

**LEADERSHIP AND INTEGRITY ACT, 2012**

***(No. 19 of 2012)***

**PURSUANT** to section 37 of the Leadership and Integrity Act, 2012 the County Executive Committee of Kilifi establishes this Leadership and Integrity Code to be observed by and binding upon State Officers in the County Executive Committee.

**THE LEADERSHIP AND INTEGRITY ACT**  
**(NO. 19 OF 2012)**  
**LEADERSHIP AND INTEGRITY CODE OF CONDUCT FOR STATE**  
**OFFICERS IN THE COUNTY EXECUTIVE COMMITTEE OF THE KILIFI**  
**COUNTY GOVERNMENT**

**PART I – STATEMENT OF INTENT**

A Leadership and Integrity Code for State Officers in the County Executive Committee of Kilifi made pursuant to the provisions of Section 37 of the Leadership and Integrity Act, 2012 and to give effect to Chapter Six of the Constitution of Kenya. The Code is intended to establish standards of integrity and ethical conduct in the leadership and management of public affairs of the County Executive Committee by ensuring that the State Officers respect the values, principles and provisions of the Constitution and other applicable laws or policies on the standards of conduct and performance expected of holders of public office in the discharge of their duties.

**PART II – PRELIMINARY PROVISIONS**

**Citation**

1. This code may be cited as the Leadership and Integrity Code for State Officers in the County Executive Committee of Kilifi.

**Commencement**

2. This Code shall come into operation upon its publication in the Kenya Gazette.

**Interpretation**

3. In this code, unless the context otherwise requires –

“**Act**” means the Leadership and Integrity Act, 2012; [**No. 19 of 2012**]

“**Accounting Officer**” means the County Secretary of the County Government of Kilifi

“**Authorized Officer**” means the Governor of the County Government of Kilifi and includes his/her designate

“**Bank Account**” has the meaning assigned to it under section 2 of the Act;

**“Code”** means the Leadership and Integrity Code for State Officers in the County Executive Committee of Kilifi

**“Commission”** means the Ethics and Anti-Corruption Commission established under section 3 of the Ethics and Anti-corruption commission Act, No. 22 of 2011;

**“Gazette”** means the Kenya Gazette

**“His”** includes the expression “her”

**“Office”** means the office of a member of the County Executive Committee of Kilifi

**“Personal Interest”** means a matter in which a State Officer has a direct or indirect pecuniary or non-pecuniary interest and includes the interest of this or her spouse, child, business associate or agent;

**“Public Officer”** has the meaning assigned to it under Article 260 of the Constitution

**“Regulations”** means the Regulations made by the Ethics and Anti-Corruption commission pursuant to section 54 of the Act;

**“Serving State Officer”** means a State Officer who is in office at the time of commencement of this Code

**“Sexual harassment”** has the meaning assigned to it under the Public Officer Ethics Act

**“State Officer”** means a Member of the County Executive Committee of Kilifi;

**Application of Chapter Six of the Constitution, the Leadership and Integrity Act, 2012 and the Public Officer Ethics Act, 2003**

4. (1) The provisions of Chapter Six of the Constitution, the Leadership and Integrity Act, the Public Officer Ethics Act 2003 and shall form part of the code

**Commitment to the Code**

5. (1) A State Officer elected or appointed to the County Executive Committee shall sign and commit to this Code at the time of taking oath of office or within seven days of assuming office.

(2) A serving State Officer shall sign and commit to this Code within seven days of the publication of the Code in the Gazette.

(3) The declaration of commitment to the Code shall take the form and structure set out in the First Schedule to this Code

## **PART II – REQUIREMENTS**

### **Rule of Law**

6. (1) A State Officer shall respect and abide by the Constitution and all other laws;

(2) A State Officer shall carry out the duties of his or her office in accordance with the law;

(3) In carrying out the duties of his or her office, a State Officer shall not violate the rights and fundamental freedoms of any person

### **Public trust**

7. A State Office is a position of public trust and the authority and responsibility vested in a State Officer shall be exercised by the State Officer in the best interest of the office and the people of Kenya.

