

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION
PETITION NO. E072 OF 2024

BETWEEN

KENYA HUMAN RIGHTS COMMISSION1ST PETITIONER
ELIMU BORA WORKING GROUP2ND PETITIONER

-AND-

KENYA NATIONAL EXAMINATIONS COUNCIL1ST RESPONDENT
PRINCIPAL SECRETARY, MINISTRY OF EDUCATION...2ND RESPONDENT
CABINET SECRETARY, MINISTRY OF EDUCATION.....3RD RESPONDENT
RESPONDENTTHE HON. ATTORNEY GENERAL.....4TH RESPONDENT

1ST RESPONDENT'S REPLYING AFFIDAVIT TO THE PETITION

I, **ANDREW FRANCIS OTIENO**, resident of Nairobi and of Post Office Box 73598 Code 00200 Nairobi do hereby make oath and state as follows:

1. **THAT** I am the Deputy Director Research and Quality Assurance Division of the 1st Respondent, a department which is in-charge of research, quality assurance and includes awarding and grading of examination results.
2. **THAT** I am an educational researcher by profession having graduated from Kenyatta University in 1997 with B. Ed (Arts) Statistics & ICT Degree. In 2005 I acquired my MSc. Degree in Statistics from University of Nairobi. Previously I worked as a teacher for ten years before joining the Respondent in 2007.
3. **THAT** I have additional professional qualifications being:
 - (a) Certificate in Computer Systems and Application from Kenyatta University (1996).
 - (b) Certificate in Development Research Skills from Kenya School of Government, Nairobi (2009).
 - (c) Certificate in Statistical Package for Social Scientists (SPSS) from Institute of Advance Technology (2012).
 - (d) Certificate in Public Policy analysis, formulation, and Management from ESAMI Arusha (2021).
 - (e) Certificate in Project Risk Management from ESAMI Arusha (2023).

4. **THAT** I have been involved with awarding and grading of examinations results for the Respondent for over sixteen (16) years and in the process the 1st Respondent has bench marked performance with seven (7) leading examinations councils in Africa being South Africa's Quality Council for General and Further Education and Training (otherwise known as "**UMALUS**"); the Joint Admissions and Matriculation Board headquartered in Abuja Nigeria; Uganda National Examination Board; Zimbabwe School Examination Council; Examination Council of Eswatini and Examination Council of Lesotho. I annex hereto my Curriculum Vitae marked **Exhibit "AFO 1"**.
5. **THAT** I have read and understood the Petitioner's Petition and the Supporting Affidavit dated 13th February 2024, sworn by the Petitioner also on the same date. The meaning and import of the documents have been explained to me by the Advocate on Record for the 1st Respondent, **Befly Bisem** (hereinafter referred to as the "**Advocate on Record**").
6. **THAT** I am conversant with the issues raised in the Petition given that the subject matter falls within my duties as the Respondent's officer in charge of among other things awarding, standard settings, quality assurance of examination processes and investigation of examination irregularities. I am therefore competent to swear this affidavit on behalf of the 1st Respondent in response to the Petition.
7. **THAT** the 1st Respondent is established under the **KENYA NATIONAL EXAMINATIONS COUNCIL ACT NO.29 OF 2012** (hereinafter referred to as the "**Act**") with its function being *inter alia* to:
- (a) Set and maintain examination standards, conduct public academic technical and other national examinations within Kenya at basic and tertiary levels.
 - (b) Award certificates or diplomas to candidates in such examinations.
8. **THAT** in executing its mandate, the 1st Respondent has continued to uphold the provisions of the Constitution of Kenya and in particular Article 43(1) (f) that states: "**every person has the right to education.**"
9. **THAT** the 1st Respondent exercised its mandate in line with the law during the conduct, processing and certifying results and was guided by the following instruments:
- 9.1 The Kenya National Examinations Act No. 29 of 2012.
 - 9.2 The User Guide for the Management of Examinations Kenya Certificate of Secondary Education.
 - 9.3 The Kenya National Examinations Council (**Examination Fees & Other Charges**) Rules – Legal Notice No.129 of 2015.
 - 9.4 The Kenya National Examinations Council (**Equation of Certificates**) Rules – Legal Notice No.130 of 2015;

- 9.5 The Kenya National Examinations Council (***Marking of Examinations, Release of Results & Certification***) Rules – Legal Notice No.131 of 2015;
 - 9.6 The Kenya National Examinations Council (***Handling of Examination Irregularities***) Rules – Legal Notice No.132 of 2015.
 - 9.7 The Kenya National Examinations Council (***Management of Examinations***) Rules – Legal Notice No.133 of 2015;
 - 9.8 The Kenya National Examinations Council (***Confirmation of Examination Results & Issuance of Replacement Certificates***) Rules – Legal Notice No.134 of 2015.
 - 9.9 The Kenya National Examinations Council (***Conduct of Examinations***) Rules – Legal Notice No.135 of 2015;
 - 9.10 The Marking Regulations which are confidential.
10. **THAT** I am advised by the Advocate on Record which advice I verily believe to be true that the 1st Respondent had the statutory duty to set and mark the 2023 Kenya Certificate of Primary Education (KCPE) examination the results of which has been challenged by the Petitioner.
 11. **THAT** the 2023 KCPE examination results were released on Thursday 23rd November 2023 and immediately thereafter posted by the 1st Respondent for schools to access. The results were also available on an SMS platform (**40054**).
 12. **THAT** upon release of the results concerns were raised by certain individuals through social media and some of the mainstream media alleging that:
 - (a) There was delay in the transmission of results on the SMS platform.
 - (b) Candidates were awarded marks in Kenya Sign Language instead of Kiswahili.
 - (c) Candidates with the same marks were awarded different grades (e.g a mark of **73** being graded as **73B** (Plain) and **73 B+** (Plus).
 - (d) All candidates in a school appeared to have the same grades in one subject.
 13. **THAT** I verily believe that these are the complaints the Petitioner is alluding to being a matter of public notoriety.
 14. **THAT** I would like to respond to the above accusations in the succeeding paragraphs.

A. ALLEGED WIDESPREAD IRREGULARITIES

15. **THAT** for the court to appreciate that alleged of widespread irregularities were nonexistent, it is important to first understand and appreciate the process followed by the 1st Respondent in setting, conducting and

releasing examinations and the statutory remedies available in addressing complaints which might arise in that entire process.

A1. Pre-Release Process

16. **THAT** in every examination cycle, the 1st Respondent undertakes the registration of candidates, setting and moderation, printing and packaging and then dispatch of examination material to sub county storage points/ containers around the country.
17. **THAT** the 1st Respondent observed in all the said processes in preparation for the administration of examinations to the **1,406,557** candidates, who were to sit the 2023 KCPE examination in **28,533** examination centres across the country.
18. **THAT** after the administration of the examination, candidates' scripts were returned to the 1st Respondent.
19. **THAT** the KCPE examination is tested using the Multiple-Choice Questions (MCQ) and Essay papers (Composition and Insha). The candidates' scripts are received back at the Council and the Multiple-Choice Question papers answer sheets are document-read using Optical Mark Readers (OMR) which scan candidates' responses in the various papers while the essay papers are marked by examiners.
20. **THAT** save for *composition* and *insha*, all other papers are marked through document reading which was done for the papers which use Multiple Choice Questions, and which were read using **Optimal Mark Readers** (OMR) machines. The OMRs scan candidates' responses in the various papers and compare with the prepared marking sheet, and hence mark the sheers. This process is done independent of human intervention and is totally objective.
21. **THAT** document reading was done between **1st November, 2023** to **18th November 2023**. The essay papers – English Composition, Kiswahili Insha and Kenya Sign Language papers – were marked by **5,755** trained examiners at **19** marking centres between **3rd November 2023** – **18th November, 2023**.
22. **THAT** the results were released once over **99%** of the papers had been processed. This cycle, the standardization and generation of the release report was done when **99.321%** of the results were ready, with the exception of Kenya Sign Language which was at **98%**. The process is in line with the global standard which is at **95%**.
23. **THAT** reading and analysis of Examination Administration and Marking Reports was done to establish any examination irregularities. It was established that there were only two cases of examination irregularities in the 2023 KCPE examination.

24. **THAT** a process of validation of examination results from sampling examination centres was also undertaken between **18th November, 2023** and **22nd November, 2023** by use of a statistically accepted sampling method. This verified that there was accuracy of capture of the candidates' scores as well as the standardization and computation of the aggregate scores.
25. **THAT** the keys that were used for scoring the candidates' responses were confirmed in a panel meeting held on 3rd November 2023. The Panel consisted of Subject Experts and Research and Quality Assurance officers chaired by the Chief Executive Officer of the 1st Respondent. The Grade Boundaries that were set for the 2023 KCPE examination are the same as those used in all the previous years.
26. **THAT** at its meeting of **22nd November 2023** the 1st Respondent's Council approved the results for release the 1st Respondent having been satisfied that all the processes required for such a release had been followed.
27. **THAT** the results were released on the 23rd of November 2023. I annex hereto the *Speech of the Cabinet Secretary for Education during the release of the 2023 KCPE Examination results on 23rd November 2023* marked **Exhibit "AFO 2"**.
28. **THAT** the Kenya Certificate of Primary Education (KCPE) examination is a *Norm Referenced (N.R)* examination which aims at comparing a candidate's performance to that of other candidates taking the examination. To be able to compare a candidate's performance with that of other candidates taking the examination, candidates' scores in each subject is standardized to give them the same weighting and fit in the normal distribution/Gaussian distribution. Thus, the subjects and the overall KCPE examination results fit in the Normal distributions/Gaussian distributions (bell-shaped curves).
29. **THAT** prior to 2016, the processing of KCPE examination started after the completion of the KCSE examination leading to the delay in the start of processing of results. This would be in late November and the examination results were released at the end of December of the same year, the entire process would take approximately five weeks (35 days).
30. **THAT** in 2018, the 1st Respondent procured twenty (20) high speed Optical Mark Readers (OMR) machines and phased out the obsolete OMR machines that were slow, inaccurate and prone to breakdowns, thus delaying the document reading process. The new OMR machines have the capacity of reading a higher number of candidates' answer scripts and have better accuracy and scanning sensitivity compared to the old model machines. The Council also introduced a working routine of two shifts of eight hours for each document reading activity.

