

## **THE UNIVERSITY OF NAIROBI STUDENTS ASSOCIATION CONSTITUTION, 2017**

### **PREAMBLE**

WE the students of the University of Nairobi desiring to constitute ourselves as an association to secure for ourselves and our posterity academic freedom, excellence, liberty and our welfare,

HUMBLY submitting to God and recognizing our responsibility before Him, humanity and to ourselves,

HONOURING the selfless efforts, drawbacks and successes of the founding and succeeding members,

PROUD of the diversity of backgrounds and cultures of members, united by a common purpose and aspirations,

GUIDED by the national values and principles of governance, principles of leadership and integrity and general principles of elections as spelt out in Articles 10,81 and Chapter 6 of the Constitution of Kenya 2010,

GUIDED by reason, courtesy, and genuine search of all virtues to live in comradeship, peace and to develop wholesome collaboration with other student bodies, persons, institutions and all who believe in the ideals of justice, equality and truth,

RECOGNISING the supreme authority of the University Council and Senate under the Universities Act, No. 42 of 2012(as amended in 2016), Laws of Kenya, the University of Nairobi Charter 2013, University of Nairobi Statutes, Rules and Regulations Governing Conduct and Discipline of Students made there under.

ADOPT, ENACT and give this Constitution to ourselves and future students of the University of Nairobi.

**GOD BLESS THE UNIVERSITY OF NAIROBI!**

## ARRANGEMENT OF PARTS

### PART I - PRELIMINARY

#### Article 1: Short Title

This Constitution may be cited as the University of Nairobi Students Association, 2017

#### Article 2: Interpretation

In this Constitution, unless the context otherwise requires-

“**Annual Accounts**” means the balance sheet and the income statement;

“**Chancellor’s Court**” refers to the Chancellor’s Court situated at Main Campus of the University of Nairobi;

“**Charter**” means the University of Nairobi Charter 2013;

“**Constitution**” refers to the Constitution of UNSA;

“**Electors**” three representatives drawn from the Electoral College

“**Member**” means a student of the University of Nairobi who is duly registered;

“**Member of Staff**” includes academic and non-academic staff members of the University of Nairobi;

“**Senate**” refers to the University of Nairobi Senate;

“**Special Needs**” includes issues concerning students with disability, psychosocial challenges and indigent students;

“**Student**” means a duly registered student of the University of Nairobi;

“**Students’ Council**” means the body as provided for in the Universities Act;

“**University**” means the University of Nairobi;

“**University Administration**” means all the administrative bodies and persons of the University of Nairobi;

“**University Council**” means the Council of the University established under the Universities Act and the Charter;

“**University Financial Regulations**” means the financial regulations of the University of Nairobi;

“**University Executive Board**” shall have the same meaning as provided for under Statute XII;

#### Article 3: Application

This Constitution shall apply to and bind all students and staff of the University of Nairobi and the relationship with other stakeholders shall be governed by this Constitution and the rules, regulations, offences and penalties made there under.

## **PART II: AIMS, ESTABLISHMENT, OBJECTS AND VALUES AND PRINCIPLES OF THE ASSOCIATION**

### **Article 4: The aims of this Constitution**

The aim of this Constitution is to:

- (a) Provide for a structured framework of governance of students and engagement with relevant stakeholders for the overall benefit of Students and the University,
- (b) Clarify the provisions relating to the University of Nairobi Student Associations as relates to its status, membership, appointment, term of office and for connected purposes.
- (c) Ensure that the Students' Association operates in a fair and democratic manner and
- (d) Ensure proper management/structure is in place and that the structure functions to maintain integrity, reputation and responsibility.

### **Article 5: Establishment and composition of the Student Association**

#### **5(1) Establishment**

- a) There is established the University of Nairobi Students Association in accordance with section 41 of the Universities Act 2016.
- b) The name of the association shall be the University of Nairobi Students' Association (referred to as "UNSA" or "the Association").

#### **5(2) Composition**

The Association shall consist of the following:

- a) Students' Council;
- b) The Electoral Colleges,
- c) Members in General Meetings, and
- c) Special General Meeting

### **Article 6: Headquarters, Registered office and other Branches of the Association**

- (a) The headquarters and registered office(s) of the Association shall be at the University of Nairobi Students Building at the University Main Campus, P.O. Box 30197-00100, Nairobi or such other location as the University may determine.
- (b) The Association may also have its offices outside the Headquarters in such other locations as may be approved by the University.

## **Article 7: The Objectives of the Association**

The objectives of the Association include to:

- a) Promote students' welfare, aspirations and interests;
- b) Seek students' representation and participation in the appropriate organs of the University;
- c) Develop leadership capacity and promote mentorship
- d) Set and promote a high standard of ethics, integrity, transparency and cohesion among members of the Association;
- e) Actively work in close solidarity with other students' and professional organizations within and outside the University;
- f) Promote and enhance the enjoyment of academic freedom and freedoms of conscience, expression and association;
- g) Work hand in hand with the University Administration and other relevant bodies towards enhancement of members' conditions of living and improvement of facilities at the University;
- h) Encourage student academic research, and provide an environment conducive to educational,
- i) Intellectual and personal development of the members;
- j) Enhance and preserve high academic standards in the University;
- k) Promote positive student-lecturer relationship;
- l) Create, publish and distribute magazines, journals, or any other content accessible through various media, including the Internet, through which students can express views, thoughts and creative talents;
- m) Raise funds and mobilize resources through any lawful means for purposes of achieving the aim and objectives of the Association;
- n) Promote participation in community service and environmental conservation ;
- o) Carry out such other activities as may be incidental to the achievement of the above objectives.

## **Article 8: Guiding values and principles of the Association**

The Association shall, in its operation be guided by the following values and principles:

- (a) Patriotism and national unity,
- (b) Good governance and accountability transparency,
- (c) Integrity and transparency,
- (d) Gender equity;
- (e) Inclusivity and diversity,
- (f) Respect for the rule of law;

- (g) Collective and responsible student leadership, and
- (h) Commitment to academic excellence.

### **PART III: ELIGIBILITY FOR MEMBERSHIP, MEMBERS' RIGHTS, PRIVILEGES AND DUTIES**

#### **Article 9: Eligibility for Membership, Members' Rights, Privileges and Duties**

##### **9(1) Eligibility for Membership**

- a) Membership to the Association shall be open to all students of the University.
- b) Members shall pay an annual subscription fee of five hundred Kenya shillings (KES. 500), or such amount as may be proposed from time to time by Students' Council and approved by University Council.

##### **9(2) Rights, Privileges and Duties of Members**

- a) A member may seek election to any office or position established in this Constitution and shall be entitled to vote at UNSA elections.
- b) At least 60 members drawn equitably from at least six campuses may petition the Secretary General to call a Special General Meeting.
- c) An ordinary member shall have the right to access all relevant information relating to the affairs of the Association including books and records of accounts, audit reports and minutes of meetings, after providing a written notice in not less than 30 days.
- d) An ordinary member shall have the right to take part in all activities organized by the Association.

##### **9(3) Duties of Members**

Every member shall:

- a) Comply and abide by the letter and spirit of this Constitution;
- b) Shall strive to promote non-discrimination and inclusivity;
- c) Be charged with the promotion of peace, integration, cohesion and tolerance in the operation of the Association;
- d) Promote cultural, racial and religious diversity of the members of the Association;
- e) Actively participate in the electoral processes and other activities of the Association; and
- f) Ensure that the Association complies with the Constitution, relevant laws, regulations and good governance practices.

#### **9(4) Cessation of Membership**

Membership shall cease:

- a) Upon completion of the programme undertaken at the University.
- b) Where a student transfers to another university
- c) Where a member dies,
- d) Upon expulsion from the University. However, the student shall be entitled to membership in the Association upon readmission to the University.
- e) Discontinuation or deregistration from an academic programme
- f) Any other lawful reason provided by the Senate

#### **9(5) Suspension from Membership**

- (a) Membership to the Association shall be suspended in any of the following cases:
  - i. Where a member has not registered for the academic year of study.
  - ii. Where a member is suspended from the University.
- (b) A suspended member shall be automatically reinstated upon re-admission and registration to the University

#### **9(6) Limitation of Terms of Office**

1. A member of the Student Council shall hold office for a term of one year and may be eligible to re-election one term.
2. A person who has held office as a member of Students Council of a University or constituent College in Kenya is ineligible to be elected as a member of Students Council.

## **PART IV: COMPOSITION AND FUNCTIONS OF THE STUDENTS COUNCIL**

### **Article 10: The Composition of Students' Council**

#### **10(1) Composition**

- a). The Students' Council shall consist of:
- i. A Chairperson;
  - ii. A Vice-Chairperson who shall be of opposite gender with the Chairperson;
  - iii. A Secretary-General who shall be the Secretary to the Students' Council;
  - iv. A Treasurer;
  - v. Three other members to represent special interests of students.
- b) The special interests of the Students shall comprise
- i. Special needs;
  - ii. Interests of international students;
  - iii. Sports and social welfare.

#### **10(2) Functions of the Students' Council**

The Students' Council shall:

- a) Oversee and plan, in consultation with the Senate, students' activities for the promotion of academic, spiritual, moral, harmonious communal life and the social well-being of all students;
- b) Draw to the attention of the University management where necessary, special needs from particular students;
- c) Offer suggestions to the Senate and the Student Affairs Management Board on matters affecting the well-being of students ;
- d) Delegate in writing specific functions to named officials of the Association;
- e) Undertake such other functions as provided in this Constitution

#### **10(3) Functions of the Officials of the Students' Council**

##### **10(3) (a) The Chairperson;**

(a) The Chairperson shall:

- i. Be the head of the Association and the Student's Council and shall, subject to this Constitution, be responsible for all matters on behalf of the Association

- ii. Convene the Student's Council and the Association meetings and unless incapacitated by reason of illness or any other sufficient cause, preside over such general meetings in accordance with this Constitution,
- iii. Sign the minutes of meetings of the Students' Council and the Association
- iv. Be an ex-officio member of all standing committees and ad-hoc committees of the Students' Council;
- v. Sign the Association budgets and expenditures concurrently with the Secretary General and the Treasurer
- vi. Call an emergency meeting of the Students' Council where need arises from time to time;
- vii. Make decisions on behalf of the Association in extra-ordinary circumstances; where the Students' Council cannot be consulted, subject to ratification by the Students' Council;
- viii. Articulate the policies of the Association and provide leadership to the Association;
- ix. From time to time but not more than twice in a semester, Chair Congress meetings.