### **Responsibility and duties**

8. Subject to the constitution and any other law, a State Officer shall take personal responsibility for the reasonably foreseeable consequences of any actions or omissions arising from the discharge of the duties of his or her office.

### **Performance of duties**

9. A State Officer shall, to the best of his or her ability –

- (a) Carry out the duties of the office efficiently and honestly;
- (b) Carry out the duties of the office in a transparent and accountable manner;
- (c) Keep accurate records and documents relating to the functions of the office and
- (d) Report truthfully on all matters of the office.

### **Professionalism**

10. A State Officer shall –

- (a) Carry out the duties of his or her office in a manner that maintains public confidence in the integrity of the office
- (b) Treat members of the public, staff and other state and public officers with courtesy and respect;
- (c) To the extent appropriate to the office, maintain high standards of performance and level of professionalism within the office and;
- (d) If the State Officer is a member of a professional body, observe and subscribe to the ethical and professional requirements of that body in so far as the requirements do not contravene the Constitution, any other law or this Code.

### **Confidentiality**

11. A State Officer shall-

- (a) Subject to Article 35 of the Constitution and any other relevant law, a State Officer shall not disclose or cause to be disclosed any information in his or her custody to any unauthorized person.

### **Financial integrity**

12. (1) A State Officer shall not use his or her office to unlawfully or wrongfully enrich himself or herself or any other person.

(2) Subject to article 76(2) (b) of the Constitution a State Officer shall not accept a personal loan or benefit which may compromise the State Officer in carrying out his or her duties.

(3) a State Officer shall submit an initial declaration of income, assets and liabilities within thirty days of assuming office and thereafter make biennial declarations to the office, and a final declaration within (30) days of ceasing to be a State Officer.

(4) The Declaration under sub-paragraph (3) shall be submitted to the County Public Service Board

(5) A declaration filed by a State Officer in accordance with the provisions of sub-paragraph (3) shall be accessible to the Commission and any other person, subject to the provisions of Section 30 of the Public Officer Ethics Act, 2003.

(6) A State Officer shall pay any taxes, loans or other debts due from him within the prescribed period

(7) A State Officer shall not neglect their financial or legal obligations.

### **Moral and ethical requirements**

13. (1) A State Officer shall observe and maintain the following ethical and moral requirements –

- (a) Demonstrate honesty in the conduct of his or her public and private affairs
- (b) Not to engage in activities that amount to abuse of office;
- (c) Accurately and honestly represent information to the public;
- (d) Not engage in wrongful conduct in furtherance of personal benefit
- (e) Not misuse public resources
- (f) Not falsify any records
- (g) Not have inappropriate sexual relations with other State Officers, staff of the office or any other person;
- (h) Not engage in actions which would lead to the State Officers removal from the membership of a professional body in accordance with the law;
- (i) Not commit offences and in particular, any of the offences under parts XV and XVI of the Penal Code, Sexual offences act, 2006, the Counter-Trafficking in Persons Act, 2008, and the Children Act;
- (j) Not engage in fighting or physical confrontation with any person
- (k) Maintain high standards of etiquette at all times

(2) A person who wishes to be appointed the Office shall for the purposes of this Code, submit to the Commission a self-declaration in the form set out in the First Schedule to the Act

(3) In respect to a person wishing to be elected to the office, the Declaration under sub-paragraph (2) shall be submitted to the Independent Electoral and Boundaries Commission.

(4) A state officer shall maintain high standards of etiquette at all times

### **Sexual harassment**

14. A State officer shall not sexually harass any other state officer, public officer or a member of the public

### **Gifts or benefits in kind**

15. (1) A gift or donation given to a State Officer on a public or official occasion shall be treated as a gift of donation to the office.

