



## **THE COUNTY GOVERNMENTS ACT, 2012**

### **THE COUNTY GOVERNMENT (GENERAL) REGULATIONS, 2020**

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LEGAL NOTICE NO. ....

**THE COUNTY GOVERNMENTS ACT, 2012**  
*(No. 17 of 2012)*

**IN EXERCISE** of the powers conferred by section 135(1) of the County Governments Act, 2012, the Cabinet Secretary for Devolution and Arid and Semi-Arid Lands, makes the following Regulations—

<b>PART I—PRELIMINARY PROVISIONS</b>	
Citation	1. These regulations may be cited as the County Governments (General) Regulations, 2020
Interpretation  <i>No. 17 of 2012</i>	2. In these Regulations—  “Act” means the County Governments Act;  “alternative dispute resolution mechanisms” means conciliation, mediation, traditional dispute resolution or any other mechanism of resolving disputes in which a person assist parties to resolve a dispute otherwise than through the normal judicial process or arbitration;  “county headquarter” means the premises serving as the administrative centre of a County Government, situated in the physical location set out in Third Schedule to the Act;  “re-designation” means the movement of a public officer from one career path or cadre to another at a grade equal to or substantially equal to the one held before the movement, to facilitate the county public officer's horizontal mobility and  “local referendum” a poll conducted in accordance with section 90 of the Act.
Scope of Regulations	3. These regulations apply to— (a) the transfer of a headquarter of a county government from one physical location to another. (b) the removal of a speaker of a county assembly. (c) the resolution of intra-governmental disputes

	<p>(d) the appointment, promotion and transfer of public officers in county governments</p> <p>(e) the conduct of local referendum</p>
<p><b>PART II— TRANSFER OF COUNTY HEADQUARTERS</b></p>	
Transfer of a county headquarter	<p>4. A proposal to transfer a county headquarter from the physical location specified in the Third Schedule of the Act to any other location, may be initiated by—</p> <p>(a) The Governor or</p> <p>(b) a citizen, pursuant to section 88(2) of the Act.</p>
Proposal for transfer by the Governor	<p>5. (1) Where a proposal for transfer of a county headquarter is initiated under regulation 4(a), the Governor shall, constitute a Steering Committee to provide strategic guidance on the transfer, in writing.</p> <p>(2) The Steering Committee shall comprise of —</p> <p>(a) The County Executive Committee Member responsible for County planning and development who shall be the Chair;</p> <p>(b) The County Executive Committee Member responsible for Finance;</p> <p>(c) The County Attorney;</p> <p>(d) one man and one woman, representing the residents of the county, who shall be registered voters in the county; and</p> <p>(e) The Chief Officer responsible for County Planning, who shall be the Secretary.</p> <p>(3) The Steering Committee shall within thirty days of appointment, prepare and submit to the Governor, a proposal for the transfer of the county headquarter, establishing—</p> <p>(a) the proposed location of the county headquarter;</p> <p>(b) the projected expenditure to be incurred as a result of the transfer;</p> <p>(c) the economic viability of the transfer;</p> <p>(d) how the transfer will aid the realisation of the objectives of county government;</p> <p>(e) how the transfer will impact the fiscal position of the county government;</p> <p>(f) how the transfer will impact the social well-being of the residents of the county;</p> <p>(g) the anticipated environmental impacts of the transfer and proposed mitigation measures, prepared in accordance with the Environmental Management and Co-ordination (Impact Assessment and Audit) Regulations, 2003</p> <p>(h) the most effective means of undertaking the transfer and</p> <p>(i) a proposed framework for sufficient public participation before the transfer.</p> <p>(4) The proposal for transfer, including the framework for undertaking public participation prepared under paragraph 3(i) shall be submitted to the County Executive Committee for approval.</p>
Public consultations on the proposal	<p>6. (1) Where the County Executive Committee approves the proposal for transfer under regulation 5(4), the Steering Committee shall, within fourteen days of such approval, invite members of the public to submit oral or written comments on the proposal.</p>

