



PUBLIC SERVICE COMMISSION ACT, 2017
(No. 10 of 2017)

THE PUBLIC SERVICE COMMISSION (COUNTY APPEALS PROCEDURES)
REGULATIONS, 2022
ARRANGEMENT OF REGULATIONS

Regulation

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THE NATIONAL ASSEMBLY PAPER LAID	
DATE: 24 MAY 2022	DAY: TUE
TABLED BY:	HON A. Kimunya MP LOMP.
SECRETARY/TABLE:	Ann Musandu

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L.N. 70/2016

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IN EXERCISE of the powers conferred by section 92 of the Public Service Commission Act, 2017, the Public Service Commission makes the following Regulations: —

THE PUBLIC SERVICE COMMISSION (COUNTY APPEALS PROCEDURES) REGULATIONS, 2022

Citation.	1. These Regulations may be cited as the Public Service Commission (County Appeals Procedures) Regulations, 2022.
Purpose.	2. The purpose of these Regulations is to regulate the hearing of appeals by the Commission that have been filed by public officers or any other person in respect of county governments public service.
Interpretation.	<p>3. In these Regulations, unless the context otherwise requires —</p> <p>“appeal” means a request for the re-examination of a decision of a county executive or county public service board or county assembly service board;</p> <p>“appellant” means any person appealing against a decision of a county executive or county public service board or county assembly service board;</p> <p>“applicant” means any person that has applied to the Commission to review the Commission’s decision;</p> <p>“application” means any written representation made to the Commission seeking directions or interim orders during pendency of the appeal;</p> <p>“application for review” means a request to the Commission to reconsider its decision on appeal;</p> <p>“close of pleadings” means the end of the period granted in the regulations for filing and serving the last set of documents in an appeal, an application, an application for review or a preliminary objection;</p> <p>“county government public service” includes a county assembly service;</p> <p>“person” includes a company or association or body of persons,</p>

	<p>corporate or incorporate;</p> <p>“pleadings” means documents filed by parties; and</p> <p>“respondent” means any person against whom an appeal or an application has been filed.</p>
Scope	<p>4. Subject to Article 234(3)(a) of the Constitution, these regulations shall apply to:</p> <ul style="list-style-type: none"> a) All persons working in the county government public service; b) County Public Service Boards; c) County Assembly Service Boards; d) Decisions of the County Executive; and e) Any other person dissatisfied or affected by the decisions of a county executive or County Public Service Board or County Assembly Service Board.
Principles.	<p>5. The Commission shall be guided by the following principles when hearing and determining an appeal or when considering an application for review—</p> <ul style="list-style-type: none"> a) the promotion of the purposes, values and principles of the Constitution; b) justice and fairness for all parties appearing before the Commission; c) the application of the rules of natural justice; d) the application of substantive justice that does not rely on undue regard to technicalities of procedure; and e) timely disposal of appeals.
Inherent powers of the Commission	<p>6. Notwithstanding any other provision in these Regulations, the Commission may, on its own motion or on the application of any person, make such orders as are necessary for the—</p> <ul style="list-style-type: none"> a) fair and expeditious determination of an appeal or application under these Regulations; b) just conclusion of an appeal or application; or c) prevention of abuse of the processes of the Commission.

Conciliation, mediation and negotiation.	<p>7. (1) Notwithstanding any other provision in these Regulations, the Commission may, on its own motion or on the application of any person make such orders as are necessary for conciliation, mediation or negotiation.</p> <p>(2) The conciliation, mediation or negotiation referred to in Regulation 7 (1) shall be concluded within sixty days of the order of the Commission.</p>
	<p>(3) Where the conciliation, mediation or negotiation fails, the Commission shall proceed to determine the appeal in accordance with these Regulations.</p>
Jurisdiction.	<p>8. (1) A person who is dissatisfied with a decision in respect of a county government public service may appeal to the Commission against that decision.</p>
	<p>(2) A public officer who makes an appeal in accordance with these Regulations shall appeal after all internal processes of the county government public service have been exhausted.</p>
Appealable matters.	<p>9. The Commission may hear and determine an appeal regarding any decision relating to the engagement of any person in the county government, including an appeal in respect of—</p>
	<p>a) the recruitment, selection, appointment, promotion, re- designation, deployment and qualifications attached to any office;</p>
	<p>b) training and development;</p>
	<p>c) the remuneration, benefits and terms and conditions of service;</p>
	<p>d) disciplinary control including dismissal or imposition of any other punishment;</p>
	<p>e) the national values and principles of governance and the values and principles of public service as provided for in the Constitution;</p>
	<p>f) retirement or other forms of removal from service;</p>
	<p>g) any other decision that the Commission considers to fall within its constitutional jurisdiction to hear and determine an appeal in that regard.</p>
Filing an appeal.	<p>10. (1) A person shall file an appeal against a decision of a county government public service with the Commission within ninety days of the making of the decision by the county government public service.</p>
	<p>(2) Notwithstanding the requirements of sub-regulation (1), the</p>