**10(3) (b) Vice-Chairperson**

b) The Vice-Chairperson shall:

- i. Be the principal assistant to the Chairperson and shall deputize the Chairperson in his or her absence.
- ii. In consultation with the Chairperson, be in charge of resource mobilization and income generating activities and projects of the Association and shall prepare proposals for raising finances and resources for the Association.
- iii. Initiate mentorship and leadership training programmes, in consultation with the Chairperson and the University management;
- iv. Attend all Student Council and Association meetings unless prevented by sufficient reason made known to the Students' Council;

**10(3) (c) The Secretary-General**

(c) The Secretary-General shall:

- i. Be the Secretary of the Student Council and the Association;
- ii. Take minutes of all Student Council meetings and the Association's general meetings;
- iii. In consultation with the Chairperson, be responsible for all general correspondence and safe keeping of minutes on behalf of the Association;
- ii. Be in charge of administration of the Association;
- i. Keep all records and documents of the Association including files and registers;



- ii. Plan the Association's program of activities in consultation with the Chairperson and the elected representative for social welfare and co-curricular activities;
- iii. Ensure periodic monitoring and evaluation of the Association's activities, in liaison with the University management;
- iv. Sign the Association's budgets and expenditures concurrently with the Chairperson and Treasurer;
- v. Attend all Student's Council and Association meetings, unless prevented by sufficient reason made known to the Students Council; and or the Chairperson

**10(3) (d) The Treasurer**

(d) The Treasurer shall:

- i. Be in charge of management of finances of the Association;
- ii. Keep books of accounts in liaison with the University Finance Officer and the Chief Internal Auditor and avail them for audit and inspection;
- iii. Sign the Association's budget and requests for expenditure concurrently with the Chairperson and Secretary-General;
- iv. Ensure proper accounting for all monies expended on the Association's activities;
- v. Under the guidance of the University Finance Officer, draw the annual budget of the Association and table it before the Students' Council for approval;
- vi. Ensure that the audited accounts are tabled before the Annual General Meeting.

**10(3) (e) International Students' Representative**

1. The international students shall be represented in the Association by one student.
2. The international students' representative shall:
  - i. Represent international students in the Student's Council;
  - ii. In liaison with the Director, Centre for International Programmes and Links ,organise activities for International Students;
  - iii. Create and promote awareness of Centre for International Programmes and Links among international students;
  - iv. Protect and uphold rights and privileges of International students in the University;
  - v. Represent and promote cooperation with other International students outside the university.

**10(3) (f) The Special Needs Students' Representative**

F) The Special Needs Students' Representative shall:

- i. Represent the interest of students with special needs in the Students' Council and relevant organisations dealing with persons living with disabilities;
- ii. Ensure that special needs students' rights and privileges are protected and upheld;
- iii. Identify and maintain records of students with disabilities in liaison with University management
- iv. Ensure that students living with special needs are involved and encouraged to participate in co-curricular activities;
- v. Take part in university committees formulating and implementing disability policies.
- vi. Ensure welfare of students with special needs in consultation with special needs representatives as well as physically challenged members and members with disability;

**10(3) (g) Sports and Social Welfare representative**

g) The Sports and Social Welfare representative shall liaise with Director Sports and Games and/or Director Students Welfare Authority in:

- i. Drawing up social and co-curricular activities programs
- ii. Coordinating proper organization of games and sports and provision of entertainment activities
- iii. Identifying provision and maintenance of games and sports facilities
- iv. Ensuring that services provided by the Students Welfare Authority are of reasonable quality.

## **PART V: MEETINGS AND QUORUM OF THE ASSOCIATION**

### **Article 11(1)**

**The Association shall have three classes of general meetings per year, namely:**

- a) The Annual General Meeting (hereinafter referred to as “the AGM”)
- b) Special General Meeting (hereinafter referred to as “SGM”); and
- c) Extra-ordinary General Meeting

### **Article 11(2) Annual General Meeting (AGM)**

- a) The Annual General Meeting shall be held not later than three months prior to the elections of the Electoral College.
- b) Notice convening the AGM shall accompanied by:
  - i. The Agenda;
  - ii. The minutes of the last AGM;
  - iii. The Annual Report and Accounts.
- c) Notice of the AGM shall be issued within 21 days before the meeting, and shall be advertised in the Association’s website, the University multimedia portal and notice boards in the various colleges
- d) The Annual Report and Accounts shall be tabled at the AGM and shall be open for inspection by members.
- e) The Agenda of any AGM hereof shall consist of the following:
  - i. Confirmation of minutes of the previous AGM;
  - ii. Matters arising
  - iii. Annual Reports and Accounts;
  - iv. Auditor's Report;
  - v. Such other matters as to which notice shall have been given in writing by a member or members to the Secretary General at least fourteen days before the date of the meeting;
  - vi. Handing over of office by the Students’ Council.

### **Article 11(3) Special General Meeting (SGM)**

- a) An SGM may be called for any specific purpose by the Students’ Council through the Secretary General.
- b) Notice in writing of such meeting and agenda shall be sent to all members not less than seven (7) days before the date of such meeting.

- c) An SGM may also be requisitioned for a specific purpose by a request to the Secretary-General as stipulated by Article 7(b)
- d) The notice for such meeting shall be fourteen days, issued as stipulated in sub-section 2(c) and no other matter shall be discussed other than that stated in the requisition.

**Article 11(4) Extra–Ordinary General Meeting.**

- a) An Extra-ordinary General Meeting shall be called for any purpose or regarding any emergency by the Chairperson or in their absence the Vice-Chairperson or in their absence, any other member or members of the Students’ Council.
- b) The decisions shall be ratified by the members in the AGM.

**Article 11(5) Quorum**

- a) Quorum for Annual General Meetings shall be at least half members drawn from at least six campuses
- b) Quorum for Special General Meetings shall be at least half members drawn from at least six campuses.
- c) Quorum for the Extra-Ordinary General Meeting shall be those members present at the meeting.

**Article 11(6): Authority**

The authority of the Association shall be the Annual General Meeting.

**Article 11(7): Composition of Congress**

- 1. The Congress shall consist of the Students’ Council and the seven Colleges’ Students Associations officials.
- 2. The Congress shall meet not more than two times in a semester.

**Article 11(8): Functions of the Congress**

**The Functions of the Congress shall be:**

- i. Debate and approve policies and programmes as tabled by the Students Council.
- ii. Debate and approve budgetary proposals by Students’ Council.
- iii. Monitor and evaluate the implementation of the programmes by the Students’ Council and
- iv. Any other matter related to the general concern of the Association.

## **PART VI: THE UNIVERSITY OF NAIROBI CAMPUSES ASSOCIATIONS**

### **Article 12 (1) Establishment and membership of Campuses Associations**

- (a) There is established in each Campus the “Students Association” (herein after called College/Campus Students’ Associations).
- (b) Membership of College Students’ Associations shall be open to all students registered in each college/campus.

### **Article 12 (2) Functions of the College/Campus**

The functions of the Association shall be:

- (a) To promote the welfare of the students of that Campus
- (b) To promote the academic welfare of students of that Campus;
- (c) To develop and encourage worthy traditions of academic life on the Campus.
- (d) To establish co-operation with such other Students’ Association within the University as may be recognized by Senate and Council.
- (e) To determine the manner and form in which professional academic associations of students are to be represented in the Association.

### **Article 12 (3) Composition of Campus Students’ Associations**

The Association shall consist of:

- (a) a Chairperson;
- (b) a Vice-Chairperson who shall be of opposite gender with the Chairperson;
- (c) a Secretary-General who shall be the Secretary to the Students’ Council;
- (d) a Treasurer;
- (e) Three other members to represent special needs, interests of International students and sports and welfare, as the case may be from time to time.

### **Article 12 (4) Electoral Colleges**

- (a) The electoral Colleges shall be Campuses of the University.
- (b) For purposes of conducting the Students’ Council elections, the Campus shall constitute themselves into electoral Colleges.

- (c) Each Electoral College constituted under sub-clause 12 (4)(a) above shall elect three electors to the Electoral College whose sole purpose shall be to elect the University of Nairobi Students Association Council under section 41(1A) and (1D) of the Universities Act 2016.
- (d) The Electoral College Representatives shall not be candidates for the Students' Council positions.
- (e) The Electors' Electoral College constituted under this clause shall stand dissolved as soon as it has held the elections referred to in (c) herein.

#### **Article 12 (5) Various Campus Students' Associations memberships**

The Campus Students' Associations memberships shall:

- (a) For purposes of membership in Senate, each College shall elect one representative to University Senate. The Student representation in the Senate shall not be more than six members.
- (b) The six Students elected in (a) above, shall attend University Senate meetings upon invitation in person.
- (c) For the purpose of membership in the Library and Bookshop and Students' Welfare Committees of Senate, shall elect one representative each to those bodies.
- (d) For the purpose of membership in other academic bodies of the University, shall ensure that Campus Students' Associations are involved in the election of representatives in accordance with this Constitution, the University Regulations and any other laws and regulations as provided by the Senate.

#### **Article 12 (6) Limitation of Terms of Office**

1. An official of Campus Students Association shall hold office for a term of one year and may be eligible to re-election for one term.
2. A person who has held office as an official of Students' Association or similar Association of a University or constituent College in Kenya is ineligible to be elected as an official of the College/Campus Students Association.

#### **Article 12 (7) Other Meetings of Campus Students' Associations Memberships**

In addition to any other permits required by the law, all meetings and other activities of the Campus Students' Association and of any association of students (whether professional, academic or otherwise to be held within University precincts shall not take place until permission is first obtained from the relevant College/campus authorities, or where such meetings or activities are held in the Halls, the permission of the Director,SWA.

### **Article 12 (8) Traditional Requirement**

- a) The administrative head of each College/Campus shall, convene a general meeting of all students in their respective units where an interim Committee of Students shall be set up to run the Association.
- b) All interim Committees shall take such steps as are necessary for ensuring that a constitution is developed and representative elections held.