31. **THAT** this allowed the document reading to be done both day and night without compromising the integrity of the process. In line with improvements in the marking of candidates answer scripts, the Council increased the number of examiners of insha and composition and marking in the last eight-year period. These reforms drastically reduced the number of days taken to process the KCPE examination results.
32. **THAT** in 2023, the KCPE examination was administered from 30th October to 1st November 2023. Document Reading was done between 1st November 2023 and 18th November 2023. The Cabinet Secretary, Ministry of Education released the 2023 KCPE examination results on Thursday, 23rd November 2023 at the New Mitihani House in South C.
33. **THAT** the processing of the 2023 KCPE examination was undertaken in **twenty-two (22) days**. The processing commenced immediately after the end of the administration of the KCPE examination on 1st November 2023 and was completed on 22nd November 2023, a day before the official release of the 2023 KCPE examination results.
34. **THAT** notably, the process from the end of the administration of the examination to the release of results was not rushed in any way. The 1st Respondent spent more time on the process (22 days), than in the last seven years; 2022 (21 days), 2021 (19 days), 2020 (21 days), 2019 (19 days), 2018 (18 days) and 2017 (19 days).

Table 1: Days Taken to Process KCPE Results Since 2016

Year	Number of Days
2023	22
2022	21
2021	19
2020	21
2019	19
2018	18
2017	19
2016	21

35. **THAT** it can be observed from the table that the processing of 2023 KCPE examination results took the longest period in the last eight-years period. The 1st Respondent can thus categorically state that the processing of the 2023 KCPE examination results was not rushed in any way and was undertaken as per the KNEC timelines.

A2. Post-Release Process

36. **THAT** following the release of the results, the 1st Respondent uploaded the provisional results on the 2nd Respondent's portal for schools to download and issue provisional results to the candidates as is required by **Rule 23(3) of Legal Notice No 131**.
37. **THAT** schools Principals have passwords to access the portal for the individual school results and were able to log in and access their candidates' results slip online from the KNEC portal immediately after release of the results by the Cabinet Secretary. The slips fetch results data from the processing server on real-time basis upon activation of access. The schools' access individual candidates slip, which they download and print then authenticate and stamp before they issue to the respective candidates.
38. **THAT** after release of the KCPE results, KNEC also prints the results printouts for each school and dispatches these to the Sub-County Directors of Education who will then deliver to the respective schools.
39. **THAT** the primary provisional results which were accessible by Schols by 11.15am on the 23rd of November 2023 when the results were released, these were accessible by all schools. The KCPE print outs (hard copies) of the provisional results for each school were dispatched to the Sub County Directors of Education who will submit them to the respective schools.
40. **THAT** for ease of access to the results, the 2nd Respondent engaged a service provide to facilitate access to the results through SMS platform (40054), at a fee of **Ksh.25**. However, the SMS system experienced a technical hitch in the transmission of the data from the service provider to the various telecommunication companies (Safaricom, Airtel and Telkom). This occasioned delays, causing results to be accessed on the SMS platform from **2.30 pm**.
41. **THAT** no person was charged for the SMSs sent before the results could be accessed. They only received an SMS informing them of the delay.

A3. Post-Release Challenges

42. **THAT** once the SMS platform was accessible, the following concerns were raised on social and mainstream media:
- (a) Candidates had been awarded marks in Kenya Sign Language instead of Kiswahili.
 - (b) Candidates with the same marks had been awarded different grades (e.g. a mark of **73** being graded as **73B (Plain)** and **73 B+ (Plus)**).
 - (c) All candidates in two schools (Brain Star School and St. Mathew's Maraba) appeared to have the same grades in one subject.

(d) Some candidates received unusually low marks.

43. **THAT** concerning inconsistencies with the SMS results, the 1st Respondent immediately tasked its ICT team to establish the source of the issues with the Service Provider. It was established that the data was properly transmitted to the Service Provider and was at all times, accurate, complete and consistent with the data available on the 1st Respondent portal for the schools to access.
44. **THAT** once the data had been transmitted to the Service Provider, it was upon the Service Provider to configure the data so that the same could be accessed in an SMS format accessible to the telecommunication companies. The challenges that occurred at this point were as follows:

(i) **Truncation of Data**

45. **THAT** the presentation of the grades in Science and Social Studies & Religious Education in the SMS were truncated, leading to grades missing the quality signs of **plus (+)** and **minus (-)** as expected. For instance, some candidates would receive on SMS a mark of **73B+** (Plus) while others with the same score indicated **73B** (Plain). Some had 75A (Plain) when the correct grade is 75A- (Minus). This led to the complaint that candidates were being awarded different grades for the same marks. Once this error was noted, the 1st Respondent immediately notified the Service Provider. **The error was rectified within ten (10) minutes, with correct results available on SMS from 3pm on 23rd November 2023.**
46. **THAT** notably, this erroneous presentation of results was only on the SMS platform. The results that were available on the school portals were correct and did not have any of these errors.

(ii) **Misalignment of Data**

47. **THAT** there was a misalignment in the data for the two interchangeable subjects of Kiswahili and Kenya Sign Language. Candidates cannot do both examinations. Due to this misalignment, grades for Kiswahili, which the majority of candidates sat, appeared as Kenya Sign Language.
48. **THAT** the misalignment was immediately brought to the attention of the Service Provider and rectified within ten (10) minutes, with correct results available on SMS from 3pm on 23rd November 2023.
49. **THAT** though this kind of performance may be indicative of a possible examination malpractice, there is inadequate evidence for the 1st Respondent to sanction the results for candidates without a supporting report that cheating occurred during the administration of examination.
50. **THAT** the 1st Respondent reviewed the results, the Supervisor's Reports, Centre Manager's Confidential Reports and anonymous letters/ reports

relating to the schools and did not find any indication of involvement in examination malpractices. Science and Social Studies/Religious Education are multiple-choice examinations, making it possible for the candidates to obtain identical marks. The presentation of identical responses for several candidates would be of major concern if it occurred in English and Kiswahili subjects where candidates are also examined on essays (Composition and Essay).

51. **THAT** Table 2 below shows cases where 75% and above of the candidates in a school recorded identical marks in a subject since 2016:

Table 2: Number of Schools with Identical Marks in a Subject

S/No.	Year	Number of Schools with Identical Marks	Total Number of Schools
(i)	2023	7	28,533
(ii)	2022	4	28,408
(iii)	2021	9	28,313
(iv)	2020	1	28,460
(v)	2019	1	27,808
(vi)	2018	1	27,157
(vii)	2017	1	26,284
(viii)	2016	1	25,613

(iii) Candidates with Unusually Low Scores

52. **THAT** the 1st Respondent received queries concerning apparently low marks in one of the subjects as compared to other subjects. This mainly affected English, Kiswahili and Social Studies & Religious Education. These are subjects in which more than one paper is combined to determine a candidates' subject grade.
53. **THAT** the 2nd Respondent investigated the queries on low marks in one subject while other subjects had high grades. It was established that this only affected **133 candidates** were affected, in **77 schools**, out of the total of **1,406,557** students who sat the examination. Of the 133 cases, 25 were in English, 51 in Social Studies & Religious Education and 57 in Kiswahili. **These cases were resolved and results for the affected candidates were updated appropriately.**

A4. Data Transmission by the 1st Respondent to the Service Provider

54. **THAT** on completion of processing of results, the ICT directorate of the 1st Respondent prepares results data for release both on the 1st Respondent's portal (www.knec-portal.ac.ke) and on the SMS platform. The data on the 1st Respondent portal and the data given to the SMS

service provider are derived from the same source and therefore would be identical save for the technical shortfalls which were witnessed during the release and which I have explained herein above.

55. **THAT** the schools are enabled to log in and access their candidates result slips online from the 1st Respondent portal immediately after the release of the results by the Cabinet Secretary. The result slips fetch data from the processing server on real-time basis upon activation of access. The activation of slips is done after the Cabinet Secretary announces the release of results. The schools' access individual candidates' slips, which they download and print then authenticate before they issue to the respective candidates. After release of the KCPE results, the 1st Respondent also prints the results for each school and dispatches these to the sub-county directors of education, who then deliver to the schools.
56. **THAT** for the SMS platform, the results data are exported and handed over to the SMS Service Provider at the start of the release ceremony for security purposes. This is to ensure that no one gets access to the results before release by the Cabinet Secretary. For purposes of 2023 KCPE examination results, as has been the norm, the SMS data was shared with the Service Provider at the beginning of the ceremony. ***The data that was in the 1st Respondent's portal was at all times correct as shared with the Service Provider and was in the correct format.***

A. THE QUALITY CONTROL PROCESSES

57. **THAT** principles of national examinations / public examinations like KCPE require that the procedures used in the development of test items, pretesting the test items and selection of items that make for the final paper meet strict psychometric thresholds.
58. **THAT** national examinations must meet the principles of reliability, validity, fairness and equity. This is achieved by the development of test items using psychometric standards. For instance, the test content is determined by a Table of Content developed to cover different syllabus content at test different levels of achievement. The scope of Curriculum content covered in a teacher made test is within the range of 75- 80 % of the entire curriculum.
59. **THAT** subject experts , who are experienced teachers, are contracted to moderate the test items used in the national examinations.
60. **THAT** national examinations have administration procedures that ensure equity and that no candidate enjoys the advantage of using stimulus materials when undertaking the assessment. The marking of national examinations is machine based and hence objective and fair.
61. **THAT** standardization is done for all KCPE papers based on the KNEC award rules and regulations. Details of the standardization process are

also provided to the schools in the backwash report that KNEC develops after the release of results to inform improvement of curriculum delivery. The purpose of standardization is:

