESS**

The disciplinary process in the Public Service shall be governed by the principles of natural justice which require that, any officer charged with any offence is given an opportunity to defend himself or herself before an impartial adjudicator.

Further, discipline cases shall be dealt with as soon as possible after the occurrence.

These principles are provided for in the Acts of Parliament and service regulations.

## **(b) DELEGATION OF POWERS TO AUTHORIZED OFFICERS**

The Commission has delegated some disciplinary powers to the Authorized Officers. Where the powers have been delegated, the cases will be considered and finalized at the Ministry, Department or Local Authority.

A person dissatisfied with a decision made in exercise of delegated powers has a right to appeal to the Commission within the prescribed period.

## **6. PROCEDURE TO BE FOLLOWED BY THE AUTHORIZED OFFICERS AND THE COMMISSION ON DISCIPLINARY CASES**

### **(a) The Procedure to be followed by the Authorized Officers:**

#### **(i) In respect of officers in Job Group 'M' and above:**

- Carry out a preliminary investigation and consultation as to the circumstances surrounding the act of misconduct.
- Issue the officer with statement of 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.
- The period within which to respond to the charges must be specified in the statement.
- The case is then presented to the Ministerial Human Resource Advisory Committee (MHRMAC) for deliberation and recommendation.
- If the officer fails to respond within the specified period or if in the opinion of the Authorized Officer, the explanation given is not satisfactory he should forward copies of the charge and the officer's reply if any, with his comments to the Commission.
- However, if the Commission is of the opinion that further investigation is necessary before a decision is made, it will direct the Authorized Officer to do so.

**NOTE:** while carrying out the investigations the Authorized Officer should observe the following conditions:

- Investigating officer(s) should be senior to the accused officer and should not have dealt with the case before.

- The report of the investigation to be submitted to the Commission should not contain any recommendation on the form of punishment to be inflicted on the accused officer but should contain:
- A statement on whether the charges against the officer have been proved.
- Details on any matter that may affect the gravity of the case if any.

**(ii) In respect of officers in Job Group ‘L’ and below but who have not qualified for pensions:**

- All the above steps in (i) will be observed and where the Authorized Officer is of the opinion that further investigation is not necessary, he will decide on the punishment to be inflicted on the accused officer.
- Where the Authorized Officer finds it necessary to carry out further investigation, in the bullet conditions above on investigating officers must be observed.
- On receipt of the investigation report the Authorized Officer will through the MHRMAC decide whether and how the accused will be punished.

**(b) The Roles and Responsibilities of the Commission**

**(i) For officers in job group M and above:**

- All officers in job group ‘M’ and above, the final decision lies with the Commission
- The Commission will decide whether and in what way the officer will be punished. However, if the Commission is of the opinion that further investigations are necessary before a decision is made, it will direct the Authorized Officer to do so.

**(ii) In respect of officers in job group ‘L’ and below who have qualified for pensions benefits: all cases of dismissal from the service, reduction in rank or seniority will be dealt with by the Commission as in cases of officers in job group ‘M’ and above.**

## **7. RETIREMENT IN THE PUBLIC INTEREST**

Decisions in all cases of Retirement in the Public Interest are the responsibility of the Commission.

## **8. ROLES AND RESPONSIBILITIES IN THE LOCAL AUTHORITIES**

### **(a) Local Authorities**

Officers in salary scale 10 and below:

- Disciplinary cases for officers in salary scale 10 and below should be decided finalized by the local authorities.

### **(b) The Commission**

#### **(i) Officers in salary scale 9 and above:**

Disciplinary cases for officers in salary scale 9 and above (1-9) should be forwarded to the Commission together with the Authorized Officer's comments for a decision.

#### **(ii) Appeals and Application of reviews:**

The appeals and application for reviews should be forwarded to the Commission together with Authorized Officer's comments for a decision.

## **9. INTERDICTION**

The interdiction process entails the following:

- (a) An officer may be interdicted where misconduct which is likely to lead to dismissal is reported 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 will 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) Where the misconduct is likely to lead to a dismissal and is also the subject of a criminal charge, the procedure in (ii) will prevail.
- (e) A public officer on interdiction shall be entitled to not less than half of his basic salary and other allowances.
- (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.