### **Article 12 (9) Schedule**

The provisions of Schedules to this Constitution shall have effect with respect to conduct of affairs of the Colleges Associations, with necessary modifications as the case may be.

## **PART VII: THE INDEPENDENT ELECTORAL COMMISSION AND THE ELECTORAL PROCESS**

### **Article 13: Establishment of the Independent Electoral Commission**

1. There shall be an Independent Electoral Commission consisting of seven persons who shall serve on part time basis:
  - a) The Commission shall consist of the Chairperson and six other commissioners appointed by Senate from among members of Staff and students. The Senate shall stagger the appointment of commissioners to ensure continuity.
  - b) The Chairperson and the Vice Chairperson shall be members of the Senate and of opposite gender.
  - c) The Students' Commissioners shall be final year students, of good academic standing and fulfil the requirements of chapter six of the Constitution of Kenya 2010.
  - d) The Students Commissioners shall be by application to the Senate, and upon appointment serve for one term only.
2. The Commission shall, in the performance of its functions not be subject to the direction or control of any person or authority, but shall observe the principle of public participation and the requirement for consultation with stakeholders.
3. The Commission shall be assisted by staff drawn from the office of Deputy Vice Chancellor Student Affairs.
4. The Commission shall appoint the returning officers, polling clerks and any other personnel to support the election.

5. The Commission shall appoint the election observers drawn from the Commission on Administrative Justice and The National Gender and Equality Commission.

#### **Article 14: Guiding Principles of the Independent Electoral Commission**

The Commission shall be guided by the following principles:

- a) Independence of the electoral process;
- b) Gender balance and national diversity;
- c) Objectivity and impartiality in decisions making and in ensuring that decisions are not influenced by nepotism, favouritism and other improper motives or corrupt practices;
- d) Ensure free, fair and credible elections which are:
  - i. By secret ballot
  - ii. Free from violence, intimidation, improper influence or corruption
  - iii. Transparent; and
  - iv. Administered in an impartial, neutral, efficient, accurate and accountable manner
- e) Undertaking of elections on a regular basis in accordance with the Constitution
- f) **The Senate shall have the powers to replace a Commissioner who may not be in a position to carry his duty.**

#### **Article 15: Functions of the Independent Electoral Commission**

The Independent Electoral Commission shall;

- a) Conduct and supervise the Association elections in accordance with the Elections Regulations.
- b) Facilitate the observation, monitoring and evaluation of elections
- c) Regulate the amount of money that may be spent by or on behalf of a candidate in respect of any election
- d) Develop and enforce a code of conduct for candidates contesting elections
- e) Use appropriate technology and approaches in the performance of its functions
- f) Determine the timetable for elections in consultation with the Senate
- g) Supervise the preparation of the voters register, ballot papers, ballot boxes and the designation and preparation of polling stations
- h) Prepare the budget for elections
- i) Verify all nominations for candidates.
- j) Prepare and post a list of all eligible candidates in all the campuses
- k) Conduct civic and voter education for student and candidates.
- l) The commission may form its committees to enable it carry out its functions



- m) Take any other function it deems necessary to ensure that the elections are transparent, fair, peaceful and credible

#### **Article 16: Holding of Elections**

1. The Electoral Colleges' elections shall be held on the first Friday of March, or any other day as may be determined by Senate.
2. The Students' Council elections shall be held within thirty days of the elections of the Electoral Colleges.
3. At least two thirds of electors in the Electoral Colleges shall participate in the election of the Students' Council.

#### **Article 17: Swearing-In**

1. The elected officials shall be sworn in by the Chief Legal Officer of the University of Nairobi or such other person as may be appointed by Senate after the announcement of the results, after subscribing to the Code of Conduct and certificates issued to the winning candidates.
2. The ceremony shall take place in public at the Chancellor's Court or at such other place as may be designated by the Electoral Commission.
3. The swearing in ceremony shall take place between the hours of 8.00am and 5.00 pm and not later than 24-hours after the announcement of results
4. Elected officials shall take office upon being sworn in.
5. No person shall perform, act or assume office unless he/she has been sworn in as provided for by this Constitution

#### **Article 18: By- elections**

- 1) A vacancy and by-election shall be held whenever an office or seat falls vacant by reason of:-
  - a) A successful petition or recall;
  - b) Cessation of studentship through expulsion from, or discontinuation by the University;
  - c) Imprisonment;
  - d) Death;
  - e) Contravention of the Constitution of Kenya 2010 and any other relevant law;
  - f) Resignation;
  - g) Suspension from the University for a period longer than three months.
- 2) The by-election shall take place within fourteen (14) days of the office or

seat falling vacant and shall follow the same procedure as provided for in this Constitution and the Electoral Regulations

- 3) A by-election shall not be held unless there are at least three months to the next Students' Association elections;
- 4) Where a seat of an official falls vacant, the remaining officials shall appoint another official in an acting capacity for the vacant seat;
- 5) Where the seat of a representative from an electoral college falls vacant, the remaining elected representatives from that campus shall appoint another representative from their campus in an acting capacity for the vacant seat.
- 6) The Election Commission shall provide further guidelines on the conduct, supervision and management of by-elections.

## **PART IX: ELECTION DISPUTES**

### **Article 19: Establishment of the Electoral Tribunal**

#### Establishment of the Electoral Tribunal

- (1) There shall be established a Tribunal, to be known as the Electoral Tribunal which shall consider and determine Association's election disputes and other related matters under this Constitution.
- (2) The Electoral Tribunal shall consist of a Chairperson and six other members appointed by the Senate.
- (3) The Chairperson and members of the Tribunal shall serve on part time basis, as the need may arise from time to time.
- (4) The Senate shall stagger the appointment of Chairperson and members of the Tribunal.
- (5) Criteria for appointment as Election Tribunal chairperson and members:
  - a) The Chairperson of the Tribunal shall not be a member of staff and shall be an Advocate of the High Court of Kenya of at least 10 years in good standing with expertise in constitutional law and electoral laws.
  - b) The Chairperson and members of the Tribunal shall fulfill the requirements of Chapter Six (6) of the Constitution 2010.
  - c) The Tribunal shall serve for one term of one year, renewable once upon satisfactory performance.
- (5) The Senate may appoint such staff to the Tribunal as may be necessary.
- (6) Hearing and determination of Election disputes
  - a) For the purposes of the hearing and determination of any election dispute by the Tribunal the secretary or support staff to the Tribunal may, under the direction of the Tribunal, administer oaths.

- b) The chairperson may by notice under his or her hand, summon any people to attend and give evidence and to produce any relevant book or document;
- c) The sessions of the Tribunal shall, unless the special circumstances of a petition require, be in Nairobi, convened by the chairman as occasion requires.
- d) The record of the proceedings and of every decision of the Tribunal shall be authenticated by the signature of the chairman.
- e) Subject to this section, the Tribunal may, with the approval of the University Senate, regulate its own procedures and the conduct of proceedings before it.

## **PART X: THE ASSOCIATION ELECTORAL COLLEGES**

### **Article 20: Electoral Colleges.**

1. For purposes of conducting the elections of the members of the Student Council, the Campus Students' Associations shall constitute itself into electoral colleges based on Colleges/Campuses.
2. There shall be twelve Electoral Colleges made up of the following Colleges/Campuses, comprised as more particularly set out in Schedule 1:
  - i. Chiromo Campus
  - ii. Kenya Science Campus
  - iii. Kenyatta National Hospital Campus
  - iv. Kikuyu Campus
  - v. Kisumu Campus
  - vi. Lower Kabete Campus
  - vii. Main Campus (CHSS)
  - viii. Main Campus (CAE)
  - ix. Mombasa Campus
  - x. ODeL Campus
  - xi. Parklands Campus
  - xii. Upper Kabete Campus

## **PART XI: ASSOCIATION'S FINANCE AND REVENUE**

### **Article 21(1): Finance and Revenue**

The Association shall secure its revenue from the following sources:

- a) Membership fees;
- b) Allocations from the University;
- c) Donations;

- d) Grants;
- e) Income from business premises duly approved by the University management;
- f) Fundraising activities; and
- g) Another lawful means.

**Article 21(2): Budgeting/ Expenditure**

- a) The Treasurer in consultation with the Students' Council and the University Finance Officer shall cause to be prepared the annual budget estimates and expenditure of the Associations for that year.
- b) The Associations' budget shall be approved by the University before the commencement of the financial year to which they relate.
- c) The expenditure of the Associations shall be guided by the approved budget and the plan of activities for the financial year.
- d) The day to day expenditure shall be subject to the University's financial regulations and the relevant procurement laws.
- e) All expenditure shall be approved by the Chairperson, Secretary General and the Treasurer, in consultation with the Dean of Students.

**Article 21(3): Misappropriation of Association funds**

A person who receives money shall be personally liable in case of misappropriation.

**Article 21(4): Financial Year**

- 1. The financial year of the Associations shall run from 1st July to 30th June in the following year.
- 2. In the event of any change in the financial year, and for the purpose of the transition of the amendments to the Universities Act 2012 to a new financial year, consequent upon coming in force of this constitution, the transitional period, whether more or less than 12 months, shall be deemed for the purposes of this constitution to be a financial year.

**Article 21(5): Annual Accounts**

- 1) Under the guidance of the University Finance Officer and in compliance with the University Financial Regulations, the Treasurer shall prepare Annual Accounts and present them to the Students' Council.
- 2) Such accounts shall be signed by the Chairperson, Secretary General and Treasurer.

**Article 21(6): Audit and Audit Report**

- 1) The Students' Council shall cause to be kept all audited books and records of account of the Associations.
- 2) The Chief Internal Auditor shall at all times have access to books of account and records of the Association and shall be entitled to receive all relevant information necessary to complete the audit of the Association's accounts.

**Article 21(7): Campus Decentralization Funds**

- 1) In every financial year, the Student's Council, with the approval of the University management, shall devolve an approved proportion of the annual budget to be used for campus based activities.
- 2) The Students' Council shall propose rules and regulations to ensure equitable distribution and accounting of the funds in compliance with the University Financial Regulations.
- 3) Emoluments of office bearers
  - a) University Management shall determine the allowances of the office bearers.

