



*Approved
SNA
23/4/25*


REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025
PUBLIC PETITIONS COMMITTEE

REPORT ON-

CONSIDERATION OF PUBLIC PETITION NO. 54 OF 2023 REGARDING UNLAWFUL
DEDUCTIONS BY TEACHERS SERVICE COMMISSION (TSC) IN FAVOR OF KENYA UNION
OF SPECIAL NEEDS EDUCATION TEACHERS (KUSNET)

APRIL, 2025

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 23 APR 2025	DAY: Wed
TABLED BY:	CHAIR, PUBLIC PETITIONS COMM
CLERK-AT-THE-TABLE:	P MUGA

Directorate of Legislative & Procedural Services
Clerk's Chambers
Main Parliament Buildings
NAIROBI

TABLE OF CONTENTS

LIST OF ACRONYMS	2
CHAIRPERSON'S FOREWORD.....	3
PART ONE	4
1 PREFACE	4
1.1 Establishment and Mandate of the Committee	4
1.2 Committee Membership	5
1.3 Committee Secretariat	6
PART TWO	7
2 BACKGROUND OF THE PETITION.....	7
2.1 Introduction	7
2.1 Petitioner's Prayers	7
PART THREE	8
3 STAKEHOLDERS' SUBMISSIONS ON THE PETITION	8
3.1 The Petitioner.....	8
3.2 Teachers Service Commission.....	9
PART FOUR	12
4 COMMITTEE OBSERVATIONS	12
PART FIVE.....	13
5 COMMITTEE RECOMMENDATIONS	13
ANNEXURES	14

LIST OF ACRONYMS

CBA	Collective Bargaining Agreement
KNUT	Kenya National Union of Teachers
KUPPET	Kenya Union of Post-Primary Education Teachers
KUSNET	Kenya Union of Special Needs Education Teachers
TSC	Teachers Service Commission

CHAIRPERSON'S FOREWORD

On behalf of the Public Petitions Committee and pursuant to the provisions of Standing Order 227, it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of Public Petition No. 54 of 2023 regarding unlawful deductions by the Teachers Service Commission in favour of the Kenya Union of Special Needs Education Teachers (KUSNET). The Petition was presented to the House on 5th October, 2023 pursuant to the provisions of Standing Order No. 225 (2) (b) by the Honourable Speaker on behalf of on behalf of teachers teaching in special learning institutions across the Country.

The Petitioner prayed that the National Assembly through the Public Petitions Committee intervenes to compel the Teachers Service Commission (TSC) to stop unlawful deductions in favour of KUSNET especially for teachers who never signed up for membership to KUSNET, refund the money to the affected teachers and allow members to join unions of their choice.

The Committee considered the Petition and observed that the provisions of section 54 of the Labour Relations Act which culminated into signing of a Collective Bargaining Agreement in line with section 49 of the Labour Relations Act where KUSNET requested the Cabinet Secretary for Labour and Social Protection to issue an order requiring the Commission to deduct agency fee from each unionisable teacher under KUSNET who has not registered as a member of the union.

The Committee recommends that the Teachers Service Commission undertakes nationwide sensitization on the T-Pay platform to ensure it is user-friendly for any teacher who wishes to join or leave a union as enshrined in Article 41(2) (c) of the Constitution and Section 4(1) of the Labour Relations Act and that TSC in compliance with Section 49 of the Labour Relations Act has been empowered and mandated to effect these deductions.

To this end, the Committee appreciates the Offices of the Speaker and Clerk of the National Assembly for providing guidance and necessary technical support without which its work would not have been possible. The Chairperson expresses gratitude to the Committee Members for their devotion and commitment to duty during the consideration of the Petition.

On behalf of the Committee and pursuant to the provisions of Standing Order 199, I now wish to lay the Report on the Table of the House.



HON. ERNEST KIVAI OGESI KAGESI, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

Date.....

22nd April 2025.

PART ONE

1 PREFACE

1.1 Establishment and Mandate of the Committee

The Public Petitions Committee is established under the provisions of Standing Order 208A with the following terms of reference:

- a) considering all public petitions tabled in the House;
- b) making such recommendations as may be appropriate with respect to the prayers sought in the petitions;
- c) recommending whether the findings arising from consideration of a petition should be debated; and
- d) advising the House and reporting on all public petitions committed to it.

