



LAW SOCIETY OF KENYA

THE ELECTORAL CODE OF CONDUCT, (Revised 2019)

*Incorporating the Resolution of Members Made During the Annual General Meeting Held
on the 30th March 2019*

THE ELECTORAL CODE OF CONDUCT, (REVISED 2019)

The purpose of the LSK Elections Code of Conduct is to encourage and promote conduct of campaigns for various Law Society of Kenya elections being mindful of the political neutrality, independence, honour and dignity of the legal profession. The Law Society of Kenya maintains that conduct of campaign reflects a candidate's integrity and values and only those candidates willing to abide by this Code of Ethics merit consideration for endorsement by the Law Society members.

The objective of the code is to prescribe matters relating to the conduct of elections for members of the Council to the Society, the Disciplinary Tribunal and the Judicial Service Commission.

PART I – PRELIMINARY

1. This Code may be cited as the Law Society of Kenya Electoral (Code of Conduct) 2019.

2. In this Code, unless the context otherwise requires-
Interpretation'

"Council" means the Council of the Society established by section 17 of the law society of Kenya Act 2014;

“Election date” means the voting day for each election fixed by the Council

"General meeting" means a meeting of the Society held in terms of section 15 of the Act;

"Secretary" means the Secretary of the Society appointed by the Council under section 26 of the said Act;

"Society" means the Law Society of Kenya established under section 3.

"the fixed annual date" means 31st December of an election year.

Application

3. This code shall apply to –
- (a) All candidates desirous of contesting for any position in the Council of the Society, the Disciplinary Tribunal and the Judicial Service Commission and the LSK Branch Elections; and
 - (b) The agents, supporters and campaigning teams of the candidates in (a) above.

Authorizing provisions

4. This Code are made pursuant to General powers of the Society under Sections 5 and the guiding principles under section 6,17,18,19, 20, 41 of The Law Society of Kenya Act, 2014 and the Law Society of Kenya (General) Regulations, the enabling Provisions of the Constitution, The Advocates Act, Cap 16 and The Judicial Service Act, 2011 (Revised 2012).

PART II - ELIGIBILITY FOR ELECTION AS A MEMBER OF THE COUNCIL, THE DISCIPLINARY TRIBUNAL, THE JUDICIAL SERVICE COMMISSION AND LSK BRANCH OFFICIAL

5. (1) A person is eligible for election as President or Vice- President if the person meets the conditions set out in Section 18 (1) of the Law Society of Kenya Act, 2014 and in addition; -
- (a) Meets the requirements of Chapter Six of the Constitution.
 - (b) Supplementary qualifications *infra*.
- (2) A person is eligible for election as a member of the Council if the person meets the conditions set out in Section 18 (2) of the Law Society of Kenya Act, 2014.

- (3) A person is eligible to vie for election as a member to the Disciplinary Tribunal as set out in Section 57 (1) (C) of The Advocates Act.
- (4) The two persons to be elected as representatives to the Judicial Service Commission pursuant Article 171 (2) (f) of The Constitution have to be a man and a woman and for such persons to be eligible for elections; they have to be;
 - (a) Members of the Society;
 - (b) Qualified to be a Judge of the Supreme Court.
 - (c) Supplementary Qualifications *infra*.
- (5) A person is eligible for election as a member of the Council of the LSK Branch, if the person:
 - (a) is a member of the Law Society of Kenya who ordinarily practices in the relevant Branch set out in section 24 of the Law Society of Kenya Act, 2014 and the schedule thereto
 - (b) has not been found liable for professional misconduct by the Disciplinary Tribunal established under the Advocates Act, in the three years preceding the election and
 - (c) meets the requirement of chapter six of the constitution

Leadership and Integrity

6. No Person shall be considered as eligible for election under the above categories unless such person;

- (1) Has never been convicted of any act of Professional Misconduct before the Advocates Disciplinary Tribunal in the three years immediately preceding the election.
- (2) Has signed the Law Society of Kenya Candidates' Declaration of Compliance in the **Schedule herein**.