**PART XII: DISPUTE RESOLUTION**

**Article 22: Dispute Resolution**

- 1) All disputes regarding the interpretation and implementation of this Constitution shall be solved through arbitration.
- 2) Senate shall appoint an arbitrator who shall be a member of Senate and whose decision will be binding.

**PART XIII: RIGHT OF RECALL AND DISSOLUTION.**

**Article 23: Right of Recall**

An elected official may be recalled as provided for in the Electoral Regulations.

**Article 24: Dissolution**

The Association and Campus Students' Associations shall not dissolve except as may be provided by the Universities Act or any other relevant law.

**PART XIX: AMENDMENT OF THE CONSTITUTION**

**Article 25:** The amendment of this Constitution may be prompted by:

1. (a) Any member of the Association may propose an amendment of this Constitution by bringing a motion to the Student's Council which shall then table it for consideration by the representatives of the Annual General Meeting.

- (b) The amendment shall be effected when passed by at least two-thirds of the members of the representatives of the Annual General Meeting and thereafter approved by Senate, and adopted by the University Council.
2. Senate may, of its own initiative, review or amend the Constitution with the involvement of the members of the Association, subject to approval by the University Council.

## **PART XX: RULES AND REGULATIONS, TRANSITION AND MISCELLANEOUS**

### **Article 26: Rules and Regulations**

1. The Associations shall in consultation with the University, formulate and enact rules to govern the conduct of elections including regulation of campaigns, election financing, offences and penalties.
2. The Associations in consultation with the University may enact other rules and regulations for implementing this Constitution.

### **Article 27: Transitional Provisions**

1. This Constitution shall come into effect upon its adoption by Senate.
2. Any new organs or offices created in this Constitution shall be implemented by operation of law through the first elections held under the provisions of this Constitution.
3. There shall be a Students Caretaker Committee consisting of representatives from each electoral College/Campus who will work in liaison with Senate to:
  - a) Enact rules governing the conduct of elections including regulation of campaigns, election financing, offences and penalties.
  - b) Facilitate the carrying out of the first elections under this Constitution.
  - c) Where under this Constitution, the Association is required to make rules and/or regulations, the existing rules and/or regulations shall apply until such a time as when the Association makes other rules and/or regulations.
4. There shall be transition period to provide full implementation of this constitution upon its commencement.
  - 4.2 The existing students Caretaker Committee will continue to be in office until Students' Council Elections of the Association is duly elected and sworn-in, or as Senate may decide, notwithstanding the calendar of elections as provided herein.

## **SCHEDULE 1: LIST OF ELECTORAL COLLEGES**

### **College of Agriculture and Veterinary Sciences**

Faculty of Veterinary Medicine

Faculty of Agriculture

Wangari Maathai Institute.

### **College of Architecture and Engineering**

School of Engineering

School of Built Environment

School of Arts and Design

Institute of Nuclear Science and Technology

### **College of Biological and Physical Sciences**

School of Biological Sciences

School of Physical Sciences

School of Computing and Informatics

School of Mathematics

Centre for Biotechnology and Bioinformatics

Institute for Climate Change and Adaptation

### **College of Health Sciences**

School of Pharmacy

School of Medicine

School of Nursing

School of Dental Sciences

School of Public Health

UNITID

East African and Kidney Institute

### **College of Humanities Social Sciences**

Faculty of Arts  
School of Economics  
School of Journalism and Mass Communications  
Institute of Anthropology, Gender and African Studies  
Institute of Diplomacy and International Studies  
Population Studies and Research Institute  
Institute for Development Studies  
African Women Studies Centre  
Center of Translation and Interpretation

**Kenya Science Campus**

BEd Science  
Bed ICT

**Kikuyu Campus**

School of Education

**Kisumu Campus**

Law  
Business  
Arts  
ODel  
Education

**Lower Kabete Campus**

School of Business

**Mombasa Campus**

Law  
Business  
Arts  
ODel  
Education

**ODeL Campus**

School of Continuing and Distance Education

**Parklands Campus**



## **SCHEDULE 2: MEETINGS AND PROCEDURE OF THE STUDENTS' COUNCIL**

(1) After the commencement of this Constitution—

- a) the Students' Council shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting;
- b) a meeting of the Students' Council shall be held on such date and at such time as the Students' Council shall decide or, in the absence of such decision or on any occasion on which the Chairperson in consultation with the Secretary-General shall decide that a meeting is necessary, on a date and at a time determined by the Chairperson ;
- c) no meeting of the Students' Council shall be held at any place other than the registered or principal office of the Association except with the prior written approval of the Students' Council with concurrence of the University Senate;
- d) unless three-quarters of the total membership of the Students' Council otherwise agree, at least fourteen days' written notice of every meeting of a Students' Council shall be given to every member of the Students' Council ;
- e) the quorum for the conduct of business at a meeting of a Students' Council shall be two-thirds of the total number of members of a Students' Council or the number nearest to but not less than two-thirds;
- f) Provided that where within half an hour after the time appointed for the meeting a quorum is not present, the meeting shall be adjourned to the same day in the next week, at the same time and place, or at such time as the members may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the members present shall be deemed to be a quorum;
- g) the Chairperson of the Students' Council shall preside at all meetings of the Students' Council but
- h) in the absence of the Chairperson , The Vice-Chairperson shall preside at the meeting;
- i) unless a unanimous decision is reached, a decision on any matter before the Students' Council shall be by a majority of votes of the members present and in the case of an equality of votes, the Chairperson or the person presiding shall have a casting vote;

- j) every member of the Students' Council who is likely to be interested, otherwise than as a member of that Students' Council or who participates or is or may become entitled to participate directly or indirectly, in the profits from any contract or proposed contract or work done or proposed to be
- k) Done for the Association, shall, on the matter coming before a meeting of the Students' Council for consideration, immediately declare his interest therein and shall, unless the meeting otherwise agrees, retire from the meeting and shall in any case not be entitled to vote on the matter.

(2) The Secretary-General of the Association or an officer instructed by the Students' Council in that behalf, present at a meeting of the Students' Council or a committee thereof, shall have the right to require his opinion to be recorded in the minutes of the Students' Council or the committee, as the case may be, passes a resolution, which in the Secretary-General's or officer's opinion, is contrary to his advice or contrary to law.

### **SCHEDULE 3: THE UNIVERSITY OF NAIROBI RULES AND REGULATIONS GOVERNING STUDENTS ELECTIONS, 2017**

1. Short Title

The University of Nairobi Rules and Regulations Governing Students Elections 2017

2. Interpretation

“**student**” means a student as defined in the Universities Act of 2012

“**campaign period**” means the period specified as such in the notice issued by the Commission in relation to an election;

“**aspiring team**” means a person contesting for an elective post;

“**electoral College**” means one of the campuses into which the University is divided for purposes of voting;

“**election**” means a Students’ Council election and an Electoral College election, and includes a by-election;

“**election Tribunal**” means the body mandated under the Students’ Association Constitution to handle election disputes;

“**election material**” means ballot boxes, ballot papers, counterfoils, envelopes, packets statements and other documents used in connection with voting in an election and includes information technology equipment for voting, the voting compartments, instruments, seals and other materials and things required for the purpose of conducting an election;

“**election offence**” means an offence under these regulations;

“**elections officer**” means a person appointed by the Commission for the purposes of conducting an election under the Students’ Association constitution and these regulations;

“**election period**” means the period between the publication of a notice by the Commission for a Students’ Council and Electoral Colleges election and the declaration of the election results;

“**election results**” means the declared outcome of the casting of votes by voters at an election;

“**identification document**” means a valid University of Nairobi students’ identity card

“**illegal practice**” means an offence specified under these regulations;

“**integrated electronic electoral system**” refers to a system that includes biometric voter registration, biometric voter identification and electronic result transmission system.

“**nomination**” means the submission to the Commission of the name of a

aspiring team in accordance with the Students' Association Constitution and these regulations;

“**observer**” means a person or an organisation accredited by the

Commission to observe an election or a by-election;

“**association elections**” means the election of one or more members of the Students' Council or the Electoral College

“**petition**” means an application to the Electoral Tribunal under the Students' Association Constitution or under these regulations;

“**polling station**” means any room, place, vehicle or vessel set apart and equipped for the casting of votes by voters at an election;

“**public officer**” has the meaning assigned to it in Article 260 of the Constitution of Kenya 2010 and includes a duly registered student of the University holding office in the Association;

“**Register of Voters**” means a current register of all duly registered students entitled to vote at an election prepared in accordance with these regulations, and includes a register that is compiled electronically;

“**returning officer**” means a person appointed by the Commission for the purposes of conducting an election under these regulations;

“**supporter**” means a voter who supports the nomination of a aspiring team;

“**voter**” means a duly registered student

“**voting period**” means the period specified as such in the notice issued by the Commission in relation to an election;

## **PART II- GENERAL PRINCIPLES FOR ELECTORAL SYSTEM**

- (1) The students' electoral system shall comply with the following principles;
  - a) Independence of the Electoral Commission
  - b) Gender balance and national diversity
  - c) Objectivity and impartiality in decisions making and in ensuring that decisions are not influenced by nepotism, favoritism and other improper motives or corrupt practices
  - d) Fair representation of persons with disabilities and other special interest groups
  - e) Universal suffrage
  - f) Free, fair and credible elections which are;
    - i. By secret ballot
    - ii. Free from violence, intimidation, improper influence or corruption
    - iii. Transparent; and
    - iv. Administered in an impartial, neutral, efficient, accurate and accountable manner
- (2) All aspiring teams and their agents shall comply with electoral rules and regulations, failure of which shall lead to disqualification

## **PART III- REGISTRATION OF VOTERS**

3. Right to vote
  - a) All students shall exercise the right to vote as specified in Section 41 of the Universities Act of 2012(amended)
  - b) A student shall exercise the right to vote if the student is registered in the Register of Voters in a polling station
4. Register of Voters
  - a) There shall be a register to be known as the Students' Register of Voters which shall comprise of a poll register in respect of every polling station;
  - b) The Commission shall compile and maintain the Students' Register of Voters referred to in subsection (1).
  - c) The Students' Register of Voters shall contain such information as shall be prescribed by the Commission.
5. Inspection of register of voters
  - a) (1)The Commission shall, within fourteen days from the date of the notice for a

Students' Association election, open the Register of Voters for inspection for a period of at least seven days or such period as the Commission may consider necessary

- b) The Register of Voters shall be kept at the electoral college
6. Verification of biometric data
- a) The Commission shall, not later than thirty days before the date of a Students' Association election, open the Register of Voters for verification of biometric data by students at their respective polling stations for a period of thirty days.
  - b) The Commission shall, upon the expiry of the period for verification under
  - c) Subsection (1), revise the Students' Register of Voters to take into account any changes in particulars arising out of the verification process.
  - d) The Commission shall, upon expiry of the period for verification specified
  - e) Under subsection (1) publish the Students' Register of Voters online and in such other manner as may be prescribed.
7. Eligibility to vote
- a) A student whose name or biometric data appears in the Students' Register of Voters in a particular polling station, and who produces a valid student's identification document shall be eligible to vote in that polling station.