Commission may upon request and after considering the same allow a person to file an appeal after the expiry of ninety days, if the Commission is persuaded that the circumstances warrant it.

(3) An appeal under these regulations shall be in form CA1 in the schedule and shall –

(a) Where the appellant is a public officer, provide the—

- (i) name of the appellant;
- (ii) name of the respondent;
- (iii) appellant's personal number;
- (iv) appellant's designation and terms of service;
- (v) appellant's job group;
- (vi) appellant's date of birth;
- (vii) a declaration as to whether there are or have been proceedings or decisions before any court or tribunal on the same subject matter;
- (viii) grounds of appeal;
- (ix) facts in support of the appeal;
- (x) documents in support of the appeal;
- (xi) prayers sought; and
- (xii) contact details including email address and telephone number.

(b) Where the appellant is not a public officer, provide the—

- (i) name of the appellant;
- (ii) description of the appellant;
- (iii) name of the respondent;
- (iv) appellant's date of birth, where applicable;
- (v) a declaration as to whether there are or have been proceedings or decisions before any court or tribunal on the same subject matter;
- (vi) matter;

	<ul style="list-style-type: none"> (viii) grounds of appeal; (ix) facts in support of the appeal; (x) documents in support of the appeal; (xi) prayers sought; and (xii) contact details including email address and telephone number.
Notice to the respondent.	<p>11. (1) The appellant shall, after filing the appeal serve it on the respondent within seven days</p> <p>(2) A respondent that has been served with an appeal shall within fourteen days of receipt of the notice—</p> <ul style="list-style-type: none"> (a) respond to the appeal by way of a replying affidavit or grounds of objection; (b) attach all the relevant records and documents in relation to the appeal, including proceedings to the replying affidavit; and (c) serve the response to the appellant within seven days of filing. <p>(3) The appellant may, where necessary, file a rejoinder within seven days of the respondent's response.</p>
Preliminary proceedings.	<p>12. Upon the close of pleadings referred to in paragraph 11 (2), the Commission shall, within twenty one days—</p> <ul style="list-style-type: none"> a) Where there is insufficient information, require the appellant or the respondent to provide additional information or documents in relation to the appeal; or b) Where it determines that there is need for an investigation, investigate the matter further in order to obtain the required information; or c) Where it is necessary to hold a hearing or where a party requests to be heard in person, set down the matter for hearing.
Interlocutory applications.	<p>13. (1) A party may apply to the Commission for directions or orders pending the hearing and determination of the appeal.</p>

	<p>(2) An application under this regulation shall be in writing and shall be served upon the other party or parties within seven days.</p>
	<p>(3) A party served with an application shall respond by way of a replying affidavit or grounds of objection within seven days of receipt of the application.</p>
	<p>(4) Where the commission determines that there is need for parties to file written submissions, the provisions of Regulation 15 (4) shall apply.</p> <p>(5) The Commission shall upon close of pleadings referred to in sub-paragraph (3), consider and determine the application within fourteen days.</p>
Preliminary objections.	<p>14 (1) A party may raise an objection on any point of law at any time before the final determination of the appeal.</p>
	<p>(2) The objection referred to in sub-paragraph (1) shall be in writing, stating the points of law and grounds in support of the preliminary objection and shall be served upon the other party or parties within seven days of filing.</p>
	<p>(3) A party served with an objection shall respond in writing within seven days of receipt of the objection.</p>
	<p>(4) Where the commission determines that there is need for parties to file written submissions, the provisions of Regulation 15 (4) shall apply.</p> <p>(5) The Commission shall upon close of pleadings referred to in sub-paragraph (3), consider and determine the objection within fourteen days.</p>
Withdrawal of appeals or applications	<p>15. An appellant or an applicant may, on notice to the Commission and to the respondent, apply to withdraw the appeal or application.</p>
Consolidation	<p>16. The Commission may on its own motion or on application by any party, consolidate several appeals on such terms as it may deem just.</p>
Test appeal	<p>17. (1) Where two or more persons have filed appeals against the same respondent, the Commission may, either on its own motion or upon the application of any of the parties with notice to all the affected parties, if satisfied that the issues to be determined in each appeal are similar, issue</p>

