

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT- THIRD SESSION

THIRD REPORT
OF THE
COMMITTEE ON APPOINTMENTS

ON THE VETTING OF THE NOMINEE FOR APPOINTMENT TO THE
POSITION OF CABINET SECRETARY FOR EDUCATION -
PROF. GEORGE ALBERT OMORE MAGOHA, CBS, EBS

MARCH, 2019

DIRECTORATE OF COMMITTEE SERVICES
THE NATIONAL ASSEMBLY
PARLIAMENT BUILDINGS
NAIROBI.



 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 19 MAR 2019	
DAY: TUESDAY	
TABLED BY:	HON. JOHN MBASI MINORITY LEADER
CLERK-AT THE-TABLE:	

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LIST OF ABBREVIATIONS AND ACROYNMS

DCI	Directorate of Criminal Investigations
EACC	Ethics and Anti-Corruption Commission
H.E.	His Excellency
HELB	Higher Education Loans Board
HIV	Human Immunodeficiency Virus
MPDB	Medical Practitioners and Dentist Board
KNEC	Kenya National Examination Council
KRA	Kenya Revenue Authority
PWDs	Persons with Disabilities
UoN	University of Nairobi

ANNEXURES

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FOREWORD

In accordance with Article 152 (2) of the Constitution and section 5 of the Public Appointments (Parliamentary Approval) Act, 2011 (hereinafter referred to as “the Act”), His Excellency the President nominated **Prof. George Albert Omoro Magoha** to the position of Cabinet Secretary for Education. The nomination was conveyed to the Speaker of the National Assembly through a letter Ref. No. OP/CAB.1/40A and dated 1st March, 2019. The nominee's Curriculum Vitae and Testimonials were enclosed in the letter.

On 5th March, 2019 and pursuant to Standing Order 42(1), the Speaker of the National Assembly conveyed the Message from H.E. the President to the House. Pursuant to section 4 of the Act and Standing Order 204(4), the matter was referred to the Committee on Appointments for vetting and reporting to the House within fourteen (14) days.

In compliance with section 6(9) of the Act, the Clerk of the National Assembly placed an advertisement in the print media on Thursday, 7th March, 2019, inviting the public to submit memoranda by way of written statements on oath (*affidavit*) on the suitability or otherwise of the nominee. The advertisement indicated that the submissions were to be received by Wednesday, 13th March, 2019 at 5.00 pm. By close of the submission deadline, the Committee had not received any submission on the suitability of the nominee or otherwise for appointment as Cabinet Secretary for Education.

Further, in fulfilment of the provisions of Article 118 of the Constitution, section 6(4) of the Act and Standing Order 45(3), the Clerk of the National Assembly on Thursday, 7th March, 2019 notified the public through the print media, the intention of the Committee on Appointments to conduct the approval hearing of the nominee on Thursday, 14th March, 2019 from 09.30 a.m.

Section 6(7) of the Act provides that that the approval hearing should focus on a **candidate's academic credentials, professional training and experience, personal integrity and background**. To fulfil the requirement on personal integrity, the Clerk wrote to the Kenya Revenue Authority, the Ethics and Anti-Corruption Commission, the Registrar of Political Parties, and the Higher Education Loans Board to ascertain the nominee's good standing with the said government institutions. The nominee was also required to submit clearance from the said institutions, which he did.

The nominee appeared before the Committee on Thursday, 14th March 2019 for approval hearing in accordance with the provisions of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the National Assembly Standing Orders on his suitability or otherwise for appointment to the position of Cabinet Secretary for Education.

Having considered the nominee's curriculum vitae, filled Questionnaire pursuant to the Schedule to the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) and the oral submissions during the approval hearing, the Committee made the following findings and observations –

- 1) **THAT, in accordance with Article 78(1) and (2) of the Constitution, he is a Kenyan citizen born in Siaya County and does not hold dual citizenship.**
- 2) **THAT, he is a professor of surgery at the University of Nairobi with more than thirty-one (31) years' experience in academia, medicine/surgery and public service, ten (10) years of which he served as the Vice-Chancellor in the said institution.**
- 3) **THAT, prior to his nomination, he served as the Chairperson of the Kenya National Examination Council where he led in reforming the Country's examination management thereby giving credibility and integrity to the examination results in the country. His academic credentials, professional training and experience thus comply with section 6 (7) of the Public Appointments (Parliamentary Approval) Act, No. 33 of 2011.**
- 4) **THAT, he meets the requirements of Chapter 6 of the Constitution on leadership and integrity, having been issued with clearance certificates by various government agencies such as EACC, KRA, DCI and HELB.**
- 5) **THAT, as stipulated in Article 75(1) of the Constitution, he has no potential conflict of interest.**
- 6) **THAT, he satisfies the requirements of Article 77(1) of the Constitution in that he does not intend to participate in any other gainful employment during his tenure as a Cabinet Secretary.**
- 7) **THAT, he does not hold office in any political party and hence satisfies the provisions of Article 77(2) of the Constitution. This was confirmed by the Registrar of Political Parties vide letter RPP/ORG/34 VOL.III (32) dated 8th March, 2019.**
- 8) **THAT, he has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (conflict of interest), Article 76 (financial probity), Article 77 (restriction on activities of State Officers) and Article 78(2) (dual citizenship) of the Constitution and is therefore fit to hold office as Cabinet Secretary.**
- 9) **THAT, no memoranda were presented to the Committee contesting the suitability or otherwise of the nominee for appointment as Cabinet Secretary for Education.**

May I take this opportunity to thank all the Members of the Committee for their input and valuable contributions and time during the approval hearing and deliberations during the writing of this report. The Committee also takes this opportunity to thank the Office of the Clerk of the National Assembly for the logistical support accorded to it during the exercise.

