

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

DAILY HANSARD

WEDNESDAY 15TH JUNE, 2022

Afternoon Sitting

COUNTY ASSEMBLY OF BUNGOMA

HANSARD OFFICIAL REPORT

WEDNESDAY 15TH JUNE, 2022

The House met at 2:30 p.m.

(Mr. Speaker [Hon. Emmanuel Situma] in the Chair)

PRAYER

COMMUNICATION FROM THE CHAIR

Honorable Members, this communication is arising from a statement sought by Hon. Majimbo concerning bursary and scholarship issues.

“Honorable Members,

You will recall that at the Sitting of the County Assembly held on 4th May, 2022, a statement was raised by Hon. Henry Majimbo to the County Executive Department of Education and Vocational Training to inquire into the implementation of the Bungoma County Education Scheme Regulations, (Revised) 2019 and the Management of the Bungoma County Education Support Scheme. In his statement he inquired that the County Executive Committee Member and the Chief Officer respond to the following;

1. Compliance with the provision of Regulation eight (8) of the Bungoma County Education Support Scheme Regulations, (Revised) 2019
2. If so, to avail the breakdown of the allocations as stated in Regulation 8 (1) (a) (b) (c) (d) (e) for Financial Years 2019/2020, 2020/2021 and 2021/2022.
3. State the total number of bursary beneficiaries for Financial Years 2019/2020, 2020/2021 and 2021/2022 per Ward.
4. State the bursary allocation for the new Form One Students and ongoing students.
5. Confirm compliance with the provision of Regulation 18 (2) and (3) in the ongoing scholarship award exercise.
6. Submit the scholarship fee payment status report and list of ongoing students per Ward.
7. Submit the list of the new scholarship beneficiaries per Ward.

8. State the budgetary allocation for new and ongoing students in the current Financial Year budget and;
9. Submit a copy of the IFMIS vote book in regard to the Bungoma Education Support Scheme as at 30th April, 2022.

While debating; the House resolved that, the County Executive Committee Member and the Chief Officer for Education and Vocational Training; through a summon issued by my Office, to personally appear before the House on 11th May, 2022 at 9:30a.m. to shed light on the issues raised in the statement; to which they did not honor.

In a letter from the County Secretary dated 11th May, 2022, responding on behalf of the two officers Dr. Betty Mayeku and Ms. Rose Situma on their inability to appear on 11th May, 2022; citing a case of illness for the Chief Officer Ms. Rose Situma and an emergency for the case of Dr. Betty Mayeku. Further in the letter, a request was made that they be given up to 2nd June, 2022 so as to offer a response after recovery of the Chief Officer Ms. Rose Situma.

Upon deliberation by this House the request was declined and a resolution that, another summon be issued for them to appear on 19th May, 2022, which they snubbed appearances and a letter again from the County Secretary dated 19th May, 2022 still citing illness for Ms. Rose Situma; who had been advised by her medical doctor through a written advisory dated 16th May, 2022 for a five (5) day bed rest to enable her fully recover and to resume duty on 22nd May, 2022.

On this premise, the House declined the request and resolved that since there was no vacuum in government offices, further a final summon was issued and duly served to the two witnesses ordering them to appear before the House on 24th May, 2022; which they failed to honor. Another response from the County Secretary dated 24th May, 2022 was received in the Office of the Clerk citing inability of the two witnesses to appear and continued to advance the issue of illness of the Chief Officer Ms. Rose Situma; and no reason was alluded on the inability of the County Executive Committee Member for Education and Vocational Training, Dr. Betty Mayeku.

“Honourable Members,

The County Executive Committee Members or Chief Officers are invited or summoned to County Assembly or meetings of County Assembly Committees by invoking Section 39 of the County Governments Act, 2012, Section 39 (2) provides that *“A County Executive Committee Member shall attend before a Committee of the County Assembly or the County Assembly when required by the Committee or House and answer any question concerning a matter for which the County Executive Committee Member is responsible”*.