## **10. SUSPENSION**

- (a) If a public officer has been convicted of a serious criminal offence, he or she shall be served with a show cause letter which shall contain a communication on suspension, a sample of which is provided in appendix IV.
- (b) If the misconduct is one which can lead to dismissal, the officer will be served with a show cause letter which shall also contain a communication on suspension, a sample of which is provided in appendix V.
- (c) A public officer whose suspension has been lifted shall promptly be served with a decision letter, a sample of which is provided in appendix VI
- (d) A public officer who is on suspension shall be entitled to be paid house, medical and other allowances as may be applicable.
- (e) Interdiction and suspension can only be uplifted by the Authorized Officer on recommendation or advice by the MHRMAC.

## **11. MISCONDUCT**

Misconducts that may lead to disciplinary action are unlimited. However, the following are some of the examples of misconduct:

- (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 and imprisonment for more than ten (10) days.
- (f) Willful destruction of government property.
- (g) Theft by public servant.

## **12. ABSENCE FROM DUTY WITHOUT LEAVE**

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

- (a) Establish the exact period with dates the officer has been absent from duty. If not traced within a period of ten (10) days from the commencement of such absence, stop salary with effect from the date of absence.
- (b) Address a show cause letter to the officer through his or her last known address by registered mail, giving a reasonable period within which to respond but not less than ten (10) days stating clearly the nature of the offence and the contemplated action.
- (c) If the officer does not respond, submit the case to the relevant committee which shall make a recommendation to the relevant authority empowered under the regulations for summary dismissal.
- (d) If the officer has responded, carry out investigations on the issues raised in the show cause letter and in the officer's defence; prepare an investigation report; and submit the case to the relevant committee for a recommendation. Thereafter submit the case to the authority empowered under the regulations for a decision.
- (e) Communicate the decision to the officer informing him or her right of appeal or review to Commission within the time provided for the regulation.

### **13. REPORTING OF CASES TO THE AUTHORIZED OFFICERS**

Where cases are reported to Authorized Officers by supervisors and field officers, the following procedure shall apply:

- (a) All cases of misconduct shall be promptly recorded and reported.
- (b) Preliminary investigations shall be carried out and a report compiled which shall be submitted together with supporting evidence.
- (c) Action shall be taken by supervisors or field officers as advised by the Authorized Officer.

### **14. EVIDENCE**

Accurate evidence is the foundation of fairness in discipline cases and the following important considerations shall apply in preparing evidence in all cases:

- (a) Evidence shall be recorded and compiled by an independent investigator appointed in accordance with the regulations.
- (b) The evidence shall include oral information and documents relevant to the inquiry.
- (c) The investigator shall record details of any matters which may aggravate or mitigate the case.
- (d) After listening to all witnesses and studying all the documents, the investigator shall sum up the case and record his or her comments so as to clearly show his or her opinion on matters in the case as evaluated against the evidence.
- (e) However, the investigator shall not make a recommendation as to the form of punishment that may be inflicted.
- (f) In all cases, the investigator shall be a public officer senior to the officer charged and shall not have directly or indirectly dealt with the case before.
- (g) Where further investigations are directed as provided for in the regulations, such investigations shall be conducted in accordance with the process in (a) to (g) above.

## **15. PUNISHMENTS**

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.

### **Note**

All the punishments inflicted on a public officer should be within the law.

## **16. RETIREMENT IN THE PUBLIC INTEREST**

In the event that the Authorized Officer in his or her opinion considers that it is desirable to retire an officer in the public interest, the following process will apply:

- (a) The Authorized Officer must address a letter a sample of which is provided in form D/6 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 or she must respond.
- (b) Upon receipt of the public officer's representations, submit the case to the relevant committee for a recommendation.

- (c) Submit the case to the authority empowered under the regulation to make a decision.
- (d) Communicate the decision to the officer and inform him or her of the right of appeal or review to the Commission within the time provided for in the regulations.
- (e) If the officer is retired inform him or her of the benefits if any.

## **17. APPEALS AND REVIEWS**

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. The following procedure must be adhered to while processing appeals and reviews:

- (a) All appeals and reviews must be addressed to the Secretary, Public Service Commission through the Authorized Officer who shall give comments on obligatory issues raised.
- (b) All appeals and reviews must be forwarded to the Commission even where they are made outside the time prescribed in the regulations.
- (c) Decisions on appeals must be promptly conveyed and the officer informed of the right of review on account of new material facts or, an error.
- (d) Comments on obligatory issues on appeals and reviews to be signed by the Authorized Officer personally.