	<p>(2) In seeking the views and opinions of the people under sub regulation (1), the steering committee shall—</p> <ul style="list-style-type: none"> <li>(a) hold public meetings to explain the proposed transfer and its effects.</li> <li>(b) notify the public, of the dates and venue of the public meetings through loudspeakers, advertisements on local radio stations and least two newspapers of county wide circulation.</li> <li>(c) state where copies of the proposal may be obtained or inspected .</li> <li>(a) ensure that persons likely to be most affected by the proposed transfer have an adequate opportunity to share their views on the transfer</li> <li>(b) record the proceedings of the meetings, in writing.</li> </ul> <p>(3) The steering committee shall, within fourteen days of the public consultations prepare and submit a report of the outcome of the consultations, to the County Executive Committee.</p> <p>(4) Where the members of the public approve the proposal for transfer, the Governor, shall lay the proposal before the County Assembly within seven days of such approval, in accordance with section 6A of the Act.</p> <p>(5) Where the members of the public reject the proposal for transfer, the steering committee shall, upon submission of the report under paragraph (3) stand dissolved.</p>
Approval by the County Assembly	<p>7. (1) A proposal laid before the County Assembly under regulation 6(4) shall be transmitted to the Clerk and accompanied by—</p> <ul style="list-style-type: none"> <li>(a) a detailed assessment of the costs and benefits of the proposed transfer</li> <li>(b) a detailed plan of how the transfer will be undertaken</li> <li>(c) an environmental impact study of the transfer, prepared in accordance with the Environmental Impact Assessment Regulations, 2014.</li> <li>(d) a report of the outcome of the consultations, indicating— <ul style="list-style-type: none"> <li>(i) who was consulted</li> <li>(ii) the period within which the consultations were undertaken</li> <li>(iii) the responses received from the public and</li> <li>(iv) an analysis of the outcome of the consultations</li> </ul> </li> </ul> <p>(2) The County Assembly, in carrying out its scrutiny of a proposal for transfer of a county headquarter shall be guided by the objects and principles of devolved governance and shall in particular consider whether —</p> <ul style="list-style-type: none"> <li>(a) the proposed location of county headquarter is centrally located;</li> <li>(b) the transfer is integrated within the county’s development plan;</li> <li>(c) the transfer is financially viable;</li> <li>(d) the transfer will facilitate economic development of the county;</li> <li>(e) there are provisions for monitoring and evaluation during the transfer and</li> <li>(f) there was sufficient public consultations to inform the transfer.</li> </ul>

	<p>(3) The County Assembly may, in addition to the report received under 7(1)(d), facilitate public participation on the proposal through an appropriate mechanism, in accordance with its Standing Orders</p> <p>(4) Where the Assembly has adopted a resolution that the proposal for transfer of a county headquarter be approved the Clerk of the Assembly, shall notify the Clerk of the relevant House of Parliament within fourteen days of the approval.</p> <p>(5) Where the Assembly has adopted a resolution that the proposal for transfer of a county headquarter be rejected, the Clerk of the County Assembly shall notify the Governor within fourteen days of the rejection.</p>
Approval by Parliament	<p>8. (1) Where a proposal is referred to Parliament pursuant to regulation 7(4), Parliament, in carrying out its scrutiny of the proposal shall be guided by the objects and principles of devolved governance and shall in particular consider whether —</p> <p>(a) the proposed location of county headquarter is centrally located;</p> <p>(b) the transfer is integrated within the county’s development plan;</p> <p>(c) the transfer is financially viable;</p> <p>(d) the transfer will facilitate economic development of the county;</p> <p>(e) there are provisions for monitoring and evaluation during the transfer and</p> <p>(f) there was sufficient public consultations to inform the transfer.</p> <p>(2) Where Parliament has adopted a resolution that the proposal for the transfer of the county headquarters be approved, the Clerk of the Senate shall notify the Governor within seven days of the approval;</p> <p>(3) Despite paragraph (2), Parliament may approve a proposal for transfer the county headquarter, subject to such conditions as Parliament may impose.</p> <p>(4) Where Parliament has adopted a resolution that the proposal for transfer of a county headquarter be rejected, the Clerk of Senate shall notify the Governor within fourteen days of the rejection.</p>
Notification	<p>9. The Governor shall, within seven days of receipt of the approval by Parliament, notify the public of the approval, by notice in the Gazette.</p>
Proposal for transfer by a citizen	<p>10. (1) A proposal for transfer of a county headquarter initiated under 6(2) (b) shall in the form of a petition and as prescribed in the law governing the procedure of petitioning County Assemblies.</p> <p>(2) Upon receipt of a petition under regulation (1), the County Assembly shall facilitate public participation on the proposal through an appropriate mechanism including—</p>