Additionally, it is important to note that the power of the County Assembly requiring the attendance of any person is a constitutional requirement. Article 195 (1) of the Constitution gives power to County Assembly or any of its Committees to summon any person to appear before it for the purpose of giving evidence or providing information.

Article 195(2) of the Constitution states-

“For the purposes of clause (1), an Assembly has the same powers as the High Court to—

- a) To enforce the attendance of witnesses and examine them on oath, affirmation or otherwise;*
- b) To compel the production of documents; and*
- c) To issue a commission or request to examine witnesses abroad.*

Honourable Members,

Articles 195 of the Constitution and Section 39 of the County Governments Act, 2012 are couched in mandatory terms, and vests direct Constitutional and legal obligation on a County Executive with respect to County Assembly Oversight. Appearance before the County Assembly and its Committees is therefore, not optional, and may not be pegged on fulfillment of any pre-condition set by anyone. My understanding of this obligation is that any County Executive Member has limited latitude to delegate that responsibility to another officer of the Executive.

Section 18 of the County Assemblies Powers and Privileges Act gives effect to implementation of Article 195 of the Constitution. In the event that a summon issued pursuant to this Section is not honored, the recourse by County Assembly is provided for under Section 26 and 27 of the Act which provides that—

- a) *Where a witness summoned does not appear, or appears but fails to satisfy the County Assembly or the relevant Committee of the County Assembly commits an offense and is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding two years or to both.*
- b) *Further, the County Assembly or its committee may order the arrest of a person who fails to honour a summons.*

Honourable Members,

In the circumstances, and on account of Article 195 of the Constitution, Section 39 of the County Governments Act, 2012 and Section 18 of the County Assembly Powers and Privileges Act, the position taken by the County Executive Committee Member for Education and Vocational Training (Dr. Betty Mayeku) and the Chief Officer for Education and Vocational Training (Ms. Rose Situma) not to appear before the County Assembly to give information as sought by this House is demeaning to the authority of this House and amounts to contempt to the County Assembly. It is ill advised and contrary to the Constitutional requirement for oversight by County Assembly.

Section 22 (1), (2) and (3) of the County Assemblies Powers and Privileges Act, 2017 on the Duty of Public Officers to give evidence. States as follows,

“No Public Officer shall refuse to produce before a County Assembly or a committee any paper, book, record or document. Further, any County Public Officer who contravenes subsection (1) commits an offence. And where a County Assembly passes a resolution that a County Public Officer has contravened subsection (1), the resolution of the County Assembly shall constitute a ground for removal from office of the County Public Officer in accordance with the Constitution or any applicable law”

Further, Section 13(a), (b) and (d) of the Leadership and Integrity Act, 2012 highlights the Moral and ethical requirements demanding that a person shall;

- a) *demonstrate honesty in the conduct of public affairs subject to the Public Officer Ethics Act (No. 4 of 2003);*
- b) *not to engage in activities that amount to abuse of office;*

c) *accurately and honestly represent information to the public;*

Further, Section 10 of the Leadership and Integrity Act in regard to the performance of duties, states as follows

“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.*

Furtherance to the disregard of summonses, the County Executive Committee Member and the Chief Officer - Education and Vocational Training’s request to appear before this County Assembly on 2nd June, 2022 was granted vide a letter dated 27th May, 2022.

Consequently, I pronounce as follows;

Honorable Members, once a person has been served with the summonses, he or she can not purport to be represented by any other person, or no one is allowed under the law to respond on the failure to honour summons.

Section 27 (3) (d) of the County Assemblies Powers and Privileges, 2017 states that;

“A person commits an offence where one induces another person to refrain from giving evidence to or to produce a document before a county assembly or a committee”

1. **The** County Secretary was acting in a manner that contravenes this Section of the law. **Therefore,** in the strongest terms, this House warns the County Secretary (Mr. Joseph Wambati) to refrain from the actions that may attract stiffer penalties on matters to do with summons to witnesses by the House or its Committees.
2. **THAT,** the County Executive Committee Member for Education and Vocational Training (Dr. Betty Mayeku) has contravened the provisions of Section 22 (1), (2) and (3) of the County Assemblies Powers and Privileges Act, 2017, Section 10 and 13 (a), (b) and (d) of the Leadership and Integrity Act, 2012; and pursuant to Section 27 (4) of the County Assemblies Powers and Privileges Act, 2017 is hereby fined a sum of five hundred thousand

shillings to be deposited to the County Treasury and a receipt forwarded to the County Assembly for confirmation.