On behalf of the Committee on Appointments and pursuant to Article 124 (4) (b) of the Constitution, section 8(1) of the Public Appointments (Parliamentary Approval) Act, 2011 and the provisions of Standing Order 199(6), it is now my singular duty and privilege to present to the

House, this Third Report of the Committee on Appointments on the vetting of the nominee for the position of Cabinet Secretary for Education, **Prof. George Albert Omore Magoha.**

Hon. Justin B. Muturi, E.G.H., M.P

Speaker of the National Assembly/Chairperson Committee on Appointments

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Committee on Appointments is established in accordance with Standing Order 204(1) to consider, for approval by the House, appointments under Article 152(2) of the Constitution (Cabinet Secretaries).

1.2 Members of the Committee

2. The Committee on Appointments comprises the following Members:

Chairperson: The Hon. Justin Muturi, EGH, M.P. (**Speaker of the National Assembly**)

Members: The Hon. Moses Cheboi, CBS, M.P. (Deputy Speaker)

The Hon. Aden Duale, EGH, M.P. (Leader of the Majority Party)

The Hon. John Mbadi, EGH, M.P. (Leader of the Minority Party)

The Hon. Jimmy Angwenyi, CBS, M.P. (Deputy Leader of the Majority Party)

The Hon. Robert Mbui, M.P. (Deputy Leader of the Minority Party)

The Hon. Benjamin Washiali, CBS, MP (Majority Whip)

The Hon. Cecily Mbarire, MGH, M.P. (Deputy Majority Whip)

The Hon. (Dr.) Eseli Simiyu, M.P.

The Hon. Yusuf Hassan Abdi, MP

The Hon. David Pkosing, CBS, M.P.

The Hon. David Gikaria, M.P.

The Hon. (Dr.) Rachael Nyamai, M.P.

The Hon. Joyce Emanikor, HSC, M.P.

The Hon. Khatib Mwashetani, M.P.

The Hon. Kimani Ichung'wah, M.P.

The Hon. Peter Kaluma, M.P.

The Hon. Sabina Wanjiru Chege, M.P.

The Hon. Sarah Korere, M.P.

The Hon. Tom Joseph Kajwang, M.P.

The Hon. David Ole Sankok, M.P.

The Hon. Esther Muthoni Passaris, OGW, M.P.

The Hon. Getrude Mbeyu, MP

The Hon. Joshua Kimilu, MP

The Hon. Lillian Tomitom, MP

The Hon. Lydia Haika Mizighi, MP

The Hon. Oku Kaunya, MP

The Hon. William Chepkut, MP

1.3 Committee Secretariat

- | | |
|--------------------------------|-------------------------------------|
| 1. Mr. Michael Sialai, EBS | Clerk of the National Assembly |
| 2. Mrs. Florence Atenyo-Abonyo | Director, Committee Services |
| 3. Mr. Peter Chemweno | Deputy Director, Committee Services |
| 4. Ms. Susan Maritim | Senior Clerk Assistant |
| 5. Ms. Marale Sande | Senior Research Officer |
| 6. Ms. Chelagat Tungo | Clerk Assistant I |
| 7. Ms. Emma Essendi | Legal Counsel I |
| 8. Mr. Jimale Mohammed | Clerk Assistant III |

2.0 BACKGROUND INFORMATION

2.1 Notification of Nomination

3. In accordance with the provisions of Articles 132(2) (a) and 152 (2) of the Constitution and section 5 of the Public Appointments (Parliamentary Approval) Act, H.E. the President forwarded to the National Assembly, *vide* a letter reference number OP/CAB.1/40A dated 1st March, 2019; the notification of nomination, curriculum vitae and testimonials of **Prof. George Albert Omoro Magoha**, nominee for appointment as Cabinet Secretary for Education. (**ANNEXURE 1**),

2.2 Committal to Committee on Appointments

4. On 5th March, 2019 and pursuant to Standing Order 42(1), the Speaker of the National Assembly conveyed the Message from H.E. the President (**ANNEXURE 2**) to the House. Pursuant to section 4 of the Act and Standing Order 204(4), the matter was referred to the Committee on Appointments for vetting and reporting to the House within fourteen (14) days.

2.3 Notification to the Public

5. In compliance with section 6(9) of the Act, the Clerk of the National Assembly placed an advertisement in the print media on Thursday, 7th March, 2019, (**ANNEXURE 3**) inviting the public to submit memoranda by way of written statements on oath (*affidavit*) on the suitability or otherwise of the nominee. The advertisement indicated that the submissions were to be received by Wednesday, 13th March, 2019 at 5.00 p.m. By close of the submission deadline, the Committee had not received any submission on the suitability of the nominee or otherwise for appointment as Cabinet Secretary for Education.
6. The Clerk of the National Assembly notified the public of the Committee of Appointments intention to conduct the approval hearing of the nominee on Thursday, 14th March, 2019 from 09.30 a.m. This was done in accordance with the provisions of Article 118 of the Constitution, section 6(4) of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Orders 45(3).(**ANNEXURE 4**).