	<ul style="list-style-type: none"> <li>(a) inviting submission of memoranda;</li> <li>(b) holding public hearings;</li> <li>(c) consulting relevant stakeholders in a sector; and</li> <li>(d) consulting experts on technical subjects.</li> </ul> <p>(3) The County Assembly shall, if satisfied that the petition meets the requirements set out under regulation 7(2), forward the petition, through the Clerk, to relevant House for tabling in the House.</p> <p>(4) Where the Assembly has adopted a resolution that the proposal for transfer of a county headquarter be rejected, the Clerk of the County Assembly shall notify the petitioner within fourteen days of the rejection</p>
<b>PART III—REMOVAL OF A SPEAKER OF A COUNTY ASSEMBLY</b>	
<p>Vacancy in the office of a Speaker</p>	<p>11. The office of Speaker or Deputy Speaker shall become vacant if the holder —</p> <ul style="list-style-type: none"> <li>(a) resigns from office in a letter addressed to the County Assembly.</li> <li>(b) is convicted of an offence and sentenced to imprisonment for a term exceeding six months without the option of a fine;</li> <li>(c) dies;</li> <li>(d) is removed from office on the grounds of— <ul style="list-style-type: none"> <li>(i) violation of a provision of the Constitution or of any other law including a violation of Chapter Six;</li> <li>(ii) gross misconduct, whether in the performance of the Speaker’s functions or otherwise;</li> <li>(iii) physical or mental incapacity to perform the functions of office;</li> <li>(iv) incompetence; or</li> <li>(v) bankruptcy</li> </ul> </li> </ul>
<p>Procedure for removal of a Speaker</p>	<p>12. (1) A notice of intention to move a motion for a resolution to remove the Speaker, delivered to the Clerk pursuant to section 11(2) of the Act shall set out—</p> <ul style="list-style-type: none"> <li>(a) the grounds and particulars upon which the proposed motion is made;</li> <li>(b) the name and signature of the Member sponsoring the Motion; and</li> <li>(c) The names and signatures of the Members in support of the Motion.</li> </ul> <p>(2) Upon submission of the notice of intention to move a motion to remove a speaker to the Clerk, under paragraph (1) a member shall not withdraw a signature appended to it.</p> <p>(3) Pursuant to section 11(4) of the Act, the Speaker shall be furnished with a copy of the notice under paragraph (1), together with the grounds and particulars upon which the proposed motion is made, at least seven days before the day scheduled for the Speaker’s appearance before the Assembly.</p>

	<p>(a) Without prejudice to the generality of (1) the Speaker shall—</p> <p>(a) be served with the notice, in person.</p> <p>(b) be furnished with all the information, materials and evidence to be relied on by the Assembly</p> <p>(c) be accorded adequate opportunity to be heard and to make representations in regard to the motion, on the floor of the house;</p> <p>(d) be entitled to legal representation, during the debate on the motion.</p> <p>(4) If a resolution requiring the removal from office of a Speaker is supported by at least seventy five percent of the Members of the County Assembly—</p> <p>(a) the Speaker shall cease to hold office.</p> <p>(b) the member elected pursuant to section 11(3) shall continue to hold office</p>
<b>PART IV—RESOLUTION OF INTRA-GOVERNMENTAL DISPUTES</b>	
<p>Definition of Intra-governmental dispute</p>	<p>13. (1) In this part, intra-governmental dispute is a dispute between organs, departments, agencies or any other entity of a county governments concerning a matter—</p> <p>(a) arising from a statutory powers or function assigned to any of the parties; or</p> <p>(b) involving a specific disagreement concerning a matter of fact or law and</p> <p>(c) which is justiciable in a court of law</p> <p>(2) A dispute shall not be deemed to be an intra-governmental dispute if the dispute concerns a matter that —</p> <p>(a) is an inter-governmental dispute</p> <p>(b) is subject to criminal proceedings before a court of law</p> <p>(c) relates to the interpretation of a provision of law</p> <p>(d) relate to anti-corruption or money laundering</p>
<p>Guiding principles</p>	<p>14. The resolution of intra-governmental disputes shall be guided by the following principles—</p> <p>(a) prompt and amicable resolution of disputes before resorting to judicial proceedings;</p> <p>(b) prudent use of public funds in the resolution of intra-governmental disputes;</p> <p>(c) upholding the Constitutional principles of national unity, good governance, transparency, integrity; and</p> <p>(d) compliance with the procedures, decisions and outcomes made through the dispute resolution processes under these Regulations</p>