(2) Notwithstanding subparagraph (1) a State Officer may receive a gift given to the State Officer in official capacity, provided that –

- (a) The gift is within the ordinary bounds of propriety, a usual expression of courtesy or protocol and within the ordinary standards of hospitality
- (b) The gift is not monetary
- (c) The gift does not exceed the value of Kenya Shillings twenty thousand or such other amount as may be prescribed by the Commission through Regulations

(3.) A State Officer shall not –

(a) Accept or solicit gifts, hospitality or other benefits from a person who –

- i. Has an interest in any matter under consideration by the Office
- ii. Has a contractual relationship with the office
- iii. Has any interest that is directly or indirectly connected with the State Officers duties

(b) Receive a gift which has the potential of compromising his or her integrity, objectivity or impartiality or

(c) Accept any type of gift expressly prohibited under the Act;

(4) A State Officer who receives a gift or donation shall declare the gift or donation to the Authorized Officer within seven days of receipt of the gift.

(5) The Office shall maintain a register of all gifts received by the state Officers serving in the Office and another register of all gifts given by the office to other State or Public Officers

### **Wrongful or unlawful acquisition of property**

15. A State Officer shall not use the office to wrongfully or unlawfully acquire or influence the acquisition of public or other property.

### **Conflict of interest**

16. (1) A State Officer shall use the best efforts to avoid being in a conflict of interest a situation where his or her personal interests conflict or appear to conflict with the State Officers official duties.

(2) Without limiting the generality of subparagraph (1)

(1) a State Officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in a conflict of the State Officers and the officers official duties.

(3) A State Officer whose personal interest's conflict with their official duties shall declare the personal interest to the office.

(4) The Office may give directions on the appropriate action to be taken by the State Officer to avoid the conflict of interest and the State Officer shall comply with the directions, and refrain from participating in any deliberations with respect to the matter.

(5) Any direction issued by the office under sub paragraph (4) shall be in writing.

(6) Notwithstanding any directions to the contrary under subparagraph (4) a State Officer shall not influence the award of a contract to;-

(a) Himself or herself

(b) The State Officers spouse or child

(c) A business associate or agent or

(d) A corporation, private company, partnership or other body in which the officer has a substantial or controlling interest.

(7) Where a State Officer is present at a meeting, and an issue which is likely to result in a conflict of interest is to be discussed, the State Officer shall declare the interest at the beginning of the meeting or before the issue is deliberated upon.

(8) A declaration of a conflict of interest under subparagraph (7) shall be recorded in the minutes of that meeting.

(9) The Office shall maintain a register of conflicts of interest in the prescribed form in which an affected State Officer shall register the particulars of the registrable interests, stating the nature and extent of the conflict.



(10) For purposes of subparagraph (9), the registrable interests shall include:

- (a) The interests set out in the second schedule of the Act;
- (b) Any connection with a person, firm or a company, whether by relation, friendship, holding of shares or otherwise, which is subject of an investigation by the Constitution.
- (c) Any application for employment or other form of engagement with the office by a family member or friend of the State Officer or by a law firm or corporation associated with the State Officer.
- (d) Any application to the office, by a family member or friend of the State Officer, for clearance with respect to appointment or election to any public office.
- (e) Any other matter which, in the opinion of the State Officer, taking into account the circumstances thereof, is necessary for registration as a conflict of interest.

(11) The Office shall keep the register of conflicts of interest for five years after the last entry in each volume of the register

(12) The Office shall prepare a report of the registered interests within thirty days after the close of a financial year.

(13) A State Officer shall ensure that an entry of registrable interests under subparagraph (9) is updated and to notify the office of any changes in the registrable interests, within one month of each change occurring.

### **Participation in tenders invited by the office**

17. (1) A State Officer shall not participate in a tender for the supply of goods or services to the office.