2.4 Notification to the Nominee

7. The Clerk of the National Assembly through newspaper advertisement in the Daily Nation and Standard on Wednesday, 6th March, 2019 invited the nominee for the approval hearing. This was done in compliance with the requirement of sections 4 and 6(3) of the Public Appointments (Parliamentary Approval) Act, 2011. (**ANNEXURE 5**).

2.5 Clearance Requirements

8. On Wednesday, 6th March, 2019, the Clerk of the National Assembly wrote to the Ethics and Anti-Corruption Commission (EACC), Kenya Revenue Authority (KRA), Directorate of Criminal Investigations (DCI), the Higher Education Loans Board (HELB) and the

Office of the Registrar of Political Parties (ORPP) (*ANNEXURE 6*) requesting for reports with respect to the nominee on the following matters:

- a) ethics and integrity;
 - b) tax compliance;
 - c) criminal record;
 - d) higher education loan repayments; and
 - e) political party affiliations.
9. On matters of ethics and integrity, the EACC *vide* a letter Ref. No. EACC.7/10/5 VOL.VIII (247) and dated 12th March, 2019, (*ANNEXURE 7*) confirmed that the Commission has not undertaken any investigations where the nominee has been found culpable.
10. With regard to matters tax compliance, the KRA confirmed *vide* a letter Ref. No. KRA/5/1002/I&SO/3(342)19 and dated 13th March, 2019, (*ANNEXURE 8*) that the nominee, PIN No. A000108915F is tax compliant with a TCC No. KRANON1137350219.
11. The DCI through a letter Ref. No. DCI/CRO/SEC/6/7/2/A/VOL.VII/38 and dated 9th March, 2019 (*ANNEXURE 9A*) confirmed that the nominee was genuinely issued with the clearance certificate annexed hereto and dated 13th February, 2019 (*ANNEXURE 9B*).
12. Responding to the request, the HELB confirmed *vide* a letter Ref. No. HELB/RR/112009/V/40 and dated 8th March, 2019 (*ANNEXURE 10*), that the nominee, **Prof. George Albert Omore Magoha** was not a beneficiary of the HELB Loans Scheme.
13. On party affiliation, the ORPP, *vide* Ref. No. RPP/ORG/34 Vol. III (32) and dated 8th March, 2019 (*ANNEXURE 11*) indicated that the nominee is not an official of any political party.

2.6 Issues for Consideration during the Approval Hearing

14. In determining the suitability of the nominee for appointment, the Committee was guided by section 6 (7) of the Act which places focus on a candidate's academic credentials, professional training and experience, personal integrity and background.
15. In addition, the Committee is required to take into consideration the following issues in accordance with section 7 of the Public Appointments (Parliamentary Approval) Act, 2011 –
- (a) the procedure used to arrive at the nominee;
 - (b) any constitutional or statutory requirements relating to the office in question; and
 - (c) the suitability of the nominee for appointment proposed having regard to whether the

nominee's abilities, experience and qualities meet the needs of the body to which nomination is being made.

(a) Procedure for Nomination

16. The procedure for appointment of a Cabinet Secretary is outlined in the Constitution. A close reading of Articles 132 (2) and 152(2) of the Constitution reveals that nomination of Cabinet Secretaries is a constitutional prerogative of the President as there is no further procedure prescribed in the Constitution or statute law.

(b) Constitutional and Statutory Requirements

17. The Constitution in addition gives guidelines on how to appoint persons to public office which include -

(i) Two-third Gender Rule

18. Article 27 (8) of the Constitution provides that '*the State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender.*' If the nominee is approved, the Cabinet will comprise of six (6) women and eighteen (18) men. The rest of the members of Cabinet, being the President, Deputy President and Attorney-General are all men.
19. In order to ensure compliance with the Constitution, not more than two thirds of members of Cabinet should be of the same gender.

(ii) Representation of regional and ethnic diversity

20. Article 130 (2) of the Constitution provides that the composition of the national executive shall reflect the regional and ethnic diversity of the people of Kenya. It is worth noting that Article 152 (1) (d) of the Constitution limits the number of Cabinet Secretaries to twenty-two and therefore there cannot be representation from each county.

(iii) Persons with Disability

21. Article 232 (1) (i) of the Constitution provides that the values and principles of public service includes affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of—
- a) men and women;
 - b) the members of all ethnic groups; and
 - c) *persons with disabilities.*
22. Further Article 54(2) mandates the State to ensure the progressive realization of the principle that at least five per cent (5%) of members of the public in appointive bodies are persons with disabilities.

(iv) Youth

- 23.** Article 55 mandates the State to take measures, including affirmative action to ensure that the youth have opportunities to associate, be represented and participate in political, social and economic spheres of life.

(v) Leadership and Integrity

- 24.** The Committee, in determining the suitability of the nominee, was also guided by the provisions on leadership and integrity as outlined under Chapter Six of the Constitution. In particular, Article 73 (2) provides that the guiding principles of leadership and integrity includes –

- (a) selection on the basis of personal integrity, competence and suitability, or election in free and fair elections;
- (b) objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favouritism, other improper motives or corrupt practices;
- (c) selfless service based solely on the public interest, demonstrated by —
 - (i) honesty in the execution of public duties; and
 - (ii) the declaration of any personal interest that may conflict with public duties;
- (d) accountability to the public for decisions and actions; and
- (e) discipline and commitment in service to the people.