- 62.1** Standardization of raw marks to standard marks in the KCPE examination is a process that involves adjusting the raw marks for each paper in the examination to allow for differences in difficulty and in the extent to which **marks scatter (standard deviation)**. In this process of standardization, the difficulty among the papers is measured in terms of the **mean raw marks** scored by all candidates, while the differences in scatter are measured in terms of the **Standard Deviation**.
 - 62.2** Standard scores as can be seen from the illustrations above are a measure of relative performance and have the ability to inform on a candidate's performance in comparison to the other candidates. They are essential when results from different papers must be combined to give an overall total, as is the case in the KCPE examination, and are useful for comparing relative performance of a candidate from subject to subject or from year to year.
 - 62.3** Once the raw marks have been standardized, the cut-off marks for all grades from Grade A to Grade E are identical for all subjects and are therefore maintained at the same level from year to year. The standardized scores are then used for reporting candidates' performance and for selection purposes. When the scores are standardized the relative positions of the candidates remain unchanged; the top candidate in each subject still remains at the top.
 - 62.4** Standard scores always convey the exact information as to the position of a candidate relative to other candidates sitting the same examination. Standard scores are essential if marks from several papers are to be added to give a total score, and it is desired that each paper should contribute equally to the total score.
- 62. THAT** the KCPE examination is mainly used for placement of learners into secondary school. It is therefore norm-referenced and compares one candidate's performance with that of the other. Standardization of scores is applied to fit all the candidates' scores in a normal curve. The standardized scores facilitate comparison across examination centres and candidates.
- 63. THAT** the 1st Respondent has incorporated quality controls in all its examination processes. In addition to this KNEC undertakes a number

of Quality Assurance procedures before the release of examination results.

- 64. THAT** confirmation of the keys for scoring MCQ questions is done to ensure that the answers for Multiple Choice Questions are correct before scoring commences. This is done by a panel of experts and for the year 2023 KCPE the Panel meeting was held on 3rd November 2023. The panel approved the keys for scoring in the 2023 KCPE examination.
- 65. THAT** the 1st Respondent ensures that statistically adequate sample is selected to validate and verify the accuracy of the following processes.
- (i) Capture of scores per paper
 - (ii) Standardization of scores per paper
 - (iii) Combination of scores per subject
 - (iv) Grading of candidates per paper
- 66. THAT** the performance of candidates in the 2023 KCPE examination was comparable to previous years. The Table below illustrates the trend over the last 8 years:

**Table 3: KCPE Examination Performance for the Last 8 Years
(2016-2023)**

Year	No. Sat	400 and Above		300 - 399		200 - 299		100 - 199		001 -099	
		No	%	No	%	No	%	No	%	No	%
2023	1,406,557	8,523	0.60%	352,782	24.92%	658,278	46.49%	383,025	27.05%	2,060	0.15%
2022	1,233,852	9,443	0.77%	307,756	24.94%	619,593	50.22%	296,336	24.02%	724	0.06%
2021	1,214,031	11,857	0.97%	314,785	25.69%	578,106	47.17%	308,113	25.14%	1,170	0.10%
2020	1,179,192	8,091	0.68%	282,090	23.67%	589,027	49.43%	299,677	25.15%	307	0.03%
2019	1,083,456	9,673	0.89%	242,821	22.30%	566,069	51.98%	263,500	24.20%	1,393	0.13%
2018	1,052,364	11,559	1.09%	223,862	21.10%	574,173	54.13%	240,178	22.64%	2,592	0.24%
2017	993,718	9,846	0.99%	217,307	21.87%	529,897	53.31%	234,308	23.59%	2,360	0.24%
2016	942,021	5,143	0.54%	207,141	21.75%	501,552	52.66%	221,438	23.25%	6,747	0.71%

It is observable from the Table that:

- a) The percentage of KCPE candidates that scored 400 and above marks since 2016 ranged between **0.54%** and **1.09%**.
- b) In 2023 KCPE there were **0.60%** of the candidates who scored 400 and above marks. This is within the range that was observed since 2016.

- c) The percentage of candidates scoring 300-399 marks since 2016 has been between **21.10%** and **24.94%**. The percentage of candidates in this bracket for 2023 (**24.92%**) compares very well with that of 2022 (**24.94%**) and does not deviate materially from the other years. It is the third highest percentage in this bracket since 2016 with the highest percentage having been in 2021 (**25.69%**), followed by 2022 (**24.94%**).
- d) Those scoring 200 – 299 were **46. 49%** and the range for this bracket has been **47.17% – 53.31%** since 2016.

I annex hereto the *Essential Statistics for the 2023 KCPE Examination* marked **Exhibit “AFO 3”**.

B. HANDLING OF THE APPEALS AND QUERIES THAT AROSE FROM THE 2023 KCPE EXAMINATION

- 67. **THAT** Rule 27 of Legal Notice No. 131 allows candidates/schools to lodge appeals for review of the examination results with the 1st Respondent, in writing, within thirty (30) days from the date of release of the examination results. Legal Notice No.132 deals largely with irregularities arising out of examination cheating.
- 68. **THAT** the 1st Respondent received a number of appeals following the release of the 2023 KCPE results and it set up a team to handle each case that arose with express instructions to expedite the review process. That the 1st Respondent received a total of over 1900 queries relating to the KCPE examinations which were also resolved in time for the forwarding of data to the Ministry of Education for placement of learners in form one.

C. RESPONSE TO SPECIFIC ISSUES RAISED BY THE PETITIONER

- 69. **THAT** the Petitioner alleges that it is a matter of general notoriety that there were widespread irregularities in the 2023 KCPE exams.
- 70. **THAT** I have addressed the Petitioner’s mistaken assertions at paragraphs 38 to 66 herein above and shown that what the Petitioner is alluding to are technical hitches witnessed in the SMS platform (**40054**) which the 1st Respondent had no control over but which the 1st Respondent prevailed upon the service provider thereof to correct and were duly corrected within hours of the release of the examination results.
- 71. **THAT** the 1st Respondent maintains that in the entire examination marking and release process and as per its portal and records pertaining to the marking and release thereof that no irregularities existed which could be of concern and those which were identified were duly corrected.

72. **THAT** the allegation by the Petitioner that the Respondent is on a mission to damage the future of Kenyan children and violate their constitutional rights to education, is mistaken and unfortunate and is contrary to the 1st Respondent's mandate as set out at **Section 10** of the **Act**.
73. **THAT** the 1st Respondent did receive the letter from the firm of Okwiri & Company Advocates dated 8th December 2023 and from the office of the Ombudsman dated 13th December 2023. That some of the documents were however not yet available, such as the Detailed Audit of the Examination Process and hence the request could not be attended to at that time.
74. **THAT** the 3rd Respondent, in view of the public notoriety of the issue concerning the 2023 KCPE examination results, invited the Ministry of Information, Communications and Digital Economy to conduct an audit of the 1st Respondents 2023 KCPE ICT Systems. This was done through a letter dated 30th November 2023 (Ref: MOE.HQS 3/1/21).
75. **THAT** the Ministry of Information, Communications and Digital Economy, constituted a team of officers drawn from the State Department for ICT & Digital Economy, Communications Authority and the National Computer & Cybercrimes Coordination Committee (NC4) to undertake an audit of the 2023 KCPE ICT system.
76. **THAT** the team conducted the audit within the month of December 2023 and the Report was forwarded dated 15th December 2023 but forward to the Ministry of Education on 19th March 2024 and then to the 1st Respondent in April, 2024, after this application had been filed. I annex hereto the *Report on the Audit of the 2023 KCPE Systems Report* being **Exhibit "AFO 4"**.
77. **THAT** the Report confirmed the SMS transmission issues which had been occasioned by the service provider. The Report further made recommendations to improve the process and the 1st Respondent's system. That the 1st Respondent has already started implementing the recommendations of the report, so that there will be no challenges in the next examination cycle.
78. **THAT** the 1st Respondent will continuously do periodic evaluations to ensure that the system remains optimum at all times to handle all the examinations which are within the mandate of the 1st Respondent.
79. **THAT** the 1st Respondent vide a letter dated 4th May 2024, supplied copies of the following documents to the Petitioners Advocate.
- (i) The KNEC Rules of 2015, (*Legal Notices No.129-131 of 2015*).
 - (ii) User Guide for the Management of KCPE Examinations.
 - (iii) User Guide for the Management of KCSE Examinations.
 - (iv) The KNEC Service Charter.

- (v) Audit of the KNEC 2023 KCPE Examination ICT Systems by the Ministry of ICT.
- (vi) Year 2023 KCPE Essential Statistics.
- (vii) Year 2023 KCSE Essential Statistics.
- (viii) Cabinet Secretary Speech on the Release of the 2023 KCPE Results
- (ix) Cabinet Secretary Speech on the Release of the 2023 KCSE Results
- (x) Report to the Parliamentary Committee on Issues around the 2023 KCPE Examination in December 2023.
- (xi) Past Examination Reports
 - a) Year 2022 KCPE examination Report.
 - b) Year 2022 KCSE examination Report, Volume 1 – Languages.
 - c) Year 2022 KCSE examination Report, Volume 2 – Mathematics & Science.
- (xii) Circular on the 2023 KCPE Examination Results.

I annex hereto the *Letter dated 4th May 2024* being **Exhibit “AFO 5”**.