Resolution of intra-governmental disputes	15. (1) Whenever an intra-governmental dispute arises, the parties to the dispute shall— (a) undertake all necessary measures to amicably resolve the dispute, and (b) Apply and exhaust the mechanisms for alternative dispute resolution before referring the dispute to a court of law.
Appointment of a mediation committee	16. Subject to section 30(3)(c) and (d) of the Act, the Governor shall, whenever an intra-governmental dispute arises, appoint a mediation committee consisting of equal numbers of members from each of the entities where the dispute arises, to resolve the dispute
Procedure for resolution of intra-governmental disputes	17. (1) Within fourteen days of appointment, the mediation committee shall convene an initial meeting. (2) The parties at the initial meeting convened under paragraph (1) shall— (a) elect a chairperson and vice-chairperson from amongst themselves (b) determine the precise issues in dispute; (c) identify and agree on the appropriate alternative dispute resolution mechanism to be applied by the parties in settling the dispute and (d) determine the rules of procedure of the committee; (e) Give direction on any interim measures to be undertaken by either of the parties, pending the final determination of the dispute. (3) The measures envisaged under paragraph 2(c) may include— (a) direct negotiations between parties; (b) consultations with either— (i) a constitutional commission or an independent office; (ii) the Council or (iii) Any other person or institution as the parties may agree to consult. (4) The Mediation Committee shall within twenty one days of appointment, resolve the dispute, in the manner agreed. (5) Where a dispute is resolved by the Mediation Committee, the parties to the dispute shall— (a) enter into a written agreement and (b) notify the Governor of the outcome of the mediation
Referral to an Arbitrator	18. (1) Where the Mediation Committee is unable to resolve the dispute, the parties shall identify and agree on an accredited arbitrator to resolve the dispute (2) The arbitrator shall commence the arbitration proceedings within 14 days of appointment.

	<p>(3) The arbitrator shall hear and determine the dispute referred to arbitration within thirty days of the date of commencement of the arbitration proceedings.</p> <p>(4) The Arbitration Act, 1995 and the arbitration rules of the institution selected by the parties shall apply to the arbitration process provided under this regulation.</p> <p>(5) Where the dispute is resolved through arbitration, the arbitrator shall, within seven days, submit the arbitral award to the High Court for adoption.</p>
Referral of the dispute judicial proceedings	19. Where all efforts of resolving the dispute under these Regulations fail, a party to the dispute, may institute judicial proceedings.
<b>PART V—COUNTY PUBLIC SERVICE</b>	
Vacancy in the County Public Service Board	<p>20. (1) Pursuant to section 58(2) of the Act, The Governor shall, where a vacancy arises and at least six months before the expiry of the term of the Board, declare vacancies in the Board in the form of media with the widest public outreach.</p> <p>(2) Within fourteen days of the declaration of a vacancy under (1) the Governor shall constitute a selection panel comprising of the following —</p> <ul style="list-style-type: none"> <li>(a) a representative from the Office of the Governor;</li> <li>(b) a man and a woman representing professional associations with registered offices in the County</li> <li>(c) the County Executive Committee Member responsible for the Public Service;</li> </ul> <p>(2) The panel shall elect a chairperson and a vice chairperson from amongst its members.</p> <p>(3) The Office of the County Secretary shall provide facilities and any support required by the panel in the performance of its functions.</p>
Nomination of members of the County Public Service Board	<p>21. (1) The panel shall, within fourteen days of appointment, invite applications from qualified persons and publish the names of all applicants in at least two newspapers with nationwide circulation and on the County Government’s website.</p> <p>(2) The panel shall consider the applications, shortlist and interview the applicants.</p> <p>(3) After carrying out the interviews, the panel shall —</p> <ul style="list-style-type: none"> <li>(a) select three persons qualified to be appointed as chairperson;</li> <li>(b) select three persons qualified to be appointed as members of the Board for each vacancy; and</li> <li>(c) forward the names of the persons selected under paragraphs (a), (b) and (c) to the Governor for nomination as the chairperson, vice-chairperson and member respectively or as the case may be.</li> </ul> <p>(4) In nominating or appointing persons as members of the Board, the panel and the Governor shall —</p>