#### **PART IV – ELECTIONS**

##### **8. Qualifications for nominations**

A student may be nominated as a member of an aspiring team for an election under these regulations only if that student—

- a) is a duly registered student of the University
- b) satisfies the requirements of Chapter Six of the Constitution of Kenya, 2010
- c) is able and willing to affirm and subscribe to leadership and integrity requirements and the University Regulations
- d) has no pending supplementary examinations in the entire academic record for the current study program , or is not repeating the year on academic grounds
- e) has a verified academic status confirmed by the academic Dean or Director
- f) has been in session for the preceding two semesters, and is available to serve for the entire term of the office
- g) Produces a valid certificate of good conduct from the National Police Service, in addition to meeting other administrative requirements of the University.

9. Additional requirements for special interest representatives
- (a) The International Students Representative shall:
    - i. be a registered international student with the Centre for International Programmes and Links;
    - ii. be a holder of a valid passport issued by the country of origin and a valid student pass;and
    - iii. Be nominated by at least fifty (50) international students.
  - (b) The Special Needs Students' Representative shall:
    - i. have registered with the National Council for Persons with Disabilities;
    - ii. have registered with the office of the Dean of Students; and
    - iii. Be nominated by thirty (30) persons with disabilities.
  - (c) The Sports and Social Welfare representative shall be an active participant in sports and other co-curricular activities.

10. Disqualification for elections

A student is disqualified for election if at the time of election he/she;

- a) fails to provide evidence of valid registration for the academic year of study;
- b) is suspended from the University(for as long as the period of suspension lasts);
- c) is expelled from the University;
- d) has been imprisoned
- e) is proven to have contravened the Electoral Code of Conduct;
- f) is proven to have been in contravention of the Constitution of Kenya 2010, the Students' Association Constitution, the Universities Act and regulations made therein, and these regulations;
- g) has held leadership position for two terms in the University, or any other University of constituent college in Kenya;
- h) is a holder of a public office

11. . Nomination of aspiring teams

- a) Nomination of Students' Council members and the members of the electoral colleges shall run concurrently
- b) Nomination papers shall be picked from the Electoral Commission fourteen (14) days prior to the date of the Electoral College election.
- c) A non-refundable amount of Ksh. 3000 (Students' Council) and Ksh. 2000( Electoral College) or such other sums as may be prescribed by the Electoral Commission, shall be paid as nomination fee
- d) The fees shall be collected by the University Finance Officer on behalf of the Electoral Commission.

- e) Nomination papers for members shall be signed by the aspiring team, a proposer and at least seven hundred (700) seconders for each aspirant for the Students' Council, and three hundred (300) for each aspirant at the Electoral College
  - f) Candidates for the International Students' representative and the Special Needs representative shall be proposed and seconded as stipulated by Clause 9 (a) and (b) respectively.
  - g) The seconders for the aspirants for the Students' Council shall be proportionately distributed from at least seven electoral colleges
  - h) Aspiring teams shall submit duly signed nomination papers to the Electoral Commission nine (9) days prior to the election date between 8 am and 5 pm.
  - i) The nomination papers shall be returned in designated places in the contestants' respective campuses.
  - j) The Electoral Commission shall announce within two (2) days and cause to be prominently published immediately thereafter successfully nominated aspiring teams.
  - k) Official campaigns shall begin immediately after the publication of the list of nominees by the Electoral Commission and shall last for seven (7) days ending 24 hours before the elections date.
  - l) Where a member of a validly nominated team withdraws, the team shall be deemed to have automatically withdrawn
12. Appointment of agents, observers and reporters
- a) Each team seeking election shall be allowed to appoint a maximum of two agents per polling station in the students' electoral process
  - b) The Commission may allow elections observers during the elections process as provided for by the Students' Association Constitution
13. Approval of campaign symbols
- a) Aspiring teams shall submit their symbol of choice to the Commission at least five days before nomination day.
  - b) The Commission shall, upon receipt of the symbol submitted to it under this section approve or reject the symbol.
  - c) The Commission may refuse to approve the symbol of an aspiring team if the symbol—
    - i. is obscene or offensive;
    - ii. is the symbol of another aspiring team;
    - iii. is contrary to public morals and order; or



- iv. so nearly resembles the symbol of another aspiring team as to confuse voters
- v. Is the symbol of any registered political party.

#### 14. Holding of elections

- a) The Electoral Colleges' elections shall be held on the first Friday of March, or any other day as may be determined by Senate
- b) The Student Council's elections shall be held no more than thirty days after the elections at the Electoral Colleges

#### 15.. Voting

- a) Elections shall be held according to the terms of notification issued by the Electoral Commission, and in accordance with these regulations.
- b) The Students' Association's elections shall be by secret ballot, simple majority system and on the principle of one member one vote.
- c) The ballot boxes shall be transparent, of a fixed number, counted, certified and recorded.
- d) For purposes of identification, students shall be required to produce a valid student identification card
- e) Appointed agents have the right to witness the voting process
- f) Voting shall be conducted between 8 am and 5 pm, but the period may be extended by the Commission for not more than two hours, for a good cause
- g) Persons with disabilities shall be accorded reasonable accommodation to enable them vote

#### 16. Determination and declaration of results

- a) The voting results at the polling station shall be final
- b) The Commission shall determine, declare and publish the results of an election immediately after close of polling.
- c) The Commission shall:
  - i. verify, announce and declare, in the prescribed form, the final results from each polling station in an Electoral College;
  - ii. publish the polling result forms on an online public portal on the University website, in liaison with the Director of ICTC;
  - iii. provide each aspiring team, or their agent, with a copy of the declaration of the final results
- d) The aspiring team that obtains the highest number of votes shall be declared the winner

- e) Whenever there is a tie of the top two or more teams in an election, such teams shall participate in a fresh election until one team wins.
- f) An aspiring team shall be entitled to a maximum of two vote recounts, after which the winning team shall be declared
- g) If only one aspiring team is nominated, that aspiring team shall be declared elected

#### 17. Voter education

- a) The Commission shall, in performing its functions, establish and implement mechanisms for the provision of continuous voter education and awareness raising
- b) The mechanisms under subsection (1) shall include provision for partnership with other institutions in the provision of voter education and awareness raising.

#### 18. Use of an electronic electoral system

- i. Subject to this section, the Commission may establish an integrated electronic electoral system that enables biometric voter registration, electronic voter identification and electronic transmission of results.
- ii. The Commission shall, for purposes of subsection(1), develop a policy on the progressive use of technology in the electoral process.
- iii. The Commission shall ensure that the technology in use under subsection (1) is simple, accurate, verifiable, secure, accountable and transparent.
- iv. The Commission shall, for purposes of this section and in consultation with relevant agencies, institutions and stakeholders ensure :—
  - (a) the transparent acquisition and disposal of information and communication technology assets and systems;
  - (b) testing and certification of the system;
  - (c) mechanisms for the conduct of a system audit;
  - (d) data storage and information security;
  - (e) data retention and disposal;
  - (f) access to electoral system software source codes;
  - (g) Capacity building of staff of the Commission and relevant stakeholders on the use of technology in the electoral process;
  - (h) Telecommunication network for voter validation and result transmission;
  - (i) Development, publication and implementation of an emergency recovery

and operations continuity plan; and

- (j) the operations of the technical committee established under subsection (8).

v. For the purposes of giving effect to this section, the Commission shall establish a technical committee of the Commission consisting of such members and officers of the Commission and such other relevant agencies, institutions or stakeholders as the Commission may consider necessary to oversee the adoption of technology in the electoral process and implement the use of such technology.

## **PART V – RECALL OF ELECTED ASSOCIATION OFFICIALS**

### **19. Right of recall**

- (1) The students may recall their elected officials before the end of the term on any of the grounds specified in subsection (2).
- (2) An elected official may be recalled where the member—
  - (a) Is found, after due process of the law, to have violated the provisions of Chapter Six of the Constitution;
  - (b) Is found, after due process of the law, to have mismanaged public resources;
  - (c) Is convicted of an offence under an act of Parliament, the Electoral Code of Conduct or any other regulations.
- (3) A student who unsuccessfully contested an election under these regulations shall not be eligible, directly or indirectly, to initiate a petition under this section.

### **20. Petition for recall**

- (1) A recall under these regulations shall be initiated by a petition which shall be filed with the Commission and which shall be—
  - (a) In writing;
  - (b) Signed by a petitioner who—
    - (i) is a voter in the Electoral College in respect of which the recall is sought; or is an elected member of the Electoral College
    - (ii) voted in the election in respect of which the recall is sought;
- (2) The petition referred to in subsection (1) shall:—
  - (a) Specify the grounds for the recall;

- (b) Contain a list of such number of names of voters in the Electoral College supporting the petition, which shall represent at least thirty percent of the registered voters; and
- (3) The list of names referred to in subsection (2)(b) shall contain the registration numbers and signatures/thumb prints of the voters supporting the petition.
- (4) The voters supporting a petition under subsection (3) shall represent the diversity of the people in the Electoral College as the case may be.
- (5) The petitioner shall collect and submit to the Commission the list of names under subsection (2)(b) within a period of fourteen days after filing the petition.
- (6) The Commission shall verify the list of names within a period of twenty one days of receipt of that list.
- (7) The Commission, if satisfied that the requirements of this section are met, shall within fifteen days after the verification, issue a notice of the recall to the said elected official.
- (8) The Commission shall conduct a recall election within the relevant Electoral College within sixty days of the publication of the question referred to in section 20 below.