(2) Notwithstanding subparagraph (1) a company or entity associated with the State Officer shall not be construed as trading with the office, unless

- (a) The State Officer has a controlling shareholding in the company or entity or
- (b) The State Officer is a director of the company or
- (c) The State Officer is a managing partner in a law firm providing services to the office

## **Public Collections**

18. (1) A State Officer shall not solicit for contributions from the office or any other person or, public entity for a public purpose unless the President has, by notice in the Gazette, declared a national disaster and allowed a public collection for the purpose of the national disaster in accordance with the law.

(2) A State Officer shall not participate in a public collection of funds in a way that reflects adversely on the State Officers' integrity, impartiality or interferes with the Performance of the official duties.

(3) Nothing in this clause shall be constructed as prohibiting a State Officer from making voluntary contribution.

## **Bank accounts outside Kenya**

19. (1) Subject to Article 76(2) of the Constitution or any other written law, a State Officer shall not open or continue to operate a bank account outside Kenya without the approval of the Commission.

(2) A State Officer who has reasonable grounds for opening or operating a bank account outside Kenya shall apply to the commission for approval to open or operate a bank account outside Kenya.

(3) A State Officer who operates or controls the operation of a bank account outside Kenya shall submit statements of the account annually to the commission and authorize the commission to verify the statements and any other relevant information from the foreign financial institution in which the account is held.

(4) Subject to subparagraph (1) and (2), a person who is appointed or elected as a State Officer in the office and has a bank account outside Kenya shall, upon such appointment or election close the bank account within 3 months or such other period as the Commission may prescribe by notice in the Gazette

(5) Subject to subparagraph (4) a State Officer may open or continue to operate a bank account outside Kenya as may be authorized by the Commission in writing.

### **Acting for foreigners**

20. (1) A State Officer shall not be an agent of, or further the interests of a foreign government, organization or individual in a manner that may be detrimental to the security interests of Kenya, except when acting in the course of official duty.

(2) For the purposes of this paragraph –

(a) An individual is a foreigner if the individual is not a citizen of Kenya;  
and

(b) An organization is foreign if it is established outside Kenya or is owned or controlled by a foreign government, organization or individual

### **Care of property**

21 (1) A State Officer shall take all reasonable steps to ensure that public property in his or her custody, possession or control is taken care of and is in good repair and Condition.

(2) A State Officer shall not use public property, funds or services that are acquired in the course of or as a result of the official duties, for private activities of activities that are not related to the official work of the State Officer.

(3) A State Officer shall return to the office all the public property in his or her custody, possession or control at the end of the election or contract term.

(4) A State Officer who contravenes subparagraph (2) or (3) shall, in addition to any other penalties provided for under the Constitution, the Act or any other law, be personally liable for any loss or damage to the public property.

### **Misuse of official information**

22. (1) A State Officer shall not directly or indirectly use or allow any person under the officers authority to use any Information obtained through or in connection with the office, which is not available in the public domain, for the furthering of any private interest, whether financial or otherwise.

(2) A State Officer shall not be deemed to have violated the requirements of subparagraph (1), if the information given –

(a) Pursuant to a court order

- (b) For purposes of educational, research, literary, scientific or other purposes not prohibited by law; or
- (c) In compliance with Article 35 of the Constitution and the relevant law

### **Impartiality**

24. (1) A State Officer shall, at all times, carry out the duties of the Office with impartiality and objectivity in accordance with principles and values set out in Articles 10, 27, 73 (2)(b) and 232 of the Constitution and shall not practice favouritism, nepotism, tribalism, cronyism, religious bias or engage in other preferential treatment of another State Officer, Public Officer or a member of the public.

(2) A state officer shall take appropriate measures to ensure that all state or public officers under his supervision comply with sub-paragraph (1)

### **Giving of advice**

25. A State Officer who has a duty to give advice shall give honest, accurate and impartial advice without fear or favour.

### **Offers of future Employment**

27. (1) A State Officer shall not allow himself of herself to be influenced in the performance of his or her duties by plans or expectations for or offers of future employment or benefits.

(2) A State Officer shall disclose, in writing, to the Commission, all offers of future employment or benefits that could place the State Officer in a situation of conflict of interest.