80. THAT the Petitioner’s Advocate have not raised any issue with the documents provided on the 4th of May 2024 to date.

81. THAT the 1st Respondent, in compliance with access to information requirements under the constitution also avails the following information on its website for the public to access:

- (i) Timetables, circulars and guidelines for all examinations
- (ii) The Service Charter
- (iii) The Cabinet Secretary’s Speech on Release of KCPE and KCSE Results
- (iv) Essential Statistics for KCPE and KCSE that are released to the public.
- (v) Frequent asked questions (FAQs) for all KNEC services
- (vi) Lists of the Services offered by KNEC.
- (vii) CBA portal for all CBC School Based Assessments
- (viii) NASMLA Reports on Research conducted in the area of Assessment.
- (ix) Annual reports and Financial Statements.

RESPONSE TO PRAYERS SOUGHT IN THE NOTICE OF MOTION AND IN THE PETITION

82. THAT I have every reason to believe, based on media reports, that Form one (1) placement was done and all learners reported by January 2024 been accomplished and students reported to various secondary schools and that being the case I am advised by the Advocate on Record which advice I verily believe to be true that the prayers sought by the Petitioner in the Notice of Motion dated 13th February 2024 are overtaken by events.

83. THAT with respect to the Petition and the **DECLARATION** sought under **Prayer No.s I-VII**, I am advised by the Advocate on Record which advice

I verily believe to be correct that the **DECLARATION** cannot issue because the 1st Respondent is not in breach of any constitutional provision as the demands have already been met and the documents demanded under the Access to Information principles have been supplied.

84. **THAT** in response to the **DECLARATION** sought under **Prayer No. VIII**, I am advised by the Advocate on Record which advice I verily believe to be true that the prayer is spent as the same has already been supplied to the Petitioner save where the same are not available such as stakeholder input of the KNEC Rules of 2015 and User Manual which were done many years ago and cannot be easily retrieved at this time.
85. **THAT** as far as the **Prayer No. IX** is concerned, I verily believe that the Audit was already been done by the Ministry of Information, Communications and Digital Economy, through a team constituted by officers drawn from the State Department for ICT & Digital Economy, Communications Authority and the National Computer & Cybercrimes Coordination Committee (NC4) dated 13th December 2023 and the Report forwarded to the Petitioner in the letter dated 4th May 2024.
86. **THAT** with respect to **Prayer No. X**, the same cannot be granted due to the constitutional and statutory mandate that the 1st Respondent has a duty to conduct for the children of Kenya.
87. **THAT** the 1st Respondent currently administers national examinations to over **3.6 million children** in the National examinations at basic education level. The examinations are the Kenya Intermedia Level Education Assessment (**KILEA**) which is the stage-based pathway for children with special needs, Kenya Primary School Education Assessment (**KPSEA**) done at grade 6, KCPE which had the last examination in 2023 and KCSE. From 2025, KNEC will be offering the first Kenya Junior School Education Assessment (**KJSEA**) at grade 9 in 2025 and its projected that the first lot will sit the Kenya Certificate of Basic Education (KCBE) in 2028.
88. **THAT** including the School based assessments, the Council will be setting assessments and examinations for **9,828,811 children** from Grade 3 all the way to KCSE in 2024. The 1st Respondent also undertakes examinations for over **44,000** teaching professionals in the various Teacher Training Colleges. The Council is also still administering Business & Technical Examinations during the transition.
89. **THAT** I am advised by my Advocate on record, which advise I verily believe to be true and correct, that since the Petition is spent, Petition should be dismissed with no orders as to costs.

90. **THAT** I swear this affidavit in opposition to the prayers sought by the Petitioner via Petition dated 13th February 2024 and what is deposed hereto is true to the best of my knowledge save for what is deposed on information the sources of which I have been disclosed.

SWORN at **NAIROBI** by the said

ANDREW FRANCIS OTIENO

DEPONENT

This 26th day of May, 2024

BEFORE ME



COMMISSIONER FOR OATHS

DRAWN & FILED BY: -

Befly J. Bisem, Advocate,
Kenya National Examinations Council
The New Mitihani House, South C 6th Floor,
P. O. Box 73598-00200,

NAIROBI

Ref: **KNEC/LEG/CIV/2023/114**

Email: legal@knec.ac.ke

Tel: **+254-020 341098/50/71, 020-2211669**

TO BE SERVED UPON:

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Elgon Road, Upperhill,
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NAIROBI

Email: info@okwiriadvocates.com

2. **The Solicitor General**

Attorney General's Chambers
7th floor, Sheria House,
Harambee Avenue
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NAIROBIA

**OTIENO ANDREW FRANCIS
CURRICULUM VITAE**

TEL NO: +254 720408886, E-MAIL fotieno@knec.ac.ke

P.O.BOX 73598 - 00200, NAIROBI, KENYA

PERSONAL DETAILS

Name : Otieno Andrew Francis

Date of Birth : May 16, 1973

Place of Birth: Nairobi

Nationality: Kenyan

Languages: English, Kiswahili, Luo

Marital Status : Married

Gender : Male

Religion : Christian

This is the Exhibit marked..... **KFO-1**
referred to in the annexed affidavit/declaration of
Andrew Francis Otieno
Sworn before me this **26th** day of
declared **May** 20**24** at **Nairobi**
.....
Commissioner for Oaths

PERSONAL STATEMENT

- Professionally, I am a top-grade statistician who is well versed in psychometrics and educational research. I have been engaged in several national, regional and international educational assessment researches at lower primary, upper primary and secondary school levels.
- Administratively, I am a firm hand on and results oriented transformative leader practicing professionalism, teamwork and team spirit rather than command and control. As team leader in processing of national examinations, a key officer in developing, designing and implementing new innovation in assessment processes in the country.

CURRENT ADMINISTRATIVE POSITION

Deputy Director, Research & Quality Assurance Department, Kenya National

PERSONAL PROFILE

Quick learner, organized, innovative, dynamic, reliable, responsible, trustworthy, team player.

SKILLS PROFILE

- Responsible person and having leadership and managerial competence.
- Good interpersonal skills.
- Good team leadership skills.
- High standards of integrity
- Strong oral and written communication.
- Obedient and accountable to any responsible authority.

EDUCATION

2012 – ON GOING	The Catholic University of Eastern Africa (CUEA) <i>Phd. in Statistics</i>
2002 - 2004	The University of Nairobi <i>MSc. in Statistics</i>
1993-1997	Kenyatta University <i>B.Ed (Arts)-Statistics& ICT</i> Grade: Second Class Honours (Upper division)
1988-1991	Highway Secondary School (Nairobi) <i>Kenya Certificate of Secondary Education (KCSE)</i> Mean Grade : B-
1980-1987	Joseph Apudo Primary School (Nairobi)

COMPUTER SKILLS

- Proficiency in Computer Systems and Application, SSPS.
- Proficiency & Efficiency in using Microsoft Office Packages – MSWord, MS Excel, MS Outlook.
- Vast general practical use of the computer as a tool in both statistical analysis and report writing.

PROFESSIONAL QUALIFICATIONS

- June 2023: Esami, Arusha
Certificate in Project Risk Management
- May 2021: Esami, Arusha
Certificate in Public Policy analysis, formulation and Management
- March 2012: Institute of Advance Technology
Certificate in Statistical Package for Social Scientist (SPSS)
- March 2009: Kenya School of Government, Nairobi
Certificate in Development Research Skills
- June 1996: Kenyatta University
Certificate in Computer Systems and Application

WORK EXPERIENCE

- Oct 2016-To Date: Head of Research & Quality Assurance Department
The Kenya National Examinations Council

2015- 2016:	Head of Section, Post School Examinations - Research <i>The Kenya National Examinations Council</i>
2011-2014:	Senior Research Officer <i>The Kenya National Examinations Council</i>
2007-2011:	Research Officer <i>The Kenya National Examinations Council</i>
2004-2007:	Lecturer/ Head of Science and Liberal Studies Department <i>Technology Development Centre (Machakos County)</i>
2001-2002:	Teacher of Mathematics/ Head of Mathematics Department <i>Tigoi Girls Secondary School (Vihiga County)</i>
1998-2001:	Teacher of Mathematics/ Head of Mathematics Department <i>Mukumu Boys Secondary School (Kakamega County)</i>
May-Nov 1997:	Teacher of Mathematics <i>Aquinas High School (Nairobi County)</i>

PUBLICATIONS

- LeseKETeti, R. P. and Otieno, A.F (2012): Threats and Opportunities in Relation to Foreign Examinations Administered in Conjunction with the Kenya National Examinations Council – A case study of CIE and EI: Journal of Education Assessment in Africa, Vol.7, pp.249-259.
 - Manene, M.M. and Otieno, F.A.(2007): Step-Wise Group Screening Strategies for Isolating Defective Items; The East African Journal of Statistics Vol. 1, No. 3,pp. 282-293.
-

INTERNATIONAL EXAMINATIONS BOARDS THAT I HAVE REPRESENTED KNEC IN BENCHMARKING OF AWARDING AND GRADE SETTING OF NATIONAL EXAMINATIONS RESULTS

- Examinations Council of Eswatini (2020 & 2024)
- Zambia Examinations Council (2022)
- Examinations Council of Lesotho (2018)
- West African Examination Council, Nigeria (2019)
- Uganda National Examinations Board (2017 & 2018)
- Zimbabwe School Examination Council (2017)
- Council for Quality Assurance in General and Further Education and Training , UMALUSI, Republic of South Africa (2014).
- Botswana Examinations Council (2012)

WORKSHOPS AND CONFERENCES ATTENDED

- The 39th Association for Educational Assessment in Africa (AAEA) Conference, Nairobi, Kenya, 21th – 25th August, 2023
 - The 38th Association for Educational Assessment in Africa (AAEA) Conference, Livingstone, Zambia, 21st – 26th August, 2022
 - The 37th Association for Educational Assessment in Africa (AAEA) Conference, Maseru, Lesotho, 6th – 10th August, 2018
 - The 48th International Association for Educational Assessment (IAEA)
-

conference, Kingston, Jamaica from 24th – 29th September 2023

- The 45th International Association for Educational Assessment (IAEA) conference, Baku, Azerbaijan from 22nd – 27th September 2019
- The 44th International Association for Educational Assessment (IAEA) conference, Oxford, United Kingdom from 9th – 14th September 2018
- The 36th Association for Educational Assessment in Africa (AAEA) Conference, Maseru, Lesotho, 6th – 10th August, 2018
- The Association for Educational Assessment in Africa (AAEA) Capacity Building Workshop, Kampala, Uganda, 12th – 16th February, 2018.
- The 35th Association for Educational Assessment in Africa (AAEA) annual Conference, Kampala, Uganda, 7th – 11th August, 2017.
- The 42nd International Association for Educational Assessment (IAEA) conference, Cape Town, Republic of South Africa from 21st – 25th August 2016.
- The 30th Association for Educational Assessment in Africa (AAEA) annual Conference, Gaborone, Botswana, 6th – 10th August, 2012.
- Quality Assurance in Higher Education Conference, Sandton Sun Hotel, Sandton Johannesburg, South Africa, 27th – 29th July 2011.