- 25.** Of importance, is Article 77(5) that requires a State Officer, whether in public or private life to behave in a manner that avoids conflict between personal interest and public official duties. This Article further prohibits a State Officer who has been removed from office under it from holding any other State Office.

- 26.** Article 77(1) prohibits a full time State Officer from participating in any other gainful employment.

- 27.** Article 77(2) prohibits an appointed State officer from holding office in a political party. Article 78 disqualifies persons who are not Kenyan Citizens from appointment as State Officers. Further, a State Officer is barred from holding dual citizenship.

- 28.** In addition, the Committee considered section 10 of the Leadership and Integrity Act, 2012 in particular which provides that –

A State officer shall, to the best of their ability—

- (a) carry out the duties of the office efficiently and honestly;*
- (b) carry out the duties in a transparent and accountable manner;*
- (c) keep accurate records and documents relating to the functions of the office;*
and

(d) report truthfully on all matters of the organization which they represent.

29. The Committee observed that the Cabinet as defined in Article 152(1) of the Constitution fails to meet the constitutional threshold on gender, persons with disabilities, youth and regional balance. However, as the Committee had only been presented with one nominee, it would not be possible to satisfy all these requirements.

c) Suitability of the nominee for the appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the body to which the nomination is being made

30. The suitability of the nominee was gauged in a holistic manner after scrutiny of the nominee's credentials, experience, background and qualities as well as the performance of the nominee during the approval hearing.

2.7 Memoranda from Members of the Public

31. In fulfilment of the provisions of Article 118 of the Constitution, section 6(4) of the Act and Standing Order 45(3), the Clerk of the National Assembly on Thursday, 7th March, 2019 notified the public through the print media, the intention of the Committee on Appointments to conduct the approval hearing of the nominee on Thursday, 14th March, 2019 from 09.30am.

32. By close of business on Wednesday, 13th March, 2019 at 5.00 p.m., the Committee had not received any submissions against the nomination and approval for appointment of Prof. George Albert Omore Magoha to the position of Cabinet Secretary for Education.

3.0 APPROVAL HEARING OF THE NOMINEE

3.1 Preparation Meeting – 13th March, 2019

33. The Committee on Appointments held a sitting on Wednesday, 13th March, 2019 at 11.00 a.m. to deliberate on the approval hearing and noted the following -

- a) THAT, as at the time of that meeting, the Clerk of the National Assembly had not received any memoranda from the public contesting suitability of the nominee for appointment;
- b) THAT, the nominee had also not notified the Clerk of the National Assembly of his intention to withdraw from the approval process as outlined under section 6(10) of the Public Appointments (Parliamentary Approvals) Act, 2011;
- c) THAT, the nominee had been issued with the requisite clearance certificates by the various government agencies; and

- d) THAT, the nominee had submitted the duly filled Questionnaire in compliance with section 6 (8) of the Public Appointments (Parliamentary Approval) Act, his curriculum vitae and other testimonials for consideration by the Committee. (**ANNEXURE 12**)
34. The Committee therefore resolved to undertake the approval hearing on Thursday, 14th March, 2019 at 9.30 a.m., as advertised by the Clerk of the National Assembly and which was communicated to the members of the public and the nominee.
35. In conducting the approval hearing, the nominee will be examined against the following criteria, as set out in section 7 of the Public Appointments (Parliamentary Approval) Act, 2011.
- (a) **Gender:** compliance with Article 27(8) of the Constitution that requires the State to take measures to ensure that not more than two thirds of members of elective or appointive bodies shall be of the same gender;
 - (b) **Age:** to ascertain whether the youth are represented as provided under Article 55 of the Constitution;
 - (c) **Place of birth:** Article 130(2) of the Constitution contemplates a Cabinet that reflects the regional and ethnic diversity of the people of Kenya;
 - (d) **Nationality:** to ascertain the nationality of the nominee to ensure compliance with Article 78 of the Constitution which provides that State Officers must be Kenyan citizens;
 - (e) **Educational background;**
 - (f) **Employment record;**
 - (g) **Honours or awards given to the nominee;**
 - (h) **Membership to professional bodies;**
 - (i) **Public office and political affiliations held:** to ascertain whether the nominee does not hold office in a political party in compliance with Article 77(2) of the Constitution that prohibits an appointed State Officer from holding an office in a political party;
 - (j) **Information on whether the nominee has been removed from office under Article 75 of the Constitution** which prohibits a State Officer who has been removed from office under this Article from holding any other State Office;
 - (k) **Nominee's finances;**
 - (l) **External commitments** that nominee intends to undertake while in office (if appointed). Article 77(1) of the Constitution prohibits a full time State Officer from participating in any other gainful employment;
 - (m) **Tax status and net worth;**

- (n) **Potential conflict of interest** - Article 75(1) of the Constitution bars State Officers from engagements or association that may give rise to conflict between official duties and personal interest;
- (o) **Whether the nominee has been charged in a court of law in the past three years;** and
- (p) **Whether the nominee has been adversely mentioned in a report of Parliament or a Commission of inquiry in the past three years.**

3.2 The Approval Hearing – 14th March, 2019

- 36. The nominee, Prof. George Albert Omore Magoha, appeared before the Committee on Thursday, 14th March, 2019 at 09.30 a.m. and was interviewed pursuant to the provisions of the Constitution, Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the National Assembly.