**18. PART III: COURT CASES**

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

- (a) Ministries, Departments and Local Authorities shall promptly bring to the attention of the Commission the filing of such court cases and forward all the relevant information as well as documents relating to the case.
- (b) Court decisions shall be complied with and where the Commission’s involvement is required, the relevant request shall promptly be presented to the Commission.
- (c) Ministries, Departments and Local Authorities shall ensure that they cooperate with the Commission in availing evidence and witnesses as may be required for successful handling of court cases.

**PART IV-SCHEDULE OF FORMS/APPENDICES**

**APPENDIX I – Interdiction upon 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)

Copy to: Supervisor

**Appendix II- Interdiction upon proceedings leading  
to dismissal without a criminal charge**

(Letter Head)

To .....

.....

Thro' .....

(Supervisor)

.....

Dear Sir/Madam,

**GROSS MISCONDUCT/INTERDICTION**

It has been reported to this office that your general conduct and work performance as .....  
(Designation)..... has been found wanting and the following acts of gross misconduct  
have been noted against you:

1. ....
2. ....
3. ....etc

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

In view of the above, it is contemplated to dismiss you from the service on account of gross misconduct, but before this is done, you are hereby called upon to show cause why you should not be dismissed.

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

In the meantime, 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 and you should not leave your duty station without the express permission of your immediate supervisor.

(Signed)

(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.

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.

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

(Signed)

(Letter head)

To ..... (Registered mail to last known address)

.....

Dear Sir/Madam,

**SUSPENSION**

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

**OR**

Your general conduct and work performance as ...(designation)..... has been found wanting and the following acts of gross misconduct have been noted against you (whichever applies).

- 1. ....
- 2. ....
- 3. ....

(Set out the particulars of the gross misconduct)

In view of the above, it is contemplated to dismiss you from the service on account of the conviction/gross misconduct, but before this is done, you are hereby called upon to show cause why you should not be dismissed.

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

In the meantime, it has been decided that you be and you 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 salary and you should not leave your duty station without the express permission of your immediate supervisor.

(Signed)

Copy to: Supervisor

(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.

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

(Signed)

(Letter head)

To .....

.....

Thro' .....  
(Supervisor)

.....

Dear Sir/Madam,

**RETIREMENT IN PUBLIC INTEREST**

It has been noted that your general conduct and work performance as ..... (designation)..... has fallen below the expected standards. The following complaints have been reported against you:

1. ....
2. ....
3. ....
4. ....

(Set out full particulars)

In view of the foregoing, it is contemplated to retire you in public interest in accordance with regulation .....(quote the correct regulation). However, before this is done, you are hereby asked to make written representation to this office, if any, as to why you should not be retired in the public interest.

Your representations should reach this office within ..... (insert reasonable period) days from the date of this letter, failure to which the contemplated action will be taken without further reference to you.

(Signed)

*Appendix VII – Format of presenting  
discipline cases, appeals and reviews  
to the Commission by Ministries,  
Departments and Local Authorities*

(Letter head)

**FORMAT FOR PRESENTING DISCIPLINE CASES, APPEALS AND REVIEWS**

**A. Particulars of Officer**

- (i) Name .....
- (ii) Personal Number.....
- (iii) Age/Date of Birth.....
- (iv) Date of First appointment.....
- (v) Current designation.....
- (vi) Job group/salary scale.....
- (vii) Terms of service .....

**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.		
5.		
6.		
7.		
8.		
9.		

E. Criminal convictions  
(If any)

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

F. Analysis of the Case on issues raised by the officer and the Authorized Officer's comments

Officer's Representations	Authorized Officer's comments
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	

G. Recommendations by the relevant Committee of the Department/Ministries/Local Authorities in the Case

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H. Authorized Officer's comments on the Committee's recommendation which aggravate or mitigate gravity of the case (if any)

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.....

J. List of Appendices

.....

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(list all documents attached to this form e.g. show cause letter, minutes of the relevant Committees, investigation report, court rulings/judgments etc)

(Signed)  
Authorized Officer