1.2 Committee Membership

The Public Petitions Committee was first constituted in October 2022 and reconstituted in March 2025 and comprises the following Members:

Chairperson

Hon. Ernest Kivai Ogesi Kagesi, M.P.
Vihiga Constituency
Amani National Congress (ANC)

Vice Chairperson

Hon. Janet Jepkemboi Sitienei, M.P.
Turbo Constituency
United Democratic Alliance (UDA)

Hon. Patrick Makau King'ola, M.P.
Mavoko Constituency
Wiper Democratic Movement-Kenya (WDM-K)

Hon. Nimrod Mbithuka Mbai, M.P.
Kitui East Constituency
United Democratic Alliance (UDA)

Hon. Joshua Chepyegon Kandie, M.P.
Baringo Central Constituency
United Democratic Alliance (UDA)

Hon. Beatrice Kadeveresia Elachi, CBS, M.P.
Dagoretti North Constituency
Orange Democratic Movement (ODM)

Hon. Maisori Marwa Kitayama, M.P.
Kuria East Constituency
United Democratic Alliance (UDA)

Hon. Edith Vethi Nyenze, M.P.
Kitui West Constituency
Wiper Democratic Movement-Kenya (WDM-K)

Hon. Bidu Mohamed Tubi, M.P.
Isiolo South
Jubilee Party (JP)

Hon. Bernrd Muriuki Nebart, M.P.
Mbeere South Constituency
Independent

Hon. John Bwire Okano, M.P.
Taveta Constituency
Wiper Democratic Movement-Kenya (WDM-K)

Hon. Peter Mbogho Shake, M.P.
Mwatate Constituency
Jubilee Party (JP)

Hon. Suzanne Ndunge Kiamba, M.P.
Makueni Constituency
Wiper Democratic Movement-Kenya (WDM-K)

Hon. Peter Irungu Kihungi, M.P.
Kangema Constituency
United Democratic Alliance (UDA)

Hon. Sloya Clement Logova, M.P.
Sabatia Constituency
United Democratic Alliance (UDA)

1.3 Committee Secretariat

The Public Petitions Committee was facilitated members of the secretariat:

Lead Clerk
Mr. Ahmed Kadhi
Principal Clerk Assistant II

Ms. Anne Shibuko
First Clerk Assistant

Ms. Miriam Modo
First Clerk Assistant

Mr. Willis Obiero
Clerk Assistant III

Ms. Isaac Nabiswa
Legal Counsel II

Ms. Patricia Gichane
Legal Counsel II

Ms. Nancy Akinyi
Research Officer III

Ms. Roselyne Njuki
Senior Serjeant-at-Arms

Mr. Paul Shana
Serjeant-at-Arms

Mr. Calvin Karungo
Media Relations Officer III

Mr. Peter Mutethia
Audio Officer

PART TWO

2 BACKGROUND OF THE PETITION

2.1 Introduction

1. Public Petition No. 54 of 2023 regarding unlawful deductions by the Teacher's Service Commission in favour of Kenya Union of Special Needs Education Teachers was presented to the House on 5th October 2023 by the Honourable Speaker on behalf of teachers teaching in special learning institutions across the Country.
2. The Teachers Service Commission (TSC) had been deducting union dues in form of agency fees in favour of Kenya Union of Special Needs Education Teachers (KUSNET) teachers without the approval or consent of the affected teachers.
3. The Commission had unlawfully made Special Needs Education Teachers to subscribe to the union through remittance of monthly union dues which were later stopped by the court and later, the teachers realized that the TSC was deducting union fees in the form of agency fees without their consent.
4. The Petitioners who approached TSC requesting to be allowed to join other unions of their choice were dismissed on the grounds that the Collective Bargaining Agreement (CBA) between TSC and KUSNET was binding.
5. KUSNET does not have grassroots representation or known regional offices, does not conduct Annual General Meetings nor Annual Delegates Conferences and its existence therefore is not beneficial to any of its members.
6. There has never been any initiative from the officials of KUSNET to sensitize its members on the activities of the union and other related matters.

2.1 Petitioner's Prayers

7. The Petitioners prayed that the National Assembly through the Public Petitions Committee intervene to compel the TSC to -
 - a) Stop the unlawful deductions in favour of KUSNET especially for teachers who never signed up for membership to KUSNET;
 - b) Refund the money to the affected teachers; and
 - c) Allow teachers to join unions of their choice.