PART III - ELECTIONS

Notice of election

7. Not later than 42 days before the fixed annual date (i.e. not later than 19th November) in each election year, the Secretary shall send notices to members announcing vacancies in the Council, the Disciplinary Tribunal and the Judicial service Commission as the case may be, inviting nominations for election to the Council and to the Disciplinary Tribunal.
8. The notice of vacancies shall specify a date by which nominations for available vacancies to the Council, the Disciplinary Tribunal and the Judicial Service Commission must be returned.

Nominations

9. (1) A person wishing to be a candidate in the elections must deliver or cause to be delivered to the Secretary a nomination in writing in the prescribed Form.
 - (2) A nomination must be signed by the candidate or nominee and by 2 nominators who must be members of the society and entitled to vote at the election.
 - (3) The Secretary must confirm that the person nominated is entitled to be a candidate and that the nominators are entitled to vote in the election.

Publication of Accepted nominees

10. Not less than one month before the date of Elections, the secretary shall publish in the electronic circular to members, Law Courts' Notice Boards and/or libraries the list of members whose nominations have been accepted.

Withdrawal from Elections

11. Notwithstanding any such nomination and consent, any person nominated shall be entitled to withdraw his candidature at least thirty days before the elections and such withdrawal shall be by way of written notice to the Secretary.

Fewer or more Nominations

12. (1) If at the close of the nominations as provided for in sub- clause (a) the number of nominations are fewer than the number to be elected, balloting shall be deferred until the Annual General Meeting, at which meeting the President shall call for and accept further nominations.
(2) If as a result of such further nominations the number of nominations received for the election is equal to the number of vacancies to be filled, the secretary shall forthwith declare the nominees to be duly elected.
13. If more candidates are proposed than are to be elected to fill the office of President, Vice President, the Council Members, members to the Disciplinary tribunal and the Representatives to the Judicial Service Commission, the election shall be by secret ballot.

Eligibility of voters

14. Every Member entitled to vote may cast one vote in person for every position in the office to be filled.

Campaigns

15. (1) It shall be a breach of the code for any candidates and/or their supporters to directly and/or indirectly bribe and treat and whatsoever to influence and/or induce member or members of the Society to vote or refrain from voting
- (2) Use of campaign materials, literature, posters, and manifestos of any kind must comply with the objectives of the Society.
- (3) The Campaigns shall commence on the date publication of the list of members whose nominations have been accepted and shall terminate 24 hours to the Election date.

PART IV - DISPUTE RESOLUTION

16. Any voter may contest the validity of the elections of a candidate declared to have been elected by a petition signed by him and supported by an affidavit and delivered to the Secretary personally, within seven (7) days from the date of publications of the results of the elections.

Schedule

THE ELECTORAL (CODE OF CONDUCT) 2019 DECLARATION OF COMPLIANCE BY CANDIDATES

I..... desirous
of contesting the elections to be held on or soon
thereafter for the position of
..... and having been
validly nominated by
(1).....(2)..... in
conformity with the Constitution of Kenya/Law Society of Kenya Act, 2014 / Advocates
Act Chapter 16 of the Laws of Kenya solemnly Swear, Affirm and Declare that I and my
agents will subscribe and observe all the provisions of the Code of Conduct and in particular to:

- a) Promote the ideals of the Law society of Kenya in a fair, truthful, free and transparent manner.
- b) To avoid, condemn and prevent violence and intimidation or abusive language or words that will disparage the conduct of my opponents or opposing candidates.
- c) To instruct my agents, supporters and campaigning teams and, members of the Law Society who have nominated me to respect the Code by avoiding violence and intimidating or abusive language in any media of communication.
- d) To respect and affirm all the rights of all participants and supporters of opponents in the election:
 - (i) To express divergent opinions,
 - (ii) To debate and contest the policies and programmes of other candidates in a positive and objective manner without causing bad blood or ridiculing them
 - (iii) To canvass freely and support from members of the law Society,
 - (iv) Respect and be subject to the Public Order Act, when holding Public meetings and general campaigns,
 - (v) To refrain from distributing offensive electoral literature and campaign materials, SMS texts and e-mails;
 - (vi) To refrain from publishing and distribute offensive notices and advertisements in print and electronic media, notice boards etc
 - (vii) To avoid erecting offensive banners, placards and posters;