#### **21. Recall elections**

- (1) Where an elected official is to be recalled under section 19, the Commission shall frame the question to be determined at the recall election.
- (2) A question referred to in subsection (1) shall be framed in such a manner as to require the answer “yes” or the answer “no”.
- (3) The Commission shall assign a symbol for each answer to the recall question.
- (4) The voting at a recall election shall be by secret ballot.
- (5) A recall election shall be decided by a simple majority of the voters voting in the recall election.
- (6) Where a recall election results in the removal of an elected official, the Commission shall conduct a by-election in the affected Electoral College.
- (7) An elected official who has been recalled may not run in the by-election conducted under subsection (6)

### **PART VI- GENERAL PROVISIONS**

#### **22. General power of the Commission:**

- (1) Nothing in these regulations shall preclude the Commission from taking any administrative measures to ensure effective conduct of the Students’ Association’s elections.
- (2) The Commission may, where a date has been appointed for holding an election, postpone the election in a Electoral College for such period as it may consider necessary where —

- (a) There is reason to believe that a serious breach of peace is likely to occur if the election is held on that date;
  - (b) it is impossible to conduct the elections as a result of a natural disaster or other emergencies,
  - (c) There has been occurrence of an electoral malpractice of such a nature and gravity as to make it impossible for an election to proceed.
- (3) Where an election is postponed under subsection (1), the election shall be held at the earliest practicable time.

## **PART VII – ELECTION DISPUTES RESOLUTION**

### **Dispute Resolution by the Commission**

#### **23. Settlement of certain disputes**

- (1) The Commission shall be responsible for the settlement of electoral disputes, including disputes relating to or arising from nominations but excluding election petitions and disputes subsequent to the declaration of election results.
- (2) An electoral dispute under subsection (1) shall be determined within ten(10) days of the lodging of the dispute with the Commission.
- (3) Notwithstanding subsection (2), where a dispute under subsection (1) relates to a prospective nomination or election, the dispute shall be determined before the date of the nomination or election, whichever is applicable.

### **Grounds for election petitions**

#### **24. Presentation of petitions**

- (1) A petition concerning an election shall be filed within fourteen days after the declaration of the election results by the Commission.
- (2) A petition questioning an election upon the ground of a corrupt practice, and specifically alleging a payment of money or other act to have been made or done since the date aforesaid by the person whose election is questioned or by an agent of that person or with the privity of that person or his agent may, so far as respects the corrupt practice, be filed at any time within fourteen days after the publication of the election results.

#### **25. Service of petition**

A petition may be served personally upon a respondent, or through the office of the Dean of Students.

#### **26. Procedure of the Electoral Tribunal upon Receipt of Petition**

Upon receipt of a petition, the Electoral Tribunal shall peruse the petition and—

- (a) If it considers that no sufficient ground for granting the relief claimed is disclosed therein may reject the petition summarily; or
- (b) Fix a date for the trial of the petition.

## **27. Powers of the Electoral Tribunal**

- (1) The Electoral Tribunal may, in the exercise of its jurisdiction—
  - (a) Summon and swear in witnesses in the same manner or, as nearly as circumstances admit, as in a trial by a court in the exercise of its civil jurisdiction and impose the same penalties for the giving of false evidence;
  - (b) Issue summons for the attendance of any person as a witness who appears to the Tribunal to have been concerned in the election or in the circumstances of the vacancy or alleged vacancy;
  - (c) Examine a witness who is summoned to attend or any other person who has not been called as a witness to the Tribunal
  - (d) Allow examination by a party to the petition and after examination the witness may be cross-examined by or on behalf of the petitioner and respondent or either of them; and
  - (e) Decide all matters that come before it without undue regard to technicalities.
- (2) The Electoral Tribunal may by order direct the Commission to issue a certificate of election to an aspiring team—
  - (a) Upon recount of the ballots cast, that aspiring team won the election; and
  - (b) That winner is found not to have committed an election offence.
- (3) The Commission shall, in writing, notify the relevant authority of the decision made under subsection (4

## **28. Prohibition of Disclosure of Vote**

A voter who has voted at an election shall not, in the proceedings of an election petition, be required to state whom they voted for.

## **29. Scrutiny of Votes**

- (1) The Electoral Tribunal, on its own motion or on application by any party to the petition, during the hearing of an election petition, order for a scrutiny of votes to be carried out in such manner as the tribunal may determine.
- (2) Where the votes at the trial of an election petition are scrutinized, only the following votes shall be struck off—
  - (a) the vote of a person whose name was not on the register or list of voters assigned to the polling station at which the vote was recorded or who had not been authorised to vote at that station;

- (b) The vote of a person whose vote was procured by bribery, cheating or undue influence;
- (c) the vote of a person who committed or procured the commission of impersonation at the election;
- (d) The vote of a person proved to have voted in more than one Electoral College;
- (e) the vote of a person, who by reason of conviction for an election offence or by reason of the report of the Electoral Tribunal, was disqualified from voting at the election; or
- (f) The vote cast for a disqualified aspiring team by a voter knowing that the aspiring team was disqualified or the facts causing the disqualification, or after sufficient public notice of the disqualification or when the facts causing it were notorious.

### **30. Non-compliance with the Law**

No election shall be declared to be void by reason of non-compliance with any written law relating to that election if it appears that the election was conducted in accordance with the principles laid down in the Students' Association Constitution and in that written law, or that the non-compliance did not affect the result of the election.

### **31. Determination of election petition**

An election petition under these regulations shall be heard and determined within the period specified in the Constitution.

### **32. Approval by the Senate**

## **SCHEDULE 4: UNIVERSITY OF NAIROBI STUDENTS ASSOCIATION ELECTORAL CODE OF CONDUCT, 2017**

### **1. Short title**

This Code may be cited as the University of Nairobi Students Association Electoral Code Of Conduct 2017

### **2. Obligations of candidates**

Candidates shall respect the rights of all participants and supporters of opponents in the election as follows:

- a) Promote free and fair campaigns and elections by all lawful means
- b) Promote campaigns in a fair, truthful, free and transparent manner
- c) Respect divergent political opinions.
- d) Debate and contest in a positive and objective manner without causing bad blood or ridiculing them.
- e) Respect and be subject to the Public Order Act and University Regulation Governing the Conduct of Students and the Kenyan Law when holding public meetings and general campaigns.
- f) Co-operate with the Electoral Commission and other relevant institutions in the investigation of issues and allegations arising during the election period.
- g) Acknowledge the Commission's authority in the conduct of election; ensure the attendance and participation of representatives at meetings and other forums convened by the Commission in dispute resolution.
- h) Facilitate the Commission's right of access through official observers and other representatives to all campaign meetings or other electoral activities and co-operate in the official investigation of issues and allegations arising during election period.
- i) Reassure voters with regard to the secrecy and integrity of the ballot and furthermore, to reaffirm the provisions of this Constitution to the effect that no one will know how any other person has voted.
- j) Take reasonable steps to discipline, stop and control their agents and supporters from infringing this code, engaging in activities of commission or omission which amount to



offences under the constitution or otherwise for not observing this code or contravening or failing to comply with any provision of the electoral laws.

- k) Without prejudice to the right to present a petition to the Election Petition Panel, to accept the final outcome of the election and the Commission's declaration and certification of the results thereof.

### **3. Nominations**

A candidate or supporters or campaign assistant shall refrain from:

- a) Intimidating and preventing candidates from presenting their nomination papers
- b) Forging signatures and academic credentials.
- c) Destruction of candidates' nomination papers or any other document.

### **4. Campaigns**

a) A candidate or supporters or campaign assistant shall

- i. Conduct campaigns in a peaceful and respectful manner.
- ii. Condemn, avoid and prevent violence and intimidation or abusive language or words that will disparage the conduct of opponents.
- iii. Instruct agents, supporters and campaigning teams to respect the Code by avoiding violence and use of intimidating or abusive language.
- iv. Debate and contest the other contestants in a positive and objective manner without ridiculing their person.
- v. refrain from mutilating or destroying documents or campaign materials posted by the electoral commission or the opponent.
- vi. Ensure removal of campaign posters and banners erected in various places within a period of 48 hours of voting conclusion

b) A candidate or supporters or campaign assistant shall refrain from:

- i. Distributing offensive electoral literature and campaign materials through social media
- ii. Publishing and distributing offensive notices and advertisements in print and electronic media, notice boards
- iii. Display of campaign banners, placards and posters should be done not earlier than 7 days to election date
- iv. Commencing active campaigning, distribution of campaign materials announcements of candidacy before the stipulated time.

c) On campaigning and campaign materials, candidates and their supporters or assistants shall:

- i. Promote use of electronic campaign posters
- ii. Refrain from use of loud and disruptive caravans within university precincts
- iii. Strictly use masking tapes in erecting of banners on walls and noticeboards in the designated places in the university
- iv. Refrain from using indelible ink on university premises for purposes of campaigns
- v. Avoid, eliminate and stop plagiarizing the symbols, colors or acronyms of other opponents posters
- vi. Discourage and prevent the removal, disfigurement or destruction of campaign materials of any party or individual contestants.
- vii. Refrain from publishing or repeating false, defamatory or inflammatory allegations concerning any person or candidate connected with the election to defame the character of a contestant.
- viii. Avoid any discrimination based on age, race, gender, disability, tribe or place of origin or residence, local connection, political opinion, color, creed or sex in connection with the Election and political activity.
- ix. Refrain and deter supporters and agents from conducting campaigns and speeches during classes or official University functions or interfere with the normal operations of the campus.
- x. Conduct the campaigns within the stipulated time and period.
- xi. Refrain from harassing and intimidating of university officials
- xii. Candidates should run modest campaigns
- xiii. Only bona fide university students are allowed to campaign and must produce student identification document.
- xiv. No campaigning should be done on Election Day.

## **5. Voting**

a) Candidates or supporters or campaign assistant shall refrain from:

- i. Disruption of setting up of polling stations , destruction of voting materials and prevention of tallying of ballots
- ii. Stuffing of ballot boxes
- iii. Use of fake ballot papers
- iv. Obstruction of voters from voting
- v. Intimidation of election officials
- vi. Manipulating voting documents and individual votes
- vii. Any corrupt tendencies like bribing voters to vote for you,
- viii. Offering any inducement or reward to any person to vote, accept, refuse or withdraw his/her nomination

- ix. Any form of campaigns at these centers including distributing any forms of inducements in form of money or presents in an attempt to influence the voters, election and voter registration officers, security officers and other candidates' agents.
- x. Carrying crude and dangerous weapons to the polling station
- xi. Drunkenness, use of drugs or disorderly behaviors within, near and around polling stations.