HOBBIES

Traveling, Reading Research Materials, Socializing and undertaking volunteer work.

REFEREES

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REPUBLIC OF KENYA

This is the Exhibit marked KFO-2
referred to in the annexed affidavit/declaration of
Andrew Mwangi Othman
Sworn before me this 26th day of
declare May 2024 at Nairobi
[Signature]
Commissioner for Oaths

**STATEMENT ON THE RELEASE OF THE
2023 KCPE EXAMINATION AND THE
HANDLING OF QUERIES AND APPEALS
THAT AROSE**

**HON. EZEKIEL MACHOGU, CBS
CABINET SECRETARY
MINISTRY OF EDUCATION**

3.0 BACKGROUND:

- 1.1** The Cabinet Secretary, Ministry of Education released the 2023 KCPE examination results on **Thursday, 23rd November 2023** at the New Mitihani House in South C. Immediately after the release of results, KNEC posted the results on the KNEC portal as provisional results for the schools to access. Results were also available through an SMS platform.
- 1.2** As parents, guardian, teachers and candidates accessed the results through the various platforms, concerns arose mainly on the following issues:
 - 1.2.1** Delay in the release of the results in the SMS platform.
 - 1.2.2** Candidates being awarded grades in Kenya Sign Language when they did not sit for it, but rather sat for Kiswahili.
 - 1.2.3** Candidates with same marks being awarded different grades for example a candidate graded as having scored 73 marks in science and awarded B (Plain) while another candidate scored the same 73 marks but awarded B+.
 - 1.2.4** Most Candidates having similar grades in the same subject in a school.
- 1.3** This report has therefore been compiled to explain the issues and circumstances that occurred and the steps that have been taken since then to remedy the situation.

2.0 PRE- RELEASE PROCESSES

- 2.1** The Council in every examination cycle, conducts registration of candidates, setting and moderation, printing and packaging and then dispatch of examination material to the 576 containers across the country.
- 2.2** The Council conducted all these process in preparation for the administration of examinations to the **1,406,557** candidates who had registered for the 2023 KCPE examination in the **28,533** examination centres across the country.
- 2.3** Immediately the examinations were administered to the candidates, the candidates' scripts are received back at the Council. Document reading was done for the papers with multiple Choice Question using Optimal Mark Readers (OMR) which scan candidates' responses in the various papers. Document reading was done between 1st and 18th November 2023 using the OMR machines.
- 2.4** The essay papers, English Composition, Kiswahili Insha and Kenya Sign Language papers were marked by **5,755** trained examiners at 19 marking centres between 3rd and 18th of November 2023.
- 2.5** Processing was undertaken, and results released when over 99% of the papers have been processed. The standardization and generation of the release report was done when 99.321% of the results had been processed. The is in line with the global standard which is at 95%.
- 2.6** Reading and analysis of examination administration and marking reports was done to detect any examination irregularities. It was established that there were only two cases of examination irregularity in the 2023 KCPE examination.
- 2.7** Validation of examination results from sampled examination centres was also undertaken between the 18th and 22nd November 2023 by use of a statistically accepted sample. This verified that there was accuracy in capture of the candidates' scores as well as the standardization and computation of the aggregate scores.

- 2.8** The process from the end of the administration of the examination to the release of results was not rushed in any way. The Council spent more time on the process (22 days) than in the last seven years; **2022-21 days, 2021 -19 days, 2020-21 days, 2019-19 days, 2018-18 days and 2017-19 days.**
- 2.9** The keys that were used for scoring the candidates' responses were confirmed in a Panel meeting held on the 3rd of November 2023. The Panel consists of Subject experts and Research and Quality Assurance officers chaired by the CEO, KNEC. The Grade boundaries that were set for the 2023 KCPE examination were the same as used in all the previous years.
- 2.10** At the time of release of the 2023 KCPE examination results there were **1,935** gaps in the results, translating to **0.137%**. The closing of the gaps has been ongoing since the 23rd of November 2023 and is currently standing at 480. These are partial absentees and their cases are being resolved. The number of gaps at the time of release of examination results is the third lowest since 2016 as indicated in Table 1 below.

Table 1: Gaps at the Time of Release

NO	YEAR	GAPS AT THE TIME OF RELEASE
1	2023	1,935
2	2022	2,948
3	2021	673
4	2022	3,412
5	2019	2,291
6	2018	2,620
7	2017	1,631
8	2016	10,835

- 2.11** The results were approved by the Council for release in its meeting held on the 22nd of November 2023, having satisfied all requirements and processes required. The results are then released by the Cabinet Secretary for Education.

3.0 POST- RELEASE PROCESSES

- 3.1** The Cabinet Secretary for Education officiated the release of the 2023 KCPE results on the 23rd of November 2023.
- 3.2** Immediately after the release of results, KNEC uploaded the provisional results on the KNEC portal for schools to download and issue provisional results to the candidates. The schools were able to access the KNEC portal and see their results from **11.15am** on Thursday, 23rd November 2023.
- 3.3** To facilitate ease of access, KNEC engaged a service provider to provide access to the results through an SMS platform. After the official release of the 2023 KCPE examination results that took place around 11:00 am, the public was informed to use the SMS short code 40054 to access results. However, the SMS system experienced some technical hitches in the transmission of the data from the service provider to the various telecommunication companies (Safaricom, Airtel and Telcom) hence occasioning the delays and the SMS platform was accessed from 2.30pm.
- 3.4** The results had however been available on the KNEC portal for schools to access from **11.15am**. No person was charged for SMSs sent before the results could be accessed and only received an SMS informing them of the delay.

4.0 CHALLENGES THAT AROSE AFTER RELEASE

4.1 Once the SMS were accessed, complaints arose from the public on social media and the main media stations. The main issues raised were that:

4.1.1 Candidates who sat Kiswahili were instead receiving results for Kenya Sign Language.

4.1.2 Candidates with same marks being awarded different grades for example a candidate having scored 73 marks in science and awarded B (Plain) while another candidate scored the same 73 marks but awarded B+.

4.1.3 The two cases widely shared on social media where most candidates of Brain Star school scored 75% in science while at St. Mathews Maraba most students scored 83% in SST/RE.

4.1.4 Candidates receiving unusually low marks.

4.2 Concerning the inconsistencies with the SMS results, the Council immediately tasked the ICT team to establish the source of the issues with the service provider. The team established that the data was properly transmitted to the service provider and in the expected format, accurate, complete and consistent with the data available on the KNEC portal for the schools to access.

4.3 The service provider was then to configure their platform to integrate with the systems of the Telco operators (Safaricom, Airtel and Telkom) to allow the public to access the KCPE results through SMS. The challenges that occurred at this point were as follows:

4.3.1 Truncation of Data:

4.3.1.1 The presentation of the grades in Science and Social Studies & Religious Education in the SMS were truncated, leading to grades missing the signs of **plus (+)** and **minus (-)** as expected. For

instance, some candidates would receive on SMS of a mark of 73B+ while others with the same score indicated 73B, while some had 75A while the correct grade is 75A-.

4.3.1.2 This led to the widespread complaint that candidates were being awarded different grades for the same mark.

4.3.1.3 This erroneous presentation of results only affected the SMS text but the results downloaded from the KNEC portal were a true reflection of the candidates' results. KNEC notified the SMS service provider and the error in the SMS text message was resolved immediately by 3:00 pm.

4.3.2 Misalignment of Data:

4.3.2.1 Secondly, there was a misalignment in the data for the two optional subjects of Kiswahili and Kenya Sign Language. Optional in the sense that a candidate does either of the two subjects but not both. Candidates taking Kiswahili were automatically not doing Kenya Sign Language and vice versa.

4.3.2.2 This misalignment caused the grades for Kiswahili, which the majority of candidates were taking, appearing as Kenya Sign Language. This misalignment once noticed and identified was immediately brought to the attention of the Service provides and corrected within ten minutes and SMS's results accessed after 3.00 pm on the 23rd of November 2023, did not have this error. These errors were caused by configuration issues on the interface used to

access results data from the database of the service provider by Telcos.

4.3.3 Candidates all receiving similar scores in the same subject in a School.

4.3.3.1 The Council noted the two cases widely shared on social media of Brain Star school where most of candidates scored 75% in science and St. Mathews Maraba, where most of students scored 83% in SST/RE.

4.3.3.2 KNEC reviewed the results, the supervisor's reports, centre manager's confidential report and anonymous letters/ reports relating to the Brainstar School and did not find any indication that the school was involved in examination malpractices. Science and Social Studies are multiple-choice question papers thus making it possible for the candidates to get identical scores. The presentation of identical responses for several candidates would be of major concern if it occurred in English and Kiswahili subjects where scores in a multiple-choice question paper are combined with scores from composition.