### **Former state Officer acting in a government or public office**

28. A former State Officer shall not be engaged by the Office in a matter in which the State Officer was originally engaged in as a State Officer, for at least two years after leaving the office.

### **Misleading the public**

29. A State Officer shall not knowingly give false or misleading information to any person.

### **Falsification of Records**

30. A State Officer shall not falsify any records or misrepresent information to the public

### **Conduct of private Affairs**

31. A State Officer shall conduct their private affairs in a manner that maintains public confidence in the integrity of the Office.

### **Bullying**

32. (1) A State Officer shall not bully another State or Public Officer or any other person.

(2) For purposes of subparagraph (1) “bullying” includes blackmail, coercion, threats, intimidation or repeated offensive behaviour which is vindictive, cruel, malicious or humiliating whether or not is intended to undermine a person and includes physical assault

### **Acting through Others**

33. (1) A State Officer shall not –

(a) Cause anything to be done through another person that would constitute a contravention of this Code, the Constitution or any other law if done by the State Officer or

(b) Allow or direct a person under their supervision or control to do anything that is in contravention of this Code, the Constitution or any other law.

2) Subparagraph (1) (b) shall not apply where anything is done without the State Officer’s knowledge or consent or if the State Officer has taken reasonable steps to prevent it.

(3) A state officer seeking to give instructions to another state or public officer in relation to any official matter shall upon the request of that other state or public officer give such instructions in writing.

(4) Notwithstanding subparagraph (3), all instructions in relation to matters involving recruitment of staff, implementation of projects, public procurement, public funds or resources shall be in writing

### **Reporting improper orders**

34. If a State Officer considers that anything required of him or her is in contravention of the Code or is otherwise improper or unethical, the State Officer shall report the matter to the Commission.

(2) The Commission shall investigate the report and take appropriate action within ninety days of receiving the report.

### **Duty to prevent Occurrence of corruption or unethical practice in the office**

36. A State Officer who believes or has reason to believe corrupt act or unethical malpractice has occurred or is about to occur in the office shall take all necessary measures to prevent it from continuing or materializing in addition to any other appropriate action.

### **Duty to promote integrity in the office**

A state officer shall take necessary measures to ensure that all his subordinate state and public officers comply with the provisions of Chapter Six of the Constitution and the Leadership and Integrity Act, 2012

### **Use of Social Media**

37. A State Officer shall not use social media in a manner that is prejudicial to public interest, national cohesion or that otherwise constitutes a breach of any law

### **Dress code**

38. A State Officer shall maintain appropriate standard of dress and personal hygiene at all times.

### **Political and other Influence**

39. (1) A State Officer shall exercise independence in the discharge of his duties and shall not allow himself to be subjected to political or any other internal or external influence that is detrimental to public interest

(2) a State Officer shall not influence or attempt to influence the decision of any other State or Public Officer or public entity on any matter

(3) A State Officer shall not in any way interfere with the duties of any other State Officer Public Officer or public entity

### **Implementation of development projects**

40. (1) A State Officer shall exercise prudence in the undertaking of development projects and shall at times prioritize projects that are most urgent for the public

(2) For the purposes of sub-paragraph (1), a State Officer shall, before planning for any project, to the extent applicable, undertake and facilitate public and stakeholder participation in the determination of the projects to be implemented at any given time

(3) A State Officer shall not undertake any project without prior planning or budgeting

(4) A State Officer shall not demand or accept any kickbacks, gifts, benefits or other favours from contractors

(5) A State Officer shall not compromise or abet comprising of standards of any project implemented for the office

(6) A State Officer shall, subject to the law, disclose all relevant information regarding any project to any person requiring such information

### **Preferential treatment**

41. A State Officer shall ensure equal and equitable distribution of resources to all persons and any section of the population in his area of jurisdiction and shall not confer any undue advantage to any person or section of the population

## **PART III – ENFORCEMENT OF THE CODE**

### **Provisions in relation to breach of the code**

42 (1) any person may lodge a complaint alleging a breach of this code by a State Officer to the Office or to the commission

(2) Breach of this Code amounts to misconduct for which the State Officer may be subjected to disciplinary proceedings including removal from office;

(3) Where a Breach of this code amounts to violation of the Constitution, the State Officer may be removed from the office in accordance with the applicable laws.