PART THREE

3 STAKEHOLDERS' SUBMISSIONS ON THE PETITION

3.1 The Petitioner

On Tuesday, 23rd April 2024, the National Chairperson of Special Needs Education Teachers, Mr. Edwin Juma Gituma, appeared before the Committee on behalf of Mr. Roberts Njunukha Wekesa and submitted as follows –

8. The petitioners, who were teachers employed by the Teachers Service Commission (TSC), were tasked with teaching learners with disabilities, encompassing special schools and special units across the country.
9. These teachers found themselves subjected to deductions of union dues by TSC, either in the form of agency fees or union dues without their explicit consent, in favour of KUSNET, a union of which they were unaware of.
10. In response to this perceived injustice, the affected teachers initiated legal action against TSC for the alleged unlawful deductions, highlighting their coercion into subscribing to a union they were unfamiliar with, which eventually ceased. They later discovered that they were still being subjected to deductions for agency fees in favour of the same union.
11. Seeking autonomy in their union affiliation, the teachers endeavored to investigate and requested the opportunity to join a union of their choice. However, TSC denied them this right, citing a recognition agreement between TSC and all the three teacher unions, which stipulated that primary school teachers be affiliated with KNUT, secondary schools and colleges with KUPPET, and special needs teachers with KUSNET. The teachers viewed this denial as an infringement of their constitutional and labour rights, which guarantee any teacher the freedom to join a union of their choice.
12. Even after seeking legal intervention to halt the deductions by KUSNET, the teachers continued to face deductions for Social Welfare Associations (SWAS) under KUSNET without their consent. Consequently, a group of teachers found themselves subjected to illegal deductions for both agency fees and SWAS KUSNET dues, despite their lack of engagement with the union.
13. Furthermore, KUSNET lacks grassroots representation or identifiable regional offices. It does not hold Annual General Meetings (AGMs) or Annual Delegates Conferences (ADCs), and any elections that may occur are conducted clandestinely, known only to a select few individuals who claim to hold official positions within the union and TSC.
14. Previous attempts by the teachers to resolve the matter by seeking permission to join a union of their preference proved unsuccessful. The Chairperson of KUSNET remained unreachable to the concerned teachers, failing to provide clarification about the union's objectives and operations.

15. The petitioners therefore pray that the Committee engages the Teachers Service Commission (TSC) to ascertain the following -

- a) The registration date of KUSNET;
- b) The identities of the official representatives of KUSNET and the locations of their national and county office;
- c) Whether the demarcation issue underwent public participation, involving all teachers;
- d) If TSC could permit teachers to join unions of their choice and cease deductions of agency fees from teachers;
- e) Recommend that both TSC and KUSNET refund all funds deducted from teachers who did not enter into any membership agreements with the union; and
- f) Determine whether TSC has the authority to dictate which union its employees must join.

3.2 Teachers Service Commission

On Thursday, 28th November, 2024, the Chief Executive Officer of the Teachers Service Commission, Dr. Nancy Macharia, CBS, appeared before the Committee and submitted as follows -

16. The Teachers Service Commission is established under Article 237 (1) of the Constitution with the overall mandate of teacher management and regulation of the teaching service as provided under Article 237(2) and (3) of the Constitution.
17. Further, section 11 of the Teachers Service Commission Act requires the Commission to formulate policies to achieve its mandate; provide strategic leadership and direction; prescribe teaching standards and ensure compliance; manage the Teachers' payroll; facilitate career progression & professional development; monitor the Conduct and Performance of teachers and do all such other things as may be necessary for the effective discharge of its functions and the exercise of its powers.
18. As a public organ, the Commission is bound by the **National Values and Principles of Governance** set out under Article 10 of the Constitution as well as the Values and Principles of Public Service set out under Article 232 of the Constitution.
19. The Commission in embracing the spirit of Article 41 of the Constitution, has signed recognition agreements with three Teacher Unions namely, Kenya Union of Post-Primary Education Teachers (KUPPET), Kenya National Union of Teachers (KNUT) and Kenya Union of Special Needs Education Teachers (KUSNET).
20. Pursuant to the Recognition Agreements, each union in the teaching service has a distinct constituency. For example, KUPPET membership is derived from Post Primary school teachers; KNUT members are primary school

teachers; and KUSNET constituency comprises of teachers deployed to teach In Special Needs Education institutions and/or teachers duly registered as persons with disabilities under the Persons with Disabilities Act.