4.3.3.3 Though this kind of performance may be indicative of a possible examination malpractice, there is inadequate evidence for KNEC to sanction the results for candidates without a supporting report that cheating occurred during the administration of examination.

4.3.3.4 Similar performance that was observed in Brain Star School and St. Mathews Maraba has been

recorded in previous KCPE examinations as shown in Table 2 below.

Table 2: Number of Schools with identical Marks in a Subject

S/No.	Year	Number of Schools	Total number of Schools
(i)	2023	7	28533
(ii)	2022	4	28408
(iii)	2021	9	28313
(iv)	2020	1	28460
(v)	2019	1	27808
(vi)	2018	1	27157
(vii)	2017	1	26284
(viii)	2016	1	25613

4.3.4 Candidates with Unusually Low Scores:

4.3.4.1 The Council received queries from candidates with low marks in one of the subjects as compared to other subjects and this mainly affected English, Kiswahili and Social Studies & Religious Education. These are subjects in which more than one paper is combined to determine a candidates' subject grade.

4.3.4.2 KNEC verified the queries on low marks in one subject while other subjects had high grades and found out that there were **133 candidates** who were affected in in **77 schools**. Of the 133 cases, 25 were in English, 51 in Religion and 57 in Kiswahili. These cases have been addressed and results for the affected candidates updated appropriately.

5.0 DATA TRANSMISSION BY KNEC TO THE SERVICE PROVIDER

- 5.1** On completion of processing of results, KNEC prepares results data for release both on the KNEC portal (www.knec-portal.ac.ke) and the SMS platform. The data on the KNEC portal and the data given to the SMS service provider are derived from the same source and therefore identical.
- 5.2** The schools are enabled to log in and access their candidates result slips online from the KNEC portal immediately after release of the results by the Cabinet Secretary. The slips fetch results data from the processing server on real-time basis upon activation of access. The activation of slips is done after the Cabinet Secretary announces the release of results. The schools' access individual candidates slip, which they download and print then authenticate before they issue to the respective candidates. After release of the KCPE results, KNEC also prints the results printout for each school and dispatches these to the sub-county directors of education who will then deliver to the schools.
- 5.3** For the SMS platform, the results data are exported and handed over to the SMS provider at the start of the release ceremony for security purposes to ensure that no one gets access to the results before release by the Cabinet Secretary. For this year, as has been the norm, the SMS data was shared with the service provider at the beginning of the ceremony. The same data that was in the KNEC portal was shared with the service provider and was in the correct format. All the fields required for the SMS to work were included in the data.

6.0 DELAYED RELEASE OF RESULTS FOR HADADO AND SUGUTA SUB COUNTIES

- 6.1** The examination results for seventeen (17) schools in Hadado and Suguta Sub Counties in Wajir and Turkana Counties respectively

were among the noted gaps and got delayed for release. This was due to the answers scripts for candidates being delivered late by the Sub County Directors of Education. The details of the Sub-County Directors of Education have been forwarded to the Principal Secretary, Ministry of Education, Basic Education for further action to be taken.

- 6.2 The candidates' answer scripts for the schools in the two sub counties were returned together with **examination** materials for KCSE examination. The candidates answer scripts were document read on Friday 24th November 2023, processed and results relayed on Saturday 25th November 2023. The results were availed to the candidates through the SMS and schools' portals on Saturday morning.

7.0 HANDLING OF THE APPEALS AND QUERIES THAT AROSE FROM THE 2023 KCPE EXAMINATION

- 7.1 The KNEC Rules of 2015 legal notice no. 131 on the marking of examinations, release of results and certification, Rule 27, provides for candidates/ schools to lodge appeal for review of the examination results to the Council in writing within thirty days from the date of release of the examination results.
- 7.2 The Council has received an number of appeals following the release of the 2023 KCPE results. The Council has set up a team to handle each case that has arisen with express instructions to expedite the review the process, validate the examination processes and centre candidates' answer scripts including analysis of the field administration report presented by the supervisor, Head teacher's confidential and monitoring reports for the centre.
- 7.3 The main appeals and queries so far received from the stakeholders both directly and through social media have been addressed appropriately.
- 7.4 The other individual queries are also being considered and clients will be notified of the determination of investigation as per the timelines for resolving queries. Notably the resolution of queries is

done as soon as the queries are received and no KCPE candidate's placement into secondary schools should be jeopardized.

8.0 CONCLUSION

- 8.1** The 2023 KCPE examination was administered as per the KNEC Rules and Regulations according to the reports on administration presented by the Supervisor and the Head teacher's confidential reports for the centre.
- 8.2** Marking of the candidates' Objective papers and Composition and Insha answer scripts was undertaken together with the rest of the candidates who sat the 2023 KCPE examination as per KNEC Rules and Regulations for marking examinations. Processing and release of the 2023 KCPE examination results for the candidates was undertaken as per KNEC Awards Rules and Regulations in good time and was not rushed.
- 8.3** Verification has been carried out of the 2023 KCPE examination results for the candidates for all queries received to date, by validating afresh the candidates' examination results in all the papers. This has confirmed that the 2023 KCPE examination results for the candidates are correct as released on 23rd November 2023 and posted to the KNEC portal.
- 8.4** The processing of the 2023 KCPE examination was carried out in a professional manner in accordance with KNEC rules and regulations and the candidate's examination results as posted on the KNEC portal are accurate, consistent and complete.



REPUBLIC OF KENYA



KNEC

2023 KCPE EXAMINATION ESSENTIAL STATISTICS

Table 1: KCPE Examination Candidature Trends for the Last Five Years

Year	Total Candidature			Females			Males		
	No. Registered	Total No. Sat	Increase/Decrease (%)	No. Registered	No. Sat (%)	Increase/Decrease (%)	No. Registered	No. Sat (%)	Increase/Decrease (%)
2023	1,415,911	1,406,557	172,705 (14.00%)	689,798	685,017	72,130 (11.77%)	726,513	721,544	100,579 (16.20%)
2022	1,244,335	1,233,852	19,821 (1.63%)	617,775	612,887	9,240 (1.53%)	626,560	620,965	10,581 (1.73%)
2021	1,225,554	1,214,031	34,839 (2.95%)	609,258	603,647	14,905 (2.53%)	616,296	610,384	19,860 (3.36%)
2020	1,191,616	1,179,192	95,736 (8.84%)	595,180	588,742	48,868 (9.25%)	596,436	590,450	46,868 (8.62%)
2019	1,088,986	1,083,456	31,112 (2.96%)	542,610	539,874	14,804 (2.82%)	546,376	543,582	16,288 (3.09%)

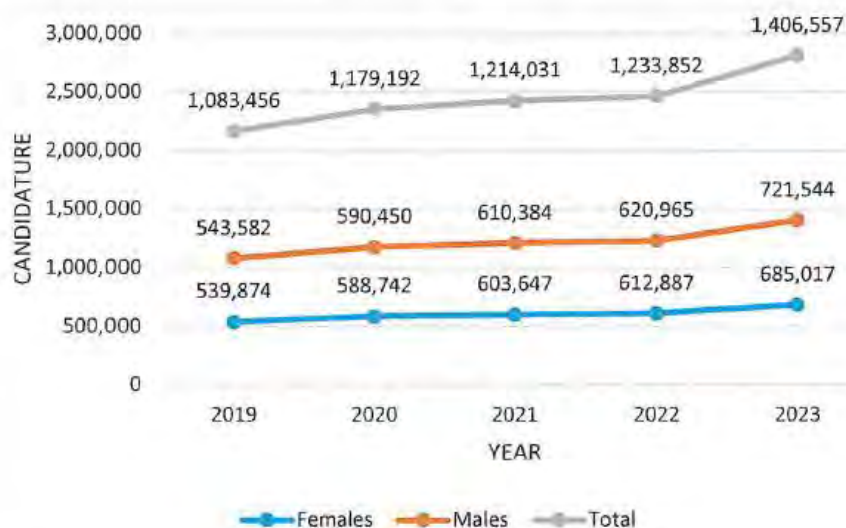


Figure 1: KCPE Examination Candidature Trends for the last five years

This is the exhibit marked Exo - 3
 referred to in the annexed affidavit/declaration of
Andrew Henry Otari
 Sworn before me this 28 day of
 declared MAY 2024 at Nairobi
 Commissioner for Oaths