	directions that one of the appeals be determined as the test appeal, and staying all the steps in the other appeals until the selected appeal is determined.
	(2) The outcome of the test appeal referred to in paragraph (1) shall apply to the other appeals
Hearings.	18. (1) The Commission may hear an appeal either orally or through written representation.
	(2) Where it is necessary to hear the parties orally, the Commission shall notify the parties of the hearing date in the prescribed Form CA2 in the schedule.
	(3) The hearing notice referred to in sub-paragraph (2) shall be served at least seven days before the hearing date.
	(4) In exercising the power to hear an appeal through written representation, the Commission shall require the appellant and the respondent to make written submissions as follows —
	a) the appellant shall first file and serve written submissions within fourteen days of the directions of the Commission; and
	b) the respondent shall file and serve written submissions within fourteen days of receipt of the appellant's submissions or upon expiry of the time granted to the appellant.
	c) The appellant shall have leave to file supplementary submissions within seven days of receipt of the respondent's submissions.
Special needs.	19. Where a party is a Person with Disability and requires to be provided with special arrangements for purposes of the hearing, the party shall communicate the requirements to the Commission at least three days prior to the hearing.
Absence of parties.	20. If the appellant or respondent is absent during the hearing, after having been served with a hearing notice, the Commission may —
	a) adjourn the hearing to a specific date; or
	b) hear and determine the appeal.
Powers of the	21. The Commission may, in relation to an appeal —

Commission on appeal.	<ul style="list-style-type: none"> a) uphold the decision being challenged; b) set aside the decision being challenged; c) vary the decision as it considers just; or d) give such directions as it may consider appropriate.
Decision.	<p>22. (1) The Commission shall within thirty days of the conclusion of the hearing make a decision on the appeal.</p> <p>(2) Where a decision is not made within the period prescribed, the commission shall write to the parties informing them of the delay and the reasons for the delay.</p>
Communication of the decision.	<p>23. Within seven days of making the decision, the Commission shall communicate that decision to the parties in writing.</p>
Review.	<p>24. (1) Any person who is dissatisfied or affected by the decision made by the Commission in relation to an appeal may apply for a review of the decision .</p> <p>(2) The Commission may consider the review if—</p> <ul style="list-style-type: none"> a) the applicant presents new information that could not be presented at the time the decision was made by the Commission; or b) there is an error apparent on the record of the earlier decision; <p>(3)An application for review shall be in writing and shall be made within six months from the date of the decision of the Commission.</p> <p>(4) The Commission may consider an application for review out of time if, in the opinion of the Commission, the circumstances warrant the consideration.</p> <p>(5)The applicant shall serve the respondent with the application within seven days of filing.</p> <p>(6)The respondent shall file and serve a response to the application for review within seven days of receipt of the application.</p>