#### **6. Election financing / expenditure**

- a) Campaign funds shall be defined as money from personal or team funds used to directly or indirectly fund the promotion of ones candidacy or team.
- b). The aspiring teams shall submit their budget two weeks prior to the campaign period for approval
- c) The budget must include all expenditure by the party used for campaign purposes.
- d) Shall not use associations resources, including finances, stationeries etc. for electoral campaigns.
- e) Avoid using money to bribe or influence voters.
- f) Audit and accountability of campaign funds.
- g) All candidates must declare sources of finance used during the campaigns.

#### **7. Election offenses and penalties**

a) Where, in the opinion of the Commission and on sufficient presentation of evidence, candidates or their supporters and agents have contravened or infringed on any of the provisions of this code, they will be liable to have committed an offence and may be liable to disqualification from the elections and the following penalties depending on the severity of the offenses

- i. Issued with a formal warning.
- ii. A fine determined by the University.
- iii. Be barred from holding any public meetings, campaigns or meeting the voters during election period.
- iv. Disqualification from the current elections,
- v. Be barred from participating in any one or more future elections.
- vi. Suspension from the University for a period not less than one academic year
- vii. Any other penalty under the University regulations governing the conduct and discipline of students or under Kenyan Law.

b) Each candidate shall undertake in writing to abide by all the conditions of the code

## **SCHEDULE 5: UNIVERSITY OF NAIROBI STUDENTS ASSOCIATION ELECTION OFFENCES AND PENALTIES, 2017**

The University Of Nairobi Students Association Election Offences Rules to provide for election offences; and for connected purposes

Arrangement of Sections

Sections

### **1. Short title**

This Rule may be cited as the University of Nairobi Students Association Election Offences Rules, 2017

### **2. Interpretation**

In this Rule, unless the context otherwise requires—

“**ballot box**” means a transparent container with a slot on the top sufficient to accept a ballot paper in a students’ election but which prevents access to the votes cast until the closing of the voting period;

“**Ballot paper**” means paper used to record the choice made by a voter and shall include an electronic version of a ballot paper or its equivalent for purposes of electronic voting;

“**Candidate**” means a student or a team contesting for a Students’ Association elective post;

“**Commission**” means the Independent Electoral Commission established under Article -----of the Constitution;

“**Election period**” means the period between the publication of a notice by the Commission for a Students’ Association election under sections ----- of the Elections Rule, 2017.

### **3. Offences relating to register of voters**

A student who—

- (a) Without authority makes, prepares, prints or is in possession of a document or paper purporting to be a register of voters;

- (b) Knowingly makes any false statement on, or in connection with any application to be registered in any Students' Association register of voters; or
- (c) Aids, abets, counsels or procures the commission of or attempts to commit any of the offences referred to in paragraphs (a) and (b), commits an offence and is liable on conviction, to a fine not exceeding Ksh.50,000/- shillings or to suspension for a term not exceeding two academic semesters, or to both.

#### **4. Offences relating to multiple Students' Association registrations as a voter**

- (1) A student who—
  - (a) Being registered as a voter in a register of voters applies to be registered as a voter—
    - (i) in any other register of voters, otherwise than in substitution of his subsisting registration; or
    - (ii) In the same register of voters;
  - (b) Having applied to be registered in a register of voters which application has not been either granted or rejected, applies to be registered in the same register of voters or in another register of voters;
  - (c) Simultaneously makes two or more applications to be registered as a voter; or
  - (d) Having been disqualified by an election court, applies to be registered as a voter, commits an offence is liable on conviction, to a fine not exceeding Kshs.50,000/-or to suspension for a term not exceeding two academic semesters or to both.
- (2) Any student who commits an offence under subsection (1) shall, in addition to the penalty provided in subsection (1), not be eligible to vote or contest as an individual or team in that election or in the next Students Association's election.
- (3) A student or officer or a student who aids another student to register as a voter and vote more than once commits an offence and is liable on conviction, to a fine not exceeding Kshs.50,000/-or to suspension for a term not exceeding two academic semesters or to both.
- (4) A team of candidates who aids a student to register as a voter more than once, commits an offence and is liable on conviction, to a fine not exceeding Kshs.50,000/- and shall not be eligible to contest in the on-going Students' Associations election.

#### **5. Offences Relating to Voting**

A student or a team of candidates who—

- (a) Forges, counterfeits, deface or destroy any ballot paper or the official perforation, stamp or mark on any ballot paper;
- (b) Without authority supplies any ballot paper to any student ;
- (c) Sells or offers for sale any ballot paper to any student;

- (d) Purchases or offers to purchase any ballot paper from any student;
- (e) Not being a student entitled to be in possession of any ballot paper which has been marked with any official perforation, stamp or mark has any such ballot paper in his possession;
- (f) Puts into any ballot box anything other than the ballot paper which he or she is authorised by law to put in;
- (g) Without authority takes out of a polling station any ballot paper or is found in possession of any ballot paper outside a polling station;
- (h) Not being an election official and not being authorised, removes election material from a polling station before, during or after an election;
- (i) without authority destroys, takes, opens, disposes of or otherwise interferes with any election material in use or intended to be used for the purposes of an election;
- (j) Without authority prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election;
- (k) for the purposes of an election, manufactures, constructs, imports, has in his possession, supplies or uses, or causes to be manufactured, constructed, imported, supplied or used, any appliance, device or mechanism by which a ballot paper may be extracted, affected or manipulated after having been deposited in a ballot box during the polling at any election;
- (l) Not being authorised to do so under this Rule, makes any mark on any ballot paper issued to any student other than to himself;
- (m) Votes at any election when they are not entitled to vote;
- (n) Votes more than once in any election;
- (o) Interferes with a voter in the casting of his vote in secret;
- (p) Pretends to be unable to read or write so as to be assisted in voting; or
- (q) Pretends to be visually impaired or suffering from any other disability so as to be assisted in voting, commits an offence and is liable on conviction, to a fine not exceeding Kshs.50,000/-

#### **6. Offences by members of the Commission and Staff**

A member of the Commission, staff or other student having any duty to perform pursuant to any written law relating to any election who—

- (a) makes, in any record, return or other document which they are required to keep or make under such written law, an entry which they know or have reasonable cause to believe to be false, or do not believe to be true;
- (b) permits any student whom they know or have reasonable cause to believe to be able to read or write to vote in the manner provided for student unable to read or write;

- (c) permits any student whom they know or have reasonable cause to believe not to be visually impaired or a student with disability to vote in the manner provided for student who are visually impaired or student s with disability, as the case may be;
- (d) Wilfully prevents any student from voting at the polling station at which they know or have reasonable cause to believe such student is entitled to vote;
- (e) Wilfully rejects or refuses to count any ballot paper which they know or have reasonable cause to believe is validly cast for any candidate in accordance with the provisions of such written law;
- (f) wilfully counts any ballot paper as being cast for any candidate which they know or have reasonable cause to believe was not validly cast for that candidate;
- (g) interferes with a voter in the casting of his vote in secret;
- (h) Where required under the Elections Rules and Regulations or any other law to declare the result of an election, fails to declare the results of an election;
- (i) Except in the case of a member, officer or student authorized to do so, purports to make a formal declaration or formal announcement of an election result;
- (j) Without reasonable cause does or omits to do anything in breach of his official duty;
- (k) Colludes with any person or team of candidates for purposes of giving an undue advantage to the person or team candidate;
- (l) wilfully contravenes the law to give undue advantage to a team of candidate or a person on partisan, ethnic, religious, gender or any other unlawful considerations; or
- (m) fails to prevent or report to the Commission or any other relevant authority, the commission of an electoral offence committed under this Rule ,commits an offence and is liable on conviction, to a fine not exceeding Kshs.50,000/- .

## **7. Maintenance of secrecy at elections**

- (1) An election officer, candidate, agent or other student who—
  - (a) Without authority, obtains or attempts to obtain, in a polling station, information as to the candidate for whom any voter in the station is about to vote or has voted;
  - (b) Communicates at any time to any student, any information obtained in a polling station as to the team of candidates for whom any voter in the station is about to vote or has voted; or
  - (c) Discloses the serial number of the ballot paper issued to any voter at the station commits an offence.
- (2) Every election officer, team of candidate, or agent in attendance at the counting of votes who fails to maintain or aids in violating the secrecy of the ballot or attempts to ascertain at such counting the number

of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given by any particular ballot paper, commits an offence.

(3) A student attending any proceedings relating to an election and who, without lawful excuse—

(a) Communicates, before the poll is closed, to any student any information obtained at those proceedings as to any official perforation, stamp or mark to be used in connection with any paper;

(b) Communicates to any student at any time any information obtained at those proceedings as to the number of ballot papers issued to any student;

(c) Attempts to ascertain at the proceedings in connection with the receipt of ballot papers, the number on any ballot paper;

(d) attempts to ascertain at the proceedings in connection with the receipt of the ballot papers the candidate for whom any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings; or

(e) captures an image of any marked ballot for purposes of financial gain or for showing allegiance, commits an offence and is liable on conviction, to a fine not exceeding Kshs.50,000/- .

## **8. Personation**

(1) A student, who at an election—

(a) applies for a ballot paper in the name of another student , or of a fictitious student;

(b) Having voted once at any such election, votes again or applies at the same election for a ballot paper in his or her own name;

(c) Votes with the knowledge that he or she is not entitled to vote in that election; or

(d) Presents himself or herself as an election official knowing that he is not, commits the offence of personation, which shall be cognizable.

(2) For the purposes of this section, a student who has applied for a ballot paper for the purpose of voting shall be deemed to have voted.

## **9. Bribery**

(1) A student or a team of candidates who, during an election period—

(a) Directly or indirectly offers a bribe to influence a voter to—

(i) Vote or refrain from voting for a particular team of candidate or person;

(ii) attend or participate in or refrain from attending or participating in any campaigns meeting, march, demonstration or other event of a electoral nature or in some other manner lending support to or for a person or team of candidates;

(b) In any manner unlawfully influences the result of an election;



(c) Directly or indirectly, in student or by any student on his behalf, in order to induce any other student to agree to be nominated as a candidate or to refrain from becoming a team of candidate or to withdraw if they have become candidates commits an offence.