REPUBLIC OF KENYA



KNEC

Table 2: Trends for Candidates who sat KCPE Examination Since 1985

Exam Year	Sat	Male %	Female %	Exam Year	Sat	Male %	Female %	Exam Year	Sat	Male %	Female %	Exam Year	Sat	Male %	Female %	Exam Year	Sat	Male %	Female %
2023	1,406,557	721,540 (51.30%)	685,017 (48.70%)	2013	838,102	424,823 (50.7%)	413,279 (49.3%)	2003	583,446	302,077 (51.8%)	281,369 (48.2%)	1993	398,499	213,607 (53.6%)	184,885 (46.4%)				
2022	1,232,010	619,943 (50.3%)	612,067 (49.7%)	2012	811,775	415,409 (51.2%)	396,366 (48.8%)	2002	534,865	276,526 (51.7%)	258,339 (48.3%)	1992	416,441	224,455 (53.9%)	191,986 (46.1%)				
2021	1,212,330	609,535 (50.3%)	602,795 (49.7%)	2011	768,701	397,063 (51.7%)	371,638 (48.3%)	2001	508,946	261,844 (51.4%)	247,102 (48.6%)	1991	362,917	200,770 (55.3%)	162,147 (44.7%)				
2020	1,179,733	590,847 (50.1%)	588,886 (49.9%)	2010	739,747	385,311 (52.1%)	354,436 (47.9%)	2000	476,037	246,195 (51.7%)	229,841 (48.3%)	1990	357,747	198,884 (55.6%)	158,863 (44.4%)				
2019	1,081,607	542,653 (50.2%)	538,954 (49.8%)	2009	720,597	378,509 (52.5%)	342,079 (47.5%)	1999	450,043	233,164 (51.8%)	216,879 (48.2%)	1989	384,671	212,972 (55.4%)	171,699 (44.6%)				
2018	1,052,240	527,212 (50.1%)	525,028 (49.9%)	2008	688,997	363,967 (52.8%)	325,026 (47.2%)	1998	441,816	229,254 (51.9%)	212,560 (48.1%)	1988	354,118	201,563 (56.9%)	152,555 (43.1%)				
2017	993,592	498,672 (50.2%)	494,920 (49.8%)	2007	698,740	369,507 (52.9%)	329,233 (47.1%)	1997	437,025	228,611 (52.3%)	208,414 (47.7%)	1987	340,938	196,890 (57.7%)	144,048 (42.3%)				
2016	941,496	473,230 (50.3%)	468,266 (49.7%)	2006	660,556	350,132 (53.0%)	310,423 (47.0%)	1996	417,549	220,277 (52.8%)	197,272 (47.2%)	1986	331,214	192,233 (58.0%)	138,981 (42.0%)				

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Exam Year	Sat	Male %	Female %	Exam Year	Sat	Male %	Female %	Exam Year	Sat	Male %	Female %	Exam Year	Sat	Male %	Female %
2015	927,449	467,734 (50.4%)	459,715 (49.6%)	2005	665,662	350,347 (52.6%)	315,315 (47.4%)	1995	397,678	209,742 (52.7%)	187,935 (47.3%)	1985	330,370	195,619 (59.2%)	134,751 (40.8%)
2014	879,421	442,725 (50.3%)	436,695 (49.7%)	2004	652,228	340,653 (52.2%)	311,575 (47.8%)	1994	391,321	208,675 (53.3%)	182,646 (46.7%)				

Table 3: KCPE Examination Candidature by County for years 2023 & 2022

County Code & Name	2023				AB	2022				AB
	Female (%)	Male (%)	Total Cand. (%)			Female (%)	Male (%)	Total Cand. (%)		
01 Taita Taveta	4,226 48.79%	4,436 51.21%	8,662 (100%)		44 0.51%	4,073 (48.04%)	4,405 (51.96%)	8,478 (100%)		40
02 Kwale	14,651 48.75%	15,404 51.25%	30,055 (100%)		123 0.41%	12,199 (49.98%)	12,209 (50.02%)	24,408 (100%)		104
03 Mombasa	12,267 49.51%	12,509 50.49%	24,776 (100%)		168 0.68%	11,251 (50.31%)	11,111 (49.69%)	22,362 (100%)		149
04 Kilifi	23,915 49.15%	24,743 50.85%	48,658 (100%)		290 0.60%	20,582 (49.63%)	20,892 (50.37%)	41,474 (100%)		411
05 Tana River	3,609 50.97%	3,472 49.03%	7,081 (100%)		34 0.48%	3,004 (49.77%)	3,032 (50.23%)	6,036 (100%)		53
06 Lamu	2,036 48.52%	2,160 51.48%	4,196 (100%)		30 0.71%	1,851 (49.23%)	1,909 (50.77%)	3,760 (100%)		26
07 Nyandarua	8,353 48.15%	8,994 51.85%	17,347 (100%)		108 0.62%	8,447 (48.88%)	8,834 (51.12%)	17,281 (100%)		175



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County Code & Name	2023			AB	2022			AB
	Female (%)	Male (%)	Total Cand. (%)		Female (%)	Male (%)	Total Cand. (%)	
08 Nyeri	8,129 48.68%	8,570 51.32%	16,699 (100%)	38 0.23%	8,067 (48.84%)	8,449 (51.16%)	16,516 (100%)	53
09 Kirinyaga	6,670 49.60%	6,777 50.40%	13,447 (100%)	97 0.72%	6,611 (49.66%)	6,701 (50.34%)	13,312 (100%)	75
10 Murang'a	13,056 48.42%	13,907 51.58%	26,963 (100%)	131 0.49%	12,973 (49.28%)	13,351 (50.72%)	26,324 (100%)	159
11 Kiambu	23,900 49.95%	23,945 50.05%	47,845 (100%)	229 0.48%	22,461 (49.97%)	22,484 (50.03%)	44,945 (100%)	268
12 Machakos	19,586 47.21%	21,902 52.79%	41,488 (100%)	163 0.39%	20,059 (49.32%)	20,613 (50.68%)	40,672 (100%)	240
13 Kitui	22,294 48.72%	23,466 51.28%	45,760 (100%)	174 0.38%	21,101 (49.92%)	21,165 (50.08%)	42,266 (100%)	246
14 Embu	7,643 48.21%	8,210 51.79%	15,853 (100%)	77 0.49%	7,584 (49.16%)	7,843 (50.84%)	15,427 (100%)	110
15 Meru	20,311 49.07%	21,084 50.93%	41,395 (100%)	426 1.03%	19,569 (51.03%)	18,779 (48.97%)	38,348 (100%)	483
16 Marsabit	4,344 49.52%	4,428 50.48%	8,772 (100%)	27 0.31%	3,316 (52.26%)	3,029 (47.74%)	6,345 (100%)	28
17 Isiolo	2,682 51.75%	2,501 48.25%	5,183 (100%)	29 0.56%	2,287 (51.78%)	2,130 (48.22%)	4,417 (100%)	26
18 Makeni	16,770 47.97%	18,187 52.03%	34,957 (100%)	103 0.29%	16,879 (49.09%)	17,507 (50.91%)	34,386 (100%)	141
19 Tharaka Nithi	6,865 49.75%	6,933 50.25%	13,798 (100%)	32 0.23%	6,484 (50.14%)	6,447 (49.86%)	12,931 (100%)	66
20 Nairobi	41,524 50.72%	40,338 49.28%	81,862 (100%)	898 1.10%	36,972 (51.17%)	35,285 (48.83%)	72,257 (100%)	764

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County Code & Name	2023			AB	2022			AB
	Female (%)	Male (%)	Total Cand. (%)		Female (%)	Male (%)	Total Cand. (%)	
21 Turkana	9,587 43.00%	12,708 57.00%	22,295 (100%)	603 2.70%	7,220 (42.99%)	9,576 (57.01%)	16,796 (100%)	778
22 Samburu	3,482 47.61%	3,832 52.39%	7,314 (100%)	51 0.70%	2,648 (48.22%)	2,844 (51.78%)	5,492 (100%)	79
23 Trans Nzoia	17,399 48.32%	18,610 51.68%	36,009 (100%)	408 1.13%	15,734 (50.37%)	15,504 (49.63%)	31,238 (100%)	454
24 West Pokot	11,526 49.60%	11,714 50.40%	23,240 (100%)	323 1.39%	8,386 (50.23%)	8,309 (49.77%)	16,695 (100%)	447
25 Bomet	18,997 48.75%	19,968 51.25%	38,965 (100%)	110 0.28%	15,085 (50.11%)	15,016 (49.89%)	30,101 (100%)	148
26 Uasin Gishu	16,069 48.38%	17,145 51.62%	33,214 (100%)	197 0.59%	14,547 (50.13%)	14,474 (49.87%)	29,021 (100%)	213
27 Nakuru	31,206 49.12%	32,329 50.88%	63,535 (100%)	383 0.60%	28,791 (49.41%)	29,481 (50.59%)	58,272 (100%)	415
28 Kericho	17,225 48.89%	18,009 51.11%	35,234 (100%)	109 0.31%	14,500 (49.16%)	14,996 (50.84%)	29,496 (100%)	147
29 Nandi	15,994 47.95%	17,362 52.05%	33,356 (100%)	144 0.43%	14,465 (48.77%)	15,196 (51.23%)	29,661 (100%)	182
30 Laikipia	6,412 48.36%	6,846 51.64%	13,258 (100%)	61 0.46%	6,177 (48.86%)	6,466 (51.14%)	12,643 (100%)	94
31 Kajiado	14,954 49.08%	15,517 50.92%	30,471 (100%)	214 0.70%	12,833 (50.10%)	12,780 (49.90%)	25,613 (100%)	244
32 Narok	21,529 49.20%	22,226 50.80%	43,755 (100%)	246 0.56%	16,896 (49.25%)	17,408 (50.75%)	34,304 (100%)	231
33 Baringo	11,646 47.87%	12,684 52.13%	24,330 (100%)	89 0.37%	9,103 (48.53%)	9,654 (51.47%)	18,757 (100%)	130