(4) Where an allegation of breach is made to the Office, the person alleging the breach shall submit a petition setting out the grounds and facts of the alleged violation to the Authorized Officer of the Office

(5) Upon receipt of the Complaint, the Office shall register and carry out investigations into the complaint, and may take action against the State Officer in accordance with the Act and any Regulations made by the Commission under the Act

(6) If upon investigation into the alleged breach of the Code, the Office is of the opinion that civil or criminal proceedings out to be preferred against the respective State Officer, it shall refer the matter to

- a). The Commission, with respect to civil matters; and
- b). The director of Public Prosecutions with respect to criminal matters.

(7) Where the complaint is made to the Commission, the Commission shall take such action against the State Officer as it deems necessary in accordance with its mandate under the law

(8) Notwithstanding sub-paragraph (5), the Commission may, subject to the law, take any additional action it deems appropriate in relation to any breach of the Code or require the Office to take any action against a State Officer who has breached the Code

### **Victimization**

43. A State Officer shall not in any way victimize any other State Officer or Public Officer or any other person for any lawful action or omission

### **Duty of Authorized Officer and Accounting Officer to comply with directives of the Commission in implementation of the Code**

44. The Authorized Officer or Accounting Officer of the Office shall at all times comply with such orders or directives as may be issued by the Commission from time to time towards the implementation of this Code

### **Designated unit to implement code**

The Authorized Officer may, subject to the administrative policies of the office and the relevant laws, establish a unit within the office or designate officers to coordinate implementation of this code

## **PART IV – GENERAL PROVISIONS**



### **Advisory opinion**

45. A State Officer or the office may request the Commission to give an advisory opinion on any issue relating to, but not limited to –

- a). The application of chapter six of the constitution
- b). The application of the Act or any other applicable law or regulations dealing with the ethics and integrity of State Officers;
- c). The application of the Public Officer Ethics Act 2003, or any other law or regulations dealing with the ethics and integrity of public officers.
- d). The application of this Code
- e). An ethical dilemma or
- f). Any other matter incidental to the promotion of the ethics and integrity of State Officers and public officers generally.

### **Training on Leadership and Integrity**

46. The office shall collaborate with the Commission to ensure that the State Officers and public officers serving in the Office are sensitized on leadership and integrity issues at least once a year.

### **Personal responsibility for compliance**

47. Each State Officer shall take personal responsibility or compliance with the provisions of this Code

### **Annual Report**

48. The Authorized Office or his designate shall cause to be prepared and submitted to the Commission an Annual Report on the progress made in implementation and enforcement of the Code in a prescribed format by the Commission.

### **Amendment of the Code**

49. The Office may with approval of the Commission amend this Code

**FIRST SCHEDULE  
(Para. 6(3))**

**COMMITMENT TO THE LEADERSHIP AND INTEGRITY CODE FOR  
STATE OFFICERS IN THE COUNTY EXECUTIVE COMMITTEE OF KILIFI  
COUNTY GOVERNMENT**

I.....holder of National ID/Passport No..... and Post Office Box No. .... having been elected or appointed as ..... in the County Executive Committee of Kilifi County Government do hereby confirm that I have read and understood the Leadership and Integrity Code for State Officers in the County Executive Committee of Kilifi County Government and hereby solemnly declare and commit myself to abide by the provisions of the Code at all times.

SIGNED at .....

By the said .....)

.....) Deponent

This.....day of.....20.....)

Before Me )  
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..... )  
*Judge/ Magistrate/ Commissioner for Oaths*