(2) A student or a team of candidates who, during an election period, accepts or agrees to accept a bribe that is offered in the circumstances described in subsection (1) commits an offence.

(3) A student or a team of candidates who commits an offence under this section shall be liable, on conviction, to a fine not exceeding Kshs.50,000/-

#### **10. Undue influence**

(1) A student or a team of candidates who, directly or indirectly in person or through another student on his or her behalf uses or threatens to use any force, violence including sexual violence, restraint, or material, physical or spiritual injury, harmful cultural practices, damage or loss, or any fraudulent device, trick or deception for the purpose of or on account of—

(a) Inducing or compelling a student to vote or not to vote for a particular team of candidates at an election;

(b) Inducing or compelling a student to refrain from becoming a candidate or to withdraw if he has become a candidate; or

(c) Impeding or preventing a student from being nominated as a candidate or from being registered as a voter, commits the offence of undue influence.

(2) A student or a team of candidates, who induces, influences or procures any other student to vote in an election knowing that the student is not entitled to vote in that election commits an offence.

(3) A student or a team of candidates who directly or indirectly by duress or intimidation—

(a) Impedes, prevents or threatens to impede or prevent a voter from voting; or

(b) In any manner influences the result of an election, commits an offence.

(4) A student or a team of candidates who directly or indirectly by duress, intimidation or otherwise compels or induces any voter who has already voted at an election—

(a) To inform that student or any other student of the name of a team of candidates for which the voter has voted; or

(b) To display the ballot paper on which the voter has marked his vote, commits an offence.

#### **11. Use of force or violence during nominations, campaigns and election periods**

A student or a team of candidates who, directly or indirectly in person or by any other student on their behalf, inflicts or threatens to inflict injury, damage, harm or loss on or against a student —

(a) so as to induce or compel that student to support a particular a team of candidates;

- (b) on account of such student having voted or refrained from voting; or
- (c) in order to induce or compel that student to vote in a particular way or refrain from voting, commits an offence and is liable on conviction to a fine not exceeding Kshs.50,000/- .

## 12. Offences relating to elections

A student or a team of candidates who—

- (a) prints, publishes, distributes or posts up, or causes to be printed, published, distributed or posted up, any advertisement, handbill, placard or poster which refers to any election and which does not bear upon its face the names and addresses of the printer and publisher;
- (b) Makes or publishes, before or during any election, for the purpose of promoting or procuring the election of any team of candidates, any false statement of withdrawal of any other candidate at such election;
- (c) Forges, defaces or destroys any nomination paper, or delivers to a returning officer any nomination paper knowing it to be forged;
- (d) interferes with election material by removing destroying, concealing or mutilating or assists in the removal, destruction, concealment or mutilation of any such material save on the authority of the Commission or under the provisions of the Elections Rules and Regulations;
- (e) Directly or indirectly prints, manufactures or supplies or procures the printing, manufacturer or supply of any election material in connection with the election save on the authority of the Commission;
- (f) Interferes with free political canvassing and campaigning by—
  - (i) using language which is threatening, abusive or insulting or engages in any kind of action which may advocate hatred, incite violence or influence the voters on grounds of ethnicity, race, religion, gender or any other ground of discrimination;
  - (ii) directly or indirectly, using the threat of force, violence, harassment or otherwise preventing the conduct of any campaigns meeting, march, demonstration or other event of a political nature or any other student from attending or participating therein;
  - (iii) Creating a material disruption with the intention of preventing a person or a team of candidates from holding a campaign meeting;
  - (iv) impeding, preventing or threatening to impede or prevent the right of any representative of any or a team of candidates from gaining access, in the manner and during the hours prescribed to voters in any particular area, whether public or private for the purposes of canvassing and campaigning and soliciting membership and support; or
  - (v) impeding, preventing or threatening to impede or prevent a member of the Commission, a representative of the Commission or any other authorised student or organisation engaged in voter

education from gaining access, in the refuses or fails to effect a direction, instruction or lawful order issued by or on behalf of the Commission;

- (g) refuses or fails to leave an election counting centre or any area designated by the Commission for electoral purposes when so ordered in accordance with the Elections Rule and Regulations;
- (h) Enters or remains in an election polling station or centre or in any area designated by the Commission for electoral purposes in contravention of Elections Rule or Regulations;
- (i) Obstructs or hinders any elections officer, team of candidates or agent in the execution of their lawful duties;
- (j) makes a false statement or furnishes false particulars in any statement which is required under Elections Rule or Regulations knowing the statement or particulars to be false or without reasonable grounds for believing the same to be true; or
- (k) Publishes, repeats or disseminates in any manner whatsoever, information with the intention of—
  - (i) Disrupting or preventing the election;
  - (ii) Creating hostility or fear in order to influence the process or outcome of the election; or
  - (iii) otherwise unlawfully influencing the process or outcome of the election, or aids, abets counsels or procures the commission of or attempts to commit any such offence; or
- (l) forges, defaces or destroys any campaign or promotional material of an opposing candidate or person, commits an offence and is liable, on conviction, to a fine not exceeding Kshs.50,000/- .

### **13. Unlawful expenditure**

- (1) A student or a team of candidates who makes payment, contracts for payment or gives any other consideration of any kind for the purpose of promoting or procuring the election of a team of candidates at any election—
  - (a) On account of the conveyance of voters to or from the poll, whether for the hiring of vehicles, vessels or animals of transport of any kind whatsoever, or otherwise; or
  - (b) to or with a voter on account of the use of any house, land, building, or premises for the exhibition of any address, bill or notice, or on account of the exhibition of any address bill or notice, commits an offence.
- (2) A student or a team of candidates who, upon the filing of an election petition in respect of an electoral process and prior to the conclusion of a by-election in respect of that electoral process where electoral tribunal determines that a by-election is to be held—
  - (a) Knowingly register voters in the electoral area in which the by-election is to be held;
  - (b) Knowingly cause the registration of voters in the electoral area in which the by-election is to be held; or

(c) Transfer voters in substantial numbers to the electoral area in which a by-election is to be held commits an offence.

(3) A student or a team of candidates who knowingly receives payment under the circumstances provided for under subsection (1) commits an offence.

(4) A student or a team of candidates who lets, lends or employs a vehicle, vessel, aircraft, or animal of transport knowing that it is intended to be used to convey voters to and from a poll commits an offence.

(5) A student or a team of candidates, who hires, borrows or uses a vehicle, vessel, aircraft, or animal of transport knowing that it is intended to be used to convey voters to and from a poll commits an offence.

(6) Nothing in subsection (4) or subsection (5) shall prevent an owner of a vehicle, vessel or animal of transport of any kind from letting, hiring or being employed or used by a voter or several voters at their joint cost for the purpose of conveying the voters to or from a poll.

(7) Notwithstanding anything in this section—

(a) where it is the ordinary business of a voter as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with such voter if made in the ordinary course of business, shall not be deemed to be an offence within the meaning of this section; and

#### **14. Offences relating to the use of technology in elections**

A student or a team of candidates who, in relation to the electoral process—

(a) Steals or intentionally causes damage to electronic equipment;

(b) Knowingly or intentionally conceals, destroys, alters or knowingly or intentionally causes another to conceal, destroy or alter any computer source code used for a computer, computer programme, and computer system or computer network;

(c) with the intent to cause or knowing that he is likely to cause wrongful loss or damage to the public or any student, destroys or deletes or alters any information residing in a computer resource or diminishes its value or utility;

(d) Accesses the whole or any part of a computer system without authorisation;

(e) Intercepts, by technical means and without authorisation, any non-public transmission of computer data to, from, or within a computer system including electromagnetic emissions from a computer system carrying such computer data;

(f) intentionally or recklessly alters or interferes with the functioning of a computer or computer network by inputting, transmitting, damaging, deleting, deteriorating, altering or suppressing computer data or a computer program, electronic document, or electronic data message without authority, including by the introduction or transmission of viruses;

(g) uses, produces, sells, procures, imports, distributes, or otherwise makes available, without lawful authority—

(i) A device, including a computer program, designed or adapted primarily for the purpose of committing any of the offences under this Rule ; or

(ii) a computer password, access code, or similar data by which the whole or any part of a computer system may be accessed with intent that it be used for the purpose of committing an offence under this Rule ;

(h) knowingly inputs, alters, or deletes computer data with the intent that the result be considered or acted upon for legal purposes as if it were authentic, regardless of whether or not the data is directly readable and intelligible; or

(i) intentionally acquires, uses, misuses, transfers, alters or deletes another student 's identification information, commits an offence and shall be liable, on conviction, to a fine not exceeding Kshs.50,000/- or to suspension for a term not exceeding two academic semesters or to both.

#### **15. Aiding and abetting offences**

(1) A student or a team of candidates who aids, abets, counsels or procures the commission of or attempts to aid, abet, counsel, or procure the commission of an offence specified in this Rule commits an offence.

(2) An offence under subsection (1) shall be cognizable.

#### **16. Breach of Electoral Code of Conduct**

a) Every student and every nominated candidate who, attempts to participate in or participates in an election without subscribing to the Electoral Code of Conduct commits an offence and is liable on conviction to a fine not exceeding Kshs.50,000/- .

b) Any student or a team of candidates who contravenes the Electoral Code of Conduct commits an offence.

a) The trial of an offence under this section shall be without prejudice to any proceedings in or consequent upon a petition.

#### **17. Powers to enforce the Electoral Offences Rules**

The Independent Electoral Commission or its duly constituted committees shall have the power to order investigations and to prosecute offences under this Rule.

#### **18. General penalty**

- a) A student or a team of candidates who contravenes a provision in this Rule for which a penalty has not been provided for, commits an offence and is liable, on conviction, to a fine not exceeding --- Kshs.50,000/- .
- b) An offence under this Rule relating to an election shall, with necessary modifications, be an offence during nominations.
- c) A student or a team of candidates who is convicted of an offence under this Rule shall not be eligible for election or nomination in a Students Council and Electoral College elections upon conviction.