THEREFORE, this House and in the future shall in strict terms, hold and record its deep dishonour on the part of the County Executive Committee Member for Education and Vocational Training (Dr. Betty Mayeku); and shall be restrained from entering the precincts of the County Assembly or of its Committees, therefore shall be treated as a stranger. Further any document forwarded or signed by Dr. Betty Mayeku shall be deemed inadmissible by this House and shall be rejected until she fully complies with this ruling.

3. **THAT**, the County Chief Officer for Education and Vocational Training (Ms. Rose Situma) has contravened the provisions of Section 22 (1), (2) and (3) of the County Assemblies Powers and Privileges Act, 2017, Section 10 and 13 (a), (b) and (d) of the Leadership and Integrity Act, 2012; and pursuant to Section 27 (4) of the County Assemblies Powers and Privileges Act, 2017 is hereby fined a sum of two hundred thousand shillings to be deposited to the County Treasury and a receipt forwarded to the County Assembly for confirmation.

THEREFORE, this House in future shall in strict terms, hold and record its deep dishonour on the part of the County Chief Officer for Education and Vocational Training (Ms. Rose Situma) shall be going forward restrained from entering the precincts of the County Assembly or of its Committees, therefore shall be treated as a stranger.

Further any document forwarded or signed by the Ms. Rose Situma shall be deemed inadmissible by this House and shall be rejected until she fully complies with this ruling.

It's ordered accordingly.

Thank you.

STATEMENTS

RESPONSE FROM THE CHAIRPERSON, SECTORIAL COMMITTEE ON FINANCE AND ECONOMIC PLANNING TO A STATEMENT SOUGHT BY HON. SOSPETER NYONGESA REGARDING THE IMPLEMENTATION OF THE COMMUNITY EMPOWERMENT FUND PROJECT IN WEST BUKUSU WARD

Mr. Speaker: Honorable Members, from the Committee on Finance and Economic Planning before I confirm if anybody is holding brief for Hon. Sospeter Nyongesa in regard of his statement.

Members of the Committee on Finance and Economic Planning, you are now running away from your committee and I know some of the Members who are seated here comfortably laughing.

First let me confirm; do we have any response before I go to the owner of the statement?

Hon. Isaiah Sudi: Honorable Speaker, on behalf of my Chairperson, Finance, Planning...

(Laughter)

Mr. Speaker: Hon. Sudi! You are forgetting the committee you are holding brief for! Your Chairperson...

Hon. Isaiah Sudi: You know Speaker; the minds are already at home so I am sorry.

Mr. Speaker: Hon. Sudi, I remember you proposing for the extension of this House, what do you mean by saying that!

Hon. Isaiah Sudi: You know Mr. Speaker, what I wanted is already done. Even if we adjourn now, I have no issues but on behalf of the Chairperson, Committee on Finance and Economic Planning, we are yet to receive a response.

Mr. Speaker: Are you saying you have finished!

(Laughter)

Hon. Isaiah Sudi: I have no words to add on Mr. Speaker.

Mr. Speaker: It is okay. In view of the absence of the owner of the statement before the House and in view of the lack of response from the Sector Department of Finance and Economic Planning in this House, that means in essence that statement dies a natural death because you all understand that when a House adjourns *sine die* towards an election period, any matter pending before that House dies a natural death.

It won't rest in peace, it is going to resurrect once the new Assembly is sworn in after your victory in the coming general election.

Members, in view of that, we will go to the next item.

MOTIONS

Mr. Speaker: Members, from our Order Paper, there was no motion. On that basis, we will adjourn our sitting and resume tomorrow at 2:30 p.m. for our final sitting of this House.

(House adjourns)