	<p>(a) observe the principle of gender equity, ethnic and other diversities of the people of Kenya, and shall ensure equality of opportunity for persons with disabilities; and</p> <p>(b) take into account the national values and principles set out in Articles 10 and 232 of the Constitution.</p>
Approval by the County Assembly	22. The County Assembly shall within fourteen days of its sitting, consider all nominations received and approve or reject any of them according to the law relating to approval of public appointments.
Appointment of the chairperson and members of the board	23. The Governor shall by notice in the Gazette, appoint the chairperson and members contemplated under section 58(1) (b) within seven days of receipt of the approved names.
Dissolution of the panel	<p>24. (1)The panel shall stand dissolved when the appointments are made under regulation 23</p> <p>(2)Notwithstanding any other provision of this regulation, the Governor may, by notice in the Gazette, extend the period specified in respect of any matter under this regulation by a period not exceeding twenty-one days.</p>
Responsibilities of the County Secretary	<p>25. Pursuant to section 44(3)(a) of the Act, the County Secretary, as the head of the county public service shall be responsible for—</p> <ul style="list-style-type: none"> <li>(a) Overall organization the execution of government policies</li> <li>(b) delivery of the programmes of the County Government;</li> <li>(c) Ensuring all agencies of the County Government are adequately staffed for performance of their functions;</li> <li>(d) keeping custody of legal records of the county governments including contracts and memoranda of understanding and</li> <li>(e) ensuring participation of the people in the governance of the county</li> </ul> <p>(2) In undertaking the functions under regulation (1), the County Secretary shall uphold and adhere to the operational functions of the County Public Service Board.</p>
Transfers	<p>26. (1)Where an authorized officer intends to transfer a County public officer from the department where such an officer is currently deployed to another department without a change of designation or grading, the recommendations and comments of the authorized officer concerned shall be sent to the Board, which shall decide whether the transfer should be approved.</p> <p>(2) Where an authorized officer intends to transfer an officer from the office where such officer is currently deployed to another office of different designation but of similar grading, in the same department, the authorized officers concerned shall forward their</p>

	<p>recommendations and comments to the Board, which shall decide whether the transfer should be approved.</p> <p>(3) In effecting a transfer the following shall be taken into account—</p> <ul style="list-style-type: none"> <li>(a) if the transfer shall lead to improved service delivery;</li> <li>(b) the interest of the children, if any, of the affected public officer; and</li> <li>(c) The transfer shall not be arbitrary.</li> </ul> <p>(4) Nothing in this Part shall apply to —</p> <ul style="list-style-type: none"> <li>(a) the posting of officers from one station to another in their substantive capacities within departments; or</li> <li>(b) The transfer between departments of public officers in any office which is common to departments generally, which shall be effected by the authorized officers concerned in consultation, where necessary, with the Board.</li> </ul>
Re-designation.	<p>27. (1) A public officer who wishes to re-designate shall apply, in writing, to the respective authorized officer or to the Board through the concerned authorized officer, as the case may be, for re-designation.</p> <p>(2) A County public officer may be re-designated to hold or act in a public office if —</p> <ul style="list-style-type: none"> <li>(a) the office is vacant;</li> <li>(b) he or she meets all the qualifications;</li> <li>(c) the re-designation shall not disadvantage any public officer who is already serving in the particular cadre;</li> <li>(d) the officer has consented to such a decision; and</li> <li>(e) The decision shall not reduce the public officer's salary.</li> <li>(f) (4) A re-designation shall take effect on a date to be determined by the Board or authorized officer.</li> </ul>
Procedure for appointment of village council	<p>28. (1) Pursuant to section 58(2) of the Act, the Village Administrator shall, where a vacancy arises and at least six months before the expiry of the term of the Council, declare vacancies in the Council.</p> <p>(2) An application in respect of a vacancy declared under paragraph 1 shall be forwarded to the administrator by any qualified elders within fourteen days of the publication of the notice.</p> <p>(3) The administrator shall consider the applications and shortlist and publish the names and qualifications of all the shortlisted applicants within seven days from the last day of receipt of the applications, in any form of media with the widest public outreach in the county.</p> <p>(4) The administrator shall interview the shortlisted applicants within fourteen days from the date of the publication of the list of shortlisted applicants.</p>

	<p>(5) After the interviews, the village administrator shall, within seven days of the interview select three elders qualified to be appointed to the Village Council.</p> <p>(6) The village administrator shall, within seven days of selecting the names under paragraph 5 nominate village elders and forward the names of the nominees to the County Assembly for approval</p>
Approval by the County Assembly	29. The County Assembly shall within fourteen days of its sitting, consider all nominations received and approve or reject any of them according to the law relating to approval of public appointments.
Appointment by the village administrator	30. (1) The village administrator shall, within seven days of the receipt of the approval of the nominee from the Assembly, appoint the village elder to the Village Council.
<b>PART VI—LOCAL REFERENDUM</b>	
Local referendum  <i>No. 24 of 2011.</i>	<p>31. (1) A County Government may conduct a local referendum on local issues specified in section 90 of the Act and in accordance with the Elections Act</p> <p>(2) Local referenda in counties may be conducted after an initiative by—</p> <p>(a) the County Assembly; or</p> <p>(b) the people and the County Assembly;</p> <p>(c) Any other body or entity specifically provided in legislation or regulations.</p>