- (viii) To promote free and fair campaigns by all lawful means;
- (ix) To co-operate with responsible authority and other relevant institutions like Election observers and other authorities in the investigation of issues and allegations arising during the election period;
- (x) To avoid any corrupt tendencies like bribing the voters to vote for me, buying voter cards any manipulating and voting documents and individual voters or refrain from offering any inducement or reward to any person to vote or not wishing to vote for me or any other candidate.
- (xi) Respect all the vote and polling centres by avoiding to conduct any form of campaigns within 400 meters radius of these centres including distributing any forms of inducements in form of money or presents in an attempt to influence the voters, electoral officers, security officers and agents.
- (xii) To refrain from impeding the right of any candidate, canvassers and representatives to have access to members for purposes of voter education, canvassing for votes and soliciting support for elections.
- (xiii) To avoid, eliminate and stop plagiarizing the opponent's messages, posters and to discourage and prevent the removal, disfigurement or destruction of campaign materials of any contestants.
- (xiv) To refrain from publishing or repeating false, defamatory or inflammatory allegations concerning any person connected with the election to defame the character of a contestant.
- (xv) To refrain from any attempt to abuse a position of power, privilege or influence, including any offer of reward or threat to refuse to pay a penalty properly imposed by the responsible authority for errant behaviour by me or my supporters during campaigns and voting.
- (xvi) To avoid any discrimination based on age, race, gender, tribe or place of origin or residence or other local connection, political opinion, colour, creed or sex in connection with the election activity.
- (xvii) To acknowledge the responsible authority in the conduct of election, ensure the attendance and participation of representatives at meetings of any Liaison Committee and other forums convened by the responsible authority in dispute resolution, respect and honour fines or any condition imposed on my candidature due to misconduct and unbecoming campaign behaviour by me or my supporters during campaign for votes.
- (xviii) To facilitate the responsible authority's right of access through official observers and other representatives to all public meetings or other

electoral activities co-operate in the official investigation of issues and allegations arising during any election period.

- (xix) To reassure members with regard to the secrecy and integrity of the ballot and furthermore, to reaffirm the provisions of Section 25 of Election Offences Act Cap 66 to the effect that no one will know how any other person has voted.
- (xx) To take reasonable steps to discipline, stop and control my agents, employees, candidates, members and supporters from infringing this code, engaging in activities of commission or omission which amount to offences under the electoral laws or otherwise for not observing this code or contravening or failing to comply with any provision of the electoral laws.
- (xxi) To refrain and deter my supporters and agents from conducting campaigns and speeches in Continuing Legal Education forums during the campaign period.
- (xxii) Without prejudice to any other rights, to accept the final outcome of the election and the declaration and certification of the results thereof.

Where, in the opinion of the responsible authority and on sufficient presentation of evidence, I or my supporters and agents have contravened or the members nominating me has contravened or infringed on any of the provisions of this Code, I will be liable to have committed an electoral offence and may be liable to the following penalties or may be liable to be disqualified from the elections or both.

- (i) Formal warning
- (ii) A fine as follows:
 - -Penalty for breach by candidates and agents for Chairperson is **Ksh 50,000**
 - -Penalty for breach by candidates and agents for Vice Chairperson is **Ksh 25,000**
 - -Penalty for breach by candidates and agents for Council members and
 - -Penalty for breach by candidates and agents for Disciplinary Committee is **Ksh 15,000.**
- (iii) Be barred from holding any public meetings, campaigns or meeting the voters during election period
- (iv) Be barred from participating in any one or more future LSK elections
- (v) The members nominating me may also be cautioned, warned, be fined or barred from participating in any one or more future LSK elections.

I have read the Code, confirm that I have understood the contents of this Code of Conduct, swear to respect and abide by all the conditions of the Code and to that end promise to undertake objective and mature campaigns free from coercion, abusive language and violence.

So help me God. Sworn

by the said

Name of Candidate:

.....

ID./Passport No.:

.....

Signature:

This Day of 2019

Date:

Before me

.....
.....
COMMISSIONER OF OATHS/MAGISTRATE

.....
STAMP