Date of Birth and Citizenship Status

- 37. The nominee is a Kenyan male citizen born on 2nd July, 1952 in Siaya County and holds Identity Card Number 8536802. He is married with one child.

Academic and Professional Qualifications

- 38. The nominee's academic journey started at Jina Primary School (1960 - 1963) and Dr. David Livingstone Primary (1964 - 1966) where attained a Certificate of Primary Education (CPE). He then proceeded to Starehe Boys Centre where he attained the East African Certificate Education (EACE) in 1970.
- 39. His medical career at the College of Medicine of the University of Lagos where he graduated with a Bachelor of Medicine/ Bachelor of Surgery (MBBS) degree in 1978. In 1983, he graduated from the Royal Postgraduate Medical School, Hammersmith Hospital, London Department of Urology. He is also a graduate of Royal College of Surgeons, Dublin, Ireland (1980) and Lagos University Teaching Hospital (1985).
- 40. He also holds a Certificate in Executive Management from Stanford University, Graduate School of Business (2009) and is a Fellow of the West African College of Surgeons since 1990.

Work and Professional Experience

- 41. The nominee's career progression began in 1988 when he was employed as a Lecturer in the Department of Surgery, at the University of Nairobi. In 1989 he was promoted to a Senior Lecturer in the same department and in 1995 was again promoted to Associate Professor, a position he served until 2000. He continues to serve as a Professor of Surgery in the same department.
- 42. He also served as the Principal, College of Health Sciences at the same University (2001 - 2002), Dean of the Faculty of Medicine (2000 – 2001) and Chairman of the Academic Department of Surgery (1999 – 2000).

43. He served as the Vice- Chancellor of the University of Nairobi between 2005 and 2015, following his promotion from Deputy Vice Chancellor (Administration and Finance).

Honours and Awards

44. The nominee was awarded the Chief of the Order of the Burning Spear (CBS) in 2017, the Award for dedication and leadership while serving as the President of the Association of Medical Councils of Africa (AMCOA) in 2018.
45. He was also awarded the Distinguished and Dedicated Service to the Kenya Medical Practitioners and Dentists Board (MPDB) and the Award for Service to the Medical Profession in 2009 and 2008 respectively.
46. Others are the Elder of the Order of the Burning Spear (EBS), 2006; Member of the Order of the Burning Spear, 2005; Merit Award by the UoN for dedicated service to the University, 2001; Cited in Marquis Who is Who in 2001, Who is Who in Science and Engineering in 2002 – 2003 and Who is Who in Medicine and Health care in 2002 – 2003;
47. The nominee is also a beneficiary of the Scientific Achievement Award for Excellence and Research in Urology, 2001 and the International Order of Merit and Gold Medal for Research in Cancer of the Penis in Africa in 2001.

Professional Associations

48. He is involved in the following professional associations: a member of the Medical and Practitioners and Dentists Board (MPDB) since 1999; Chairman of the MPDB since 2009. Others are: the President of AMCOA between 2013 and 2018; President of the Association of African Universities (AAU) between 2011 and 2013; Member of the Erectile Dysfunction Advisory Council for Africa, Middle – East, India, Pakistan and Turkey between 1988 and 2001 and a Patron of the old Starehian Medics from 1997 to date.

Other Activities and Membership

49. Between 1993 and 2005, the nominee was a member of the following professional associations among others: Fellow of the African Academy of Sciences (FAAS), 2005; Fellow of the Kenya National Academy of Sciences (FKNAS); fellow of International College of Surgeons (FICS), 1996; member of British Association of Urological Surgeons (BAUS), 1992; Nigerian Medical Association (N.M.A.), 1978; British Medical Association (B.M.A.), 1983; Kenya Medical Association (K.M.A.), 1988; member of Pan African Urological Surgeons Association (P.A.U.S.A.), 1994; Chairman and Founder member of the Kenya Association of Urological Surgeons (K.A.U.S.), 1994; member of Societe' International D' Urologie (S.I.U.), 1994; Member, Association of Medical Councils of Africa (AMCOA), 2013; Member Association of African Universities (AAU) Governing Board, 2005/2018; and member of Societe' International de Chirurgie (M.S.I.C.) since 1993.

Published Writing

50. He has published at least sixty-two (62) papers, articles in various publications on various topical issues. Among the most recent publications are: *Tower of Transformational Leadership*, an autobiography published by East African Educational Publishers, 2017; *Fornler's Gangrene in the HIV era* Africa Health Science 2014 December, 14(4) 1063-8 (*co-authored with Ngugi P, Nyagah P*; *Urolithiasis in Kenya* East African Medical Journal 2010 October, 87(10): 395-9) (*co-authored with Ngugi P. M, A., Kiptoon D.*); *Aetiology, Diagnosis and Management of Haemospermia – a review* Urolithiasis in Kenya East African Medical Journal 2007 December; 84(12): 589-94 (*co-authored with Magoha O. B*).
51. Others are, *Prostate Cancer* East African Medical Journal. Vol. 84 No.9, S1, Sept 2007; *Overview of prostate cancer in indigenous black Africans and blacks in African ancestry in diaspora 1935-2007* East African Medical Journal. Vol. 84 No.9, S3, Sept 2007; *the management of early prostate cancer: a review* East African Medical Journal. Vol. 84 No.9, S24, Sept 2007 (*co-authored with Ngugi P. M*).