	<p>(7) Where the Commission determines that there is need for parties to file written representations, the provisions of Regulation 15 (4) shall apply.</p> <p>(8)The Commission shall consider the application for review, the response and written representations, if any, and may —</p>
	<p>a) uphold the decision;</p> <p>b) set aside the decision;</p> <p>c) vary the decision as it considers just; or</p> <p>d) give such directions as it may consider appropriate.</p>
	<p>(9)The Commission’s decision on the application for review shall be made within thirty days of the close of pleadings.</p> <p>(10) Where a decision is not made within the period prescribed in paragraph (9), the commission shall write to the parties informing them of the delay and the reasons for the delay.</p>
Communication of the decision on review.	<p>25. The Commission shall communicate its decision to the parties within seven days of making of the decision.</p>
Filling of pleadings	<p>26(1) All pleadings shall be physically filed at the Commission by delivering five copies of the pleadings.</p> <p>(2) in addition to sub-paragraph (1), the appellant shall electronically file pleadings through the Commission’s official email address.</p>
Service of Pleadings and Notices	<p>27. (1) Pleadings or notices may be served by—</p> <p>a) hand delivery;</p> <p>b) sending it to the recipient by registered post or by courier service subject to providing proof of delivery;</p> <p>c) e-mail to the recipient’s known email address; or</p> <p>d) advertisement in a daily newspapers with nationwide circulation.</p> <p>e) Short Messages Services and Mobile Application Service</p> <p>(2) Pleadings or notices shall be deemed delivered or served on</p>

	the date they are received or stamped.
	(3) Where pleadings or notices are delivered in person, the same shall be deemed to have been duly served if acknowledged by signing and dating and where applicable stamping.
	(4) Where pleadings or notices are delivered by registered post or by courier service, the same shall be deemed to have been received seven days after dispatch.
	(5) Where pleadings or notices are delivered by email, the same shall be deemed to have been duly received 24 hours after dispatch.
	(6) An Affidavit of Service shall be filed accompanied by evidence of service in the modes prescribed.
Powers of the Commission in relation to service.	<p>28. Nothing in these Regulations affects the power of the Commission, if the circumstances so permit and in the interests of justice, to—</p> <ul style="list-style-type: none"> a) authorize service of pleadings in a manner that is not expressly provided for in these Regulations; or b) find that pleadings served in a manner not expressly provided for in these regulations have been properly served.
Rights of parties	<p>29. An appellant, applicant or respondent shall have the right to —</p> <ul style="list-style-type: none"> a) be heard in person; b) be represented by an advocate of own choice and at own expense; c) be accompanied by a representative of the relevant trade union or any person of own choice; d) be assisted by an interpreter if he or she does not understand the language being used during the proceedings; and e) access information relevant to the appeal.
Record of proceedings.	30. The Commission shall maintain and preserve an accurate record of all its proceedings including typed transcripts and, where applicable, audio and video recordings.
Revocation of	31. The Public Service Commission (County Government Public

regulations.

Services Appeals Procedures) Regulations, 2016 are hereby revoked.

L.N. 70/2016

Made on the2022

Anthony M. Muchiri,
Chairperson,
Public Service Commission.

Included Views from Stakeholders

SCHEDULE

FORM CA 1

r10(3)

Public Service Commission
County Appeal No. of 20

BETWEEN

.....**APPELLANT**

AND

.....**RESPONDENT**

APPEAL

The Secretary
Public Service Commission
P O Box 30095- 00100
NAIROBI

The humble appeal of (insert name of appellant) of 20
of P O Box (insert address)..... in the Republic of Kenya is as follows:

- (a) Name of the appellant, job description, personal number, job group, date of birth, designation, terms of service.
- (b) Name of the respondent.
- (c) Facts giving rise to the appeal.
- (d) Grounds in support of the appeal.
- (e) Documents to be relied upon in support of the appeal.
- (f) Declaration as to whether there are/or have been any proceedings or decisions by or before any court or tribunal in the same subject matter.
- (g) Reliefs sought.

Dated at, this Day of 2022

Signed.....
Appellant/Advocate for the Appellant

Drawn and filed by:

.....
.....

To be served upon:

.....
.....

SCHEDULE

FORM CA 2

r. 15(2)

Public Service Commission
County Appeal No. of 20.....

BETWEEN

.....APPELLANT

AND

.....RESPONDENT

HEARING NOTICE

TAKE NOTICE THAT your appeal will be heard on the day of
..... 20..... at o'clock in the noon.

The hearing shall be held at—

TAKE NOTICE THAT should you or someone duly authorized by law fail to appear on your behalf at the time and place above mentioned, the Commission may proceed to hear the appeal and make such determination as it shall deem fit and just, your absence notwithstanding.

Dated at on this day of 20.....

.....
For the Commission