21. To foster the freedom of association and the right of every employee to join or leave a trade union at will as provided under **Article 41(2) (c)** of the Constitution and **Section 4(1)** of the Labour Relations Act, the Commission has developed and operationalized an online platform namely Teachers' Pay (T- Pay) to enable teachers to manage third-parties deductions in their pay slips.
22. The T-Pay system allows teachers to manage transactions in their pay slips by approving any third-party (such as unions, banks, insurance, associations, etc.) deductions that they wish to be effected on their pay slips. Similarly, a teacher who desire s to exit a union is only required to log into T-Pay system and stop the deduction.
23. The Commission has over the years recognized the right of employees to join and participate in trade unionism. Further, the need for bipartisan approach to labour relations begins with the re6cognition of teacher unions pursuant to **Section 54** of the Labour Relations Act cannot be understated.
24. In line with **section 4(1)** of the Labour Relations Act, teachers are allowed to voluntarily join teacher unions of their choice by approving deductions to the union through the Commission's T-Pay platform. Similarly, where a teacher opts to leave membership of the union, he/she stops the deductions on the same platform. Accordingly, teachers join unions voluntarily by approving deduction of membership fees in their pay slips.
25. KUSNET was registered by the Registrar of Trade Unions as a trade union on 30th August, 2011 and issued with a Certificate of Registration Number TU/160. The union leadership comprises Mr. James Torome as Secretary General and Mr. Amos Karanja as National Chairman.
26. Pursuant to **Section 54** of the Labour Relations Act, the Commission signed a Recognition Agreement with KUSNET on 3rd March 2021 allowing the Commission to engage KUSNET in negotiation of teachers' terms of service.
27. To this end, KUSNET negotiated the terms of service for its members and signed a Collective Bargaining Agreement with the Commission dated 13th July, 2021.
28. Following the signing of the Collective Bargaining Agreement, KUSNET pursuant to **Section 49** of the Labour Relations Act, requested the Minister for Labour and Social Protection to issue an Order requiring the Commission to deduct Agency Fee from the wages of each unionisable teacher under the constituency of KUSNET who is not a member of the trade union.
29. Accordingly, the Minister issued an Order vide Legal Notice No. 10 of 2022 directing the Commission to deduct Agency Fees from unionisable teachers under the constituency of KUSNET who have not subscribed as members of the union.

30. To this end, the Commission deducts union dues from teachers who have duly registered as members of KUSNET and Agency Fees from members who are under the constituency of KUSNET and have not registered as members of KUSNET.

31. All teachers who are members of KUSNET or any other union recognized by the Commission joined the unions voluntarily by approving deduction of union dues fees in their pay slips. It is, therefore, not true that some KUSNET members joined the Union without consent, and they have been deducted union dues.

32. Fourteen (14) of the Petitioners are deducted agency fees as they fall within the constituency of KUSNET while 1 Petitioner is deducted membership fee as he is a member of KUSNET as shown in the table below.

S/NO	NAMES	TSC NO	CONTRIBUTION	SCHOOL POSTED
1	Tomoge John	331182	Agency	Ogango Special School
2	Ronald Ombogo Asamba	339578	Agency	Egentubi Primary School
3	Monica Ednah Achanda	327740	Agency	Riyabe Primary School
4	Nyagesoa Phires	384038	Agency	Riyabe Primary School
5	Ndemo Ogeto	441417	Agency	Gisage Agra P.A.G Primary School
6	Caleb Nyamari	424179	Agency	Kiamogiti Pri Sch
7	Alice Okoko	417737	Agency	Sengereri D.E.B. Primary
8	Janet Ongera	262430	UNION	Getaari D.E.B. Pri School
9	Margaret Okeyo	313651	UNION	Kebirigo Pri Sch
10	Julius Obike	333121	Agency	Esamba Pri Sch
11	Asati Myakundi	427844	Agency	Tonga Pri Sch
12	Mongare Tom Momanyi	412998	Agency	Igeinaitambe Pri School
13	Hellen Momanyi	355715	Agency	Egesieri Primary School
14	Webster Ombati	468294	Agency	Nyakeore Special School
15	Stella Mageto	251025	Membership Fee	Bugo Primary School

PART FOUR

4 COMMITTEE OBSERVATIONS

Upon hearing from the Petitioner and other stakeholders, the Committee observed that -

33. Each Recognition Agreement in the teaching service fell under a distinct constituency for instance, KUPPET Membership was derived from Post Primary Education Primary Teachers, KNUT from primary school teachers and KUSNET comprised of teachers deployed to teach in special needs education institutions or teachers duly registered as persons with disabilities under Persons with Disabilities Act. Hence, the existence of a Collective Bargaining Agreement (CBA) between the Commission and KUSNET, automatically placed Special Needs Teachers under KUSNET's jurisdiction.
34. Teachers under the constituency of the Kenya Union of Special Needs Education Teachers (KUSNET) had union dues and agency fees deducted by the Teachers Service Commission arising from a Collective Agreement signed between KUSNET and the Commission and pursuant to the provisions of Section 49 of the Labour Relations Act and the Ministerial Order issued under Legal Notice No. 10 of 2022 requiring the Commission to deduct the said fees from the wages of each unionisable teacher under KUSNET, **who was not registered as a Member of the Trade Union (KUSNET).**
35. All teachers who are members of KUSNET or any other union recognized by the Commission, joined the union(s) voluntarily by approving deduction of union dues fees in their pay slips through the T-Pay Platform and were not coerced to do so.
36. The Commission had developed and operationalized an online platform called Teachers' Pay (T-Pay) to enable teachers manage Third Party Deductions in their pay slips including and also allows them to stop remittances or opt in or out of a union, among others. A teacher is only required to log into the system and effect the necessary changes. **However, it is noted that the Petitioners' grievances suggest a possible lack of awareness or functionality of this system.**
37. Fourteen (14) of the petitioners were deducted agency fees as they fell within the constituency of KUSNET but **did not register as Members of KUSNET** while one (1) Petitioner was deducted membership fee as she is registered as a Member of KUSNET.