Public Office, Political Activities and Affiliations

52. He holds or has held positions in various public offices in addition to those highlighted under the section on work and professional experiences. Prior to his nomination, the nominee served as the Chairperson of the Kenya National Examinations Council (KNEC) since 2016. Other public offices held by the nominee include - Chairperson MPDB since 2009; chairperson of the African Network of Scientific and Technological Institutions (ANSTI) since 2010; and Chairperson of the Board of Governors at St. Mary's School, Yala since 2016.

Potential Conflict of Interest

53. He has no immediate associations that are likely to present potential conflict of interest when he assumes the position. However, the Committee noted that he serves as chairperson of various school and association boards. He is also a Professor of Surgery at UoN. As such, if appointed to the position of Cabinet Secretary he undertook to take Leave of Absence from the University and further relinquishing his roles as chairperson of these organizations.

Sources of Income and Net-worth

54. His sources of income during the calendar year preceding his nomination and the current calendar year comprise of continuous annual income from treasury bills, fixed cash deposit, rent, income from Safaricom mast and royalties from continual sale of his autobiography. He estimated his financial net worth at two hundred and fifty million shillings (Kshs. 250 million).

55. While clarifying on his sources of income and statement of net worth, the nominee informed the Committee that variations in his sources of income between 2018 and 2019 could be attributed to annual reviews on lease agreements on property owned and the leasing of a property which had been vacant. Further the nominee clarified his approximate net worth of Kshs 250 million by sharing with the Committee a breakdown of his assets and liabilities as presented to the Commission for University Education every two years through his Wealth Declaration Forms, a statutory requirement for all State and Public officers.

Integrity

56. The nominee has not been dismissed or otherwise removed from office for contravening the provisions of Article 75 of the Constitution. He has also not been adversely associated with practices that depict bias, favouritism or nepotism in the discharge of public duties. He has fully complied with the tax obligations to the State for the financial year immediately preceding his nomination for the appointment. He has not been charged in a court of law in the past three years or been adversely been mentioned in an investigatory report of Parliament or any other Commission of inquiry in the last three years.

OTHER EDUCATION SPECIFIC ISSUES

The nominee also responded to several questions during the vetting as follows:

Suitability for the Position of Cabinet Secretary for Education

57. On his suitability for appointment as Cabinet Secretary for Education, the nominee reiterated his progressive academic achievements beginning from his formative years at the Starehe Boys Centre between 1967 and 1970, which the nominee severally indicated, formed the basis of his goal setting orientation and positive attitude towards service delivery.
58. He affirmed that he is well suited to lead the Ministry of Education, having held various administrative positions in the public service, including the Education sector where he rose from a lecturer to Associate Professor and eventually to Vice Chancellor at the University of Nairobi. As Vice Chancellor, he listed various achievements including completion of various stalled buildings. He also prides himself for ensuring that the UoN Tower was completed within the shortest time, at a cost of Kshs 2.4 billion without Exchequer funding or loan. Of significance, however, was his ability to competitively participate in a programme that resulted in his successful win of 241 million Canadian dollars' worth of support on behalf of Kenyatta National Hospital (KNH) Research for Fever Initiative. While summing up how his experience is likely to shape his tenure at the Ministry, the nominee emphasized on the need to '*empower people, lead from the front and back and by example*'.

Consultations and Constructive Engagement

59. The nominee denied the claims that throughout his tenure as a leader both at UoN and KNEC he adopted a mechanical and dictatorial style of leadership in the management of people and achievement of tasks. He reiterated his firmness to ensure set goals are achieved at all costs. He, however, alluded to his style of leadership as one that incorporates the following key tenets: -
- (a) appreciate the problem including studying the area. This he indicated involves the use of personal soft skills to consult and engage;
 - (b) stay focused on the goal and approaching the goal backwards;
 - (c) engage the various stakeholders so as to reach reasonable consensus; and
 - (d) empower teams to work independently.
60. The nominee noted that many of the policies being implemented by the Ministry, in addition to the emerging challenges will require continuous consultation and engagement with the various stakeholders to guarantee successful implementation. Some of the challenges he cited are the directive to ensure candidates submit birth certificates prior to registrations for exams; review in fees by secondary school teachers and universities; and enforcing credibility and integrity on examinations as some of the initiatives that will require consistent consultation.
61. The nominee also emphasized on the need for stakeholder engagement in addressing issues of gender-based violence, teenage pregnancies and introduction of sex education in schools. While he emphasized that the introduction of sex education in school goes against his church beliefs, his personal opinion was that such efforts are timely, urgent and necessary. The reason being that the youth need to be equipped with skills and knowledge useful in appreciating and understanding themselves.

Ministry of Education and Financial Malpractice

62. As regards the misapplication of public resources allotted to implement education programmes, the nominee assured the Committee that he will not allow such vices to continue under his leadership. Even then, the nominee noted that education is the engine to spur the actualization of the Big Four Agenda but cautioned that financial impropriety may derail its potential realization. He also urged each and every Kenyan including leaders, to play their role in curbing corruption including ‘accepting payment for only that which one is entitled to’.

Conflict of Interest

63. On how he intends to address conflict of interest, the nominee assured the Committee that this will not compromise his work as output and performance is always his ultimate goal.

Competency Based Curriculum

64. On the issue of curriculum reforms, the nominee lauded the efforts by government to review the current curriculum and shift policy towards competency-based teaching and learning. According to him several countries in Africa like Rwanda and South Sudan have made milestones with the adoption of the said curriculum. He indicated that this will ensure that skills development respond to the demands in the job market which is considered dynamic and versatile. He however noted the following areas are key to ensuring the successful implementation of the curriculum and which requires the support of Parliament:-

- (a) timely financing and resourcing of the curriculum; and
- (b) speedy training of teachers on the curriculum.

Youth and Technical Education

65. On the place of technical training and youth empowerment, the nominee acknowledged the risk posed by high rates of unemployment among the youth. He blamed the rising numbers of unemployment to the clamour to pursue university education at the expense of acquiring skills relevant for the demands of the job market. He, however, added that in the long term, the ongoing reforms on the curriculum, that is, the adoption of a competency-based curriculum is expected to address this issue. The nominee also alluded that technical education will cater for and accommodate the high numbers of learners incapable of meeting the minimum university entry grade.

Universities and University Education

66. On the challenges facing universities and university education, the nominee acknowledged that the proliferation of universities in the country has greatly contributed to this problem. He attributed the uncontrolled expansion of universities to existing loopholes and gaps in the regulatory framework. He called on leaders to change the current perception that every region requires an established university. He also alluded to the need for right sizing and rationalization of the university system in Kenya by consolidating existing universities. As regards the outcry by university student on possible increment of university fees, the nominee was of the opinion that an increase in university tuition fees is inevitable given the high cost of living and change in times. However, he advised on the possibility to negotiate and dialogue with students for consensus building. Similarly, he cautioned against the clamour for a University Service Commission, further advising that the proposal will not automatically solve the existing challenges in universities and the universities should focus on addressing other strategic issues.

The Role of MPDB in Licensing of Dr. Sumira Soni

67. On the issue before Parliament on the irregular recognition of Dr. Sumira Soni, the nominee acknowledged that he is the current Chairperson of the MPDB since 2009.

Further, that he participated in the decision by the Board to recognise and licence Dr. Soni as an ophthalmologist. He also accepted responsibility on behalf of the Board, regarding the matter. He acknowledged that proper due diligence was not undertaken but reiterated that a review process is ongoing to determine and finalize on the matter including the reassessment of the said doctor.

Teacher Service Commission and Performance Contracting

68. While acknowledging his own resistance to adopt performance contracting following its introduction at the university, the nominee lauded the efforts by TSC to institutionalize Results-Based Management for quality education. He also noted the role performance contracting plays in target setting and accomplishment of tasks. He, however, called for dialogue between TSC, teachers and teachers' unions for appreciation and understanding. He further urged for change in packaging of the same implying that resistance by teachers to adopt the approach could be attributed to the manner in which the performance contracting message is packaged to the recipients.

Education Inequality

69. On issues of inequality in education, the nominee reiterated that access to education is a constitutional right in line with Article 43(1) (f) of the Constitution. He noted that there exist disparities in access to education as regards learners from less privileged households, Persons with Disability (PWDs) and learners in Arid and Semi-Arid Lands (ASALs). The nominee, however, assured the Committee that if appointed, he will ensure that equity prevails. He alluded to the following among other measures that he is likely to adopt: assessing the registration of schools on a case by case basis, reviewing the formulae used in placement of learners in national schools to ensure equity and fairness, affirmative action where necessary, enforcement of the regulation on buildings to ensure PWDs access schools and classes with ease.

One hundred per cent (100%) Transition Policy

70. The nominee informed the Committee that the one hundred per cent (100%) transition policy is geared towards ensuring all students graduating from primary level have an opportunity to pursue secondary education. He also acknowledged that despite its implementation, challenges persist especially in terms adequate infrastructure to cater for the high numbers of admission at secondary level. He, however, indicated the need to ascertain value for money while implementing the policy.

Regular Reports to Parliament

71. In conclusion, the nominee was advised to take note of Article 153(4) (b) of the Constitution which compels him if appointed as a Cabinet Secretary to provide Parliament with regular reports concerning matters under his sector and Article 32(3) which protects the rights of persons to access institutions, employment or facilities irrespective of their

beliefs or religion. He also committed that during his tenure at the helm of the Ministry if appointed; he shall not condone sexual abuse of learners and will strive to deliver on the results as is expected of him by the appointing authority.