PART FIVE

5 COMMITTEE RECOMMENDATIONS


Pursuant to the provisions of Standing Order 227, the Committee responds to the petitions as follows—


(i) On the prayer that the Committee compels the TSC to stop the unlawful deductions in favour of KUSNET especially for teachers who never signed up for membership of KUSNET, the Committee rejects the prayer on the premise that—

- (a) The provisions of section 54 of the Labour Relations Act which culminated into signing of a Collective Bargaining Agreement in line with section 49 of the Labour Relations Act where KUSNET requested the Cabinet Secretary for Labour and Social Protection to issue an order requiring the Commission to deduct agency fee from each unionisable teacher under KUSNET who has not registered as a member of the union;
- (b) The Commission deducts union dues from teachers who have duly registered as members of KUSNET and Agency Fees from teachers who are under the constituency of KUSNET and have not registered as members of the union; and
- (c) Teachers Service Commission in compliance with Section 49 of the Labour Relations Act has been empowered and mandated to effect these deductions.

(ii) On the prayer that the Committee compels the Teachers Service Commission to refund the money to the affected teachers, the Committee rejects the prayer on the premise that agency fee deductions were lawfully done pursuant to the provisions of Section 49 of the Labour Relations Act hence the teachers are not entitled to any refund as they are beneficiaries of the Collective Bargaining Agreement negotiated by KUSNET.

(iii) On the prayer that the Committee compels the TSC to allow teachers to join the union of their choice, the Committee rejects the prayer on the premise that TSC has not compelled the teachers to join the respective unions.

Signed:  Date: 21st April 2025.
HON. ERNEST KIVAI OGESI KAGESI, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 23 APR 2025	DAY: WED
TABLED BY:	CHAIR, PUBLIC PETITIONS COMM
CLERK-AT-THE-TABLE:	PMU/BA



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025
PUBLIC PETITIONS COMMITTEE

ADOPTION SCHEDULE
OF THE REPORT ON CONSIDERATION OF PUBLIC PETITION NO. 54 OF 2023
REGARDING UNLAWFUL DEDUCTIONS BY TEACHERS SERVICE COMMISSION (TSC) IN
FAVOR OF KENYA UNION OF SPECIAL NEEDS EDUCATION TEACHERS (KUSNET)

DATE.....11-04-2025.....

We, the undersigned Honourable Members of the Public Petitions Committee, do hereby affix our signatures to this Report on the consideration of regarding **Unlawful Deductions by Teachers Service Commission (TSC) In Favour of Kenya Union of Special Needs Education Teachers (KUSNET)** to confirm our approval and confirm its accuracy, validity and authenticity:

NO.	NAME	DESIGNATION	SIGNATURE
1.	Hon. Ernest Ogesi Kivai Kagesi, M.P.	Chairperson	
2.	Hon. Janet Jepkemboi Sitienei, CBS, M.P.	Vice Chairperson	
3.	Hon. Patrick Makau King'ola, M.P.	Member	
4.	Hon. Nimrod Mbithuka Mbai, M.P.	Member	
5.	Hon. Joshua Chepyegon Kandie, M.P.	Member	
6.	Hon. Beatrice Kadeveresia Elachi, CBS, M.P.	Member	
7.	Hon. Maisori Marwa Kitayama, M.P.	Member	
8.	Hon. Edith Vethi Nyenze, M.P.	Member	
9.	Hon. Bidu Mohamed Tubi, M.P.	Member	
10.	Hon. (Eng.) Bernard Muriuki Nebart, M.P.	Member	
11.	Hon. Peter Mbogho Shake, M.P.	Member	
12.	Hon. Suzanne Ndunge Kiamba, M.P.	Member	
13.	Hon. John Bwire Okano, M.P.	Member	
14.	Hon. Peter Irungu Kihungi, M.P.	Member	
15.	Hon. Sloya Clement Logova, M.P.	Member	