4.0 COMMITTEE FINDINGS AND OBSERVATIONS

- 72.** The Committee made the following observations having considered the nominee's curriculum vitae, filled questionnaire pursuant to the Schedule to the Public Appointments (Parliamentary Approval) Act No. 33 of 2011 and the oral submissions during the approval hearing:
- 1) THAT, in accordance with Article 78(1) and (2) of the Constitution, he is a Kenyan citizen born in Siaya County and does not hold dual citizenship.**
 - 2) THAT, he is a professor of surgery at the University of Nairobi with more than thirty-one (31) years' experience in academia, medicine/surgery and public service, ten (10) years of which he served as the Vice-Chancellor in the said institution.**
 - 3) THAT, prior to his nomination, he served as the Chairperson of the Kenya National Examination Council where he led in reforming the Country's examination management thereby giving credibility and integrity to the examination results in the country. His academic credentials, professional training and experience thus comply with section 6 (7) of the Public Appointments (Parliamentary Approval) Act, No. 33 of 2011.**
 - 4) THAT, he exhibited substantial knowledge on matters education and has experience in public service. He, however, will require continuous engagement with various stakeholders to have an in-depth understanding of the education sector.**
 - 5) THAT, he meets the requirements of Chapter 6 of the Constitution on leadership and integrity, having been issued with clearance certificates by various government agencies such as EACC, KRA, DCI and HELB.**
 - 6) THAT, as stipulated in Article 75(1) of the Constitution, he has no potential conflict of interest.**
 - 7) THAT, he satisfies the requirements of Article 77(1) of the Constitution in that he does not intend to participate in any other gainful employment during his tenure as a Cabinet Secretary.**
 - 8) THAT, he does not hold office in any political party and hence satisfies the provisions of Article 77(2) of the Constitution. This was confirmed by the Registrar of Political Parties vide letter RPP/ORG/34 VOL.III (32) dated 8th March, 2019.**
 - 9) THAT, he has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (conflict of interest), Article 76 (financial probity), Article 77 (restriction on activities of State Officers) and Article**

- 10) 78(2) (dual citizenship) of the Constitution and is therefore fit to hold office as Cabinet Secretary.
- 11) THAT, the nominee has a strong personality, a trait that would be useful in managing the affairs of the Ministry and in particular the various stakeholders.
- 12) THAT, the nominee acknowledged that during this tenure as the Chairperson of the MPDB, he participated in the irregular recognition of Dr. Soni as an ophthalmologist. He accepted responsibility on behalf of the Board but reiterated that a review process is ongoing to determine and finalize on the matter including the reassessment of the said doctor.
- 13) THAT, no memoranda were presented to the Committee contesting the suitability or otherwise of the nominee for appointment as Cabinet Secretary for Education.

5.0 COMMITTEE RECOMMENDATION

73. Having conducted the approval hearing for the nominee pursuant to Article 152(2) of the Constitution, sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Order 204 (4), the Committee recommends that this House approves the appointment of Prof. George Albert Omore Magoha as Cabinet Secretary for Education by His Excellency the President of the Republic of Kenya.

Signed

Hon. Justin B. Muturi, E.G.H., M.P

Speaker of the National Assembly/Chairperson, Committee on Appointments

Date 18/03/2019

ADOPTION OF THE COMMITTEE ON APPOINTMENTS' REPORT ON THE APPROVAL HEARING OF PROF. GEORGE ALBERT OMORE MAGOHA, NOMINEE FOR APPOINTMENT TO POSITION OF CABINET SECRETARY FOR EDUCATION

The Honourable Members of the Committee on Appointments do hereby affix their signatures to this Report on the Approval Hearing of **Prof. George Albert Omore Magoha**, nominee for appointment to the position of Cabinet Secretary for Education, to affirm their approval and confirm its accuracy, validity and authenticity today Monday, 18th March, 2019:

1. Hon. Justin Muturi, EGH, MP
(**Speaker of the National Assembly / Chairperson**)
2. Hon. Moses Cheboi, CBS, MP
(**Deputy Speaker**)
3. Hon. Aden Duale, EGH, MP
(**Leader of the Majority Party**)
4. Hon. John Mbadi, EGH, MP
(**Leader of the Minority Party**)
5. Hon. Jimmy Nuru Angwenyi
(**Deputy Leader of the Majority Party**)
6. Hon. Robert Mbui, MP
(**Deputy Leader of the Minority Party**)
7. Hon. Benjamin Jomo Washiali, CBS, MP
(**Majority Whip**)
8. Hon. Cecily Mbarire, MGH, MP
(**Deputy Majority Whip**)
9. Hon. (Dr.) Eseli Simiyu, CBS, MP
10. Hon. Yusuf Hassan Abdi, MP
11. Hon. David Pkosing, CBS, MP
12. Hon. David Gikaria, MP
13. Hon. (Dr.) Rachael Nyamai, MP
14. Hon. Joyce Emanikor, HSC, MP
15. Hon. Khatib Abdallah Mwashetani, MP
16. Hon. Kimani Ichung'wah, MP
17. Hon. Peter Kaluma, MP
18. Hon. Sabina Chege, MP
19. Hon. Sarah Korere, MP

Handwritten signatures of the members of the Committee on Appointments, corresponding to the list on the left. The signatures are written in blue ink on a dotted line background.

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- A handwritten signature in black ink on lined paper. The signature is written in a cursive style, with the letters 'S', 'M', 'H', and 'L' being prominent. The 'S' is large and loops around the 'M'. The 'H' and 'L' are also stylized. The signature is written on a set of three horizontal lines (top, middle, and bottom).

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT

(THIRD SESSION)

NA.L&P.2019/COMM (017)

March 19, 2019

PAPERS LAID

Hon. Speaker, I beg to lay the following Paper on the Table of the House, today
Tuesday, March 19, 2019:

**THIRD REPORT OF THE COMMITTEE ON APPOINTMENTS ON
THE VETTING OF THE NOMINEE FOR APPROVAL AS THE
CABINET SECRETARY FOR THE MINISTRY OF EDUCATION**

(CHAIRPERSON, COMMITTEE ON APPOINTMENTS)

Copies to:

The Speaker

Deputy Speaker

The Leader of the Majority Party

The Leader of the Minority Party

The Clerk

Hansard Editor

Hansard Reporters

The Press

Noted
SNA
19/3/19