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County Code & Name	2023			AB	2022			AB
	Female (%)	Male (%)	Total Cand. (%)		Female (%)	Male (%)	Total Cand. (%)	
34 Elgeyo Marakwet	10,088 48.96%	10,518 51.04%	20,606 (100%)	63 0.31%	7,980 (50.09%)	7,952 (49.91%)	15,932 (100%)	63
35 Busia	16,687 49.98%	16,699 50.02%	33,386 (100%)	189 0.57%	14,432 (50.49%)	14,154 (49.51%)	28,586 (100%)	220
36 Bungoma	33,005 48.12%	35,579 51.88%	68,584 (100%)	618 0.90%	27,421 (50.73%)	26,635 (49.27%)	54,056 (100%)	693
37 Kakamega	36,939 49.48%	37,721 50.52%	74,660 (100%)	541 0.72%	34,230 (50.76%)	33,204 (49.24%)	67,434 (100%)	658
38 Vihiga	10,930 49.05%	11,352 50.95%	22,282 (100%)	124 0.56%	10,568 (51.43%)	9,980 (48.57%)	20,548 (100%)	136
39 Kisumu	19,313 49.49%	19,712 50.51%	39,025 (100%)	171 0.44%	17,894 (50.37%)	17,630 (49.63%)	35,524 (100%)	249
40 Kisii	21,501 48.60%	22,736 51.40%	44,237 (100%)	239 0.54%	19,909 (49.52%)	20,294 (50.48%)	40,203 (100%)	252
41 Homa Bay	21,320 48.70%	22,454 51.30%	43,774 (100%)	284 0.65%	18,950 (49.03%)	19,696 (50.97%)	38,646 (100%)	330
42 Siaya	18,198 49.32%	18,698 50.68%	36,896 (100%)	213 0.58%	16,599 (49.86%)	16,693 (50.14%)	33,292 (100%)	240
43 Nyamira	9,719 47.60%	10,700 52.40%	20,419 (100%)	73 0.36%	9,636 (49.32%)	9,901 (50.68%)	19,537 (100%)	69
44 Migori	21,333 49.67%	21,614 50.33%	42,947 (100%)	397 0.92%	18,642 (50.25%)	18,457 (49.75%)	37,099 (100%)	386
45 Garissa	4,668 38.53%	7,446 61.47%	12,114 (100%)	178 1.47%	3,970 (40.07%)	5,938 (59.93%)	9,908 (100%)	186
46 Wajir	3,191 43.09%	4,215 56.91%	7,406 (100%)	40 0.54%	2,803 (43.20%)	3,686 (56.80%)	6,489 (100%)	40

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County Code & Name	2023			AB	2022		
	Female (%)	Male (%)	Total Cand. (%)		Female (%)	Male (%)	Total Cand. (%)
47 Mandera	3,649 37.23%	6,153 62.77%	9,802 (100%)	76 0.78%	2,586 (36.70%)	4,461 (63.30%)	7,047 (100%)
<i>Total</i>	689,398 48.69%	726,513 51.31%	1,415,911 (100%)	9,354 0.66%	617,775 (49.65%)	626,560 (50.35%)	1,244,335 (100%)
							AB 79 10,780 (0.87%)

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Table 4: 2023 and 2022 KCPE Examination Centres by County

County Code and Name		Number of Examination Centres					
		2023			2022		
		Public	Private	All	Public	Private	All
1.	01 Taita Taveta	204 0.71%	32 0.11%	236 0.83%	206 (0.73%)	33 (0.12%)	239 0.84%
2.	02 Kwale	396 1.39%	92 0.32%	488 1.71%	387 (1.36%)	94 (0.33%)	481 1.69%
3.	03 Mombasa	96 0.34%	293 1.03%	389 1.36%	94 (0.33%)	287 (1.01%)	381 1.34%
4.	04 Kilifi	533 1.87%	167 0.59%	700 2.45%	522 (1.84%)	162 (0.57%)	684 2.41%
5.	05 Tana River	146 0.51%	16 0.06%	162 0.57%	142 (0.50%)	16 (0.06%)	158 0.56%
6.	06 Lamu	93 0.33%	12 0.04%	105 0.37%	89 (0.31%)	12 (0.04%)	101 0.36%
7.	07 Nyandarua	341 1.20%	90 0.32%	431 1.51%	341 (1.20%)	94 (0.33%)	435 1.53%
8.	08 Nyeri	379 1.33%	110 0.39%	489 1.71%	377 (1.33%)	114 (0.40%)	491 1.73%
9.	09 Kirinyaga	198 0.69%	114 0.40%	312 1.09%	198 (0.70%)	120 (0.42%)	318 1.12%
10.	10 Murang'a	506 1.77%	108 0.38%	614 2.15%	506 (1.78%)	109 (0.38%)	615 2.16%
11.	11 Kiambu	461 1.62%	393 1.38%	854 2.99%	458 (1.61%)	395 (1.39%)	853 3.00%
12.	12 Machakos	847 2.97%	219 0.77%	1,066 3.74%	843 (2.97%)	236 (0.83%)	1,079 3.80%
13.	13 Kitui	1,272 4.46%	110 0.39%	1,382 4.84%	1,262 (4.44%)	114 (0.40%)	1,376 4.84%
14.	14 Embu	382 1.34%	97 0.34%	479 1.68%	380 (1.34%)	105 (0.37%)	485 1.71%
15.	15 Meru	729 2.55%	228 0.80%	957 3.35%	724 (2.55%)	246 (0.87%)	970 3.41%
16.	16 Marsabit	141 0.49%	37 0.13%	178 0.62%	138 (0.49%)	35 (0.12%)	173 0.61%
17.	17 Isiolo	85 0.30%	32 0.11%	117 0.41%	83 (0.29%)	33 (0.12%)	116 0.41%
18.	18 Makueni	891 3.12%	94 0.33%	985 3.45%	884 (3.11%)	90 (0.32%)	974 3.43%
19.	19 Tharaka Nithi	398 1.39%	60 0.21%	458 1.61%	401 (1.41%)	63 (0.22%)	464 1.63%
20.	20 Nairobi	211 0.74%	859 3.01%	1,070 3.75%	207 (0.73%)	852 (3.00%)	1,059 3.73%

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County Code and Name		Number of Examination Centres					
		2023			2022		
		Public	Private	All	Public	Private	All
21.	21 Turkana	273 0.96%	55 0.19%	328 1.15%	263 (0.93%)	52 (0.18%)	315 1.11%
22.	22 Samburu	120 0.42%	11 0.04%	131 0.46%	121 (0.43%)	10 (0.04%)	131 0.46%
23.	23 Trans Nzoia	369 1.29%	178 0.62%	547 1.92%	362 (1.27%)	181 (0.64%)	543 1.91%
24.	24 West Pokot	502 1.76%	46 0.16%	548 1.92%	482 (1.70%)	47 (0.17%)	529 1.86%
25.	25 Bomet	668 2.34%	172 0.60%	840 2.94%	660 (2.32%)	185 (0.65%)	845 2.97%
26.	26 UasinGishu	477 1.67%	240 0.84%	717 2.51%	465 (1.64%)	245 (0.86%)	710 2.50%
27.	27 Nakuru	706 2.47%	314 1.10%	1,020 3.57%	705 (2.48%)	326 (1.15%)	1,031 3.63%
28.	28 Kericho	525 1.84%	207 0.73%	732 2.57%	517 (1.82%)	211 (0.74%)	728 2.56%
29.	29 Nandi	729 2.55%	126 0.44%	855 3.00%	729 (2.57%)	131 (0.46%)	860 3.03%
30.	30 Laikipia	271 0.95%	61 0.21%	332 1.16%	266 (0.94%)	59 (0.21%)	325 1.14%
31.	31 Kajiado	413 1.45%	275 0.96%	688 2.41%	403 (1.42%)	265 (0.93%)	668 2.35%
32.	32 Narok	656 2.30%	141 0.49%	797 2.79%	633 (2.23%)	143 (0.50%)	776 2.73%
33.	33 Baringo	597 2.09%	69 0.24%	666 2.33%	591 (2.08%)	67 (0.24%)	658 2.32%
34.	34 Elgeyo Marakwet	391 1.37%	62 0.22%	453 1.59%	388 (1.37%)	63 (0.22%)	451 1.59%
35.	35 Busia	435 1.52%	82 0.29%	517 1.81%	432 (1.52%)	82 (0.29%)	514 1.81%
36.	36 Bungoma	777 2.72%	206 0.72%	983 3.45%	768 (2.70%)	207 (0.73%)	975 3.43%
37.	37 Kakamega	903 3.16%	174 0.61%	1,077 3.77%	900 (3.17%)	173 (0.61%)	1,073 3.78%
38.	38 Vihiga	381 1.34%	41 0.14%	422 1.48%	380 (1.34%)	41 (0.14%)	421 1.48%
39.	39 Kisumu	612 2.14%	137 0.48%	749 2.63%	611 (2.15%)	140 (0.49%)	751 2.64%
40.	40 Kisii	699 2.45%	228 0.80%	927 3.25%	698 (2.46%)	244 (0.86%)	942 3.32%



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County Code and Name		Number of Examination Centres					
		2023			2022		
		Public	Private	All	Public	Private	All
41.	41 Homa Bay	873 3.06%	180 0.63%	1,053 3.69%	872 (3.07%)	190 (0.67%)	1,062 3.74%
42.	42 Siaya	649 2.27%	84 0.29%	733 2.57%	647 (2.28%)	84 (0.30%)	731 2.57%
43.	43 Nyamira	401 1.41%	91 0.32%	492 1.72%	402 (1.42%)	93 (0.33%)	495 1.74%
44.	44 Migori	623 2.18%	189 0.66%	812 2.85%	618 (2.18%)	186 (0.65%)	804 2.83%
45.	45 Garissa	107 0.38%	106 0.37%	213 0.75%	105 (0.37%)	101 (0.36%)	206 0.73%
46.	46 Wajir	170 0.60%	34 0.12%	204 0.71%	173 (0.61%)	34 (0.12%)	207 0.73%
47.	47 Mandera	179 0.63%	46 0.16%	225 0.79%	161 (0.57%)	44 (0.15%)	205 0.72%
National		21,815 76.46%	6,718 23.54%	28,533 100.00%	21,594 76.01%	6,814 23.99%	28,408 100.00%



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Table 5: 2023 and 2022 KCPE Examination Age Distribution by County

County Code & Name	2023										2022					
	Candidates' Age Group															
	12 & below	13	14	15	16	17	18 & above	Total	12 & below	13	14	15	16	18	18 & Above	Total
01 Taita Taveta	63	1,381	3,441	2,353	926	324	174	8,662	64	1,392	3,430	2,126	935	329	202	8,478
02 Kwale	127	1,117	3,970	7,224	7,172	5,608	4,836	30,054	89	888	3,467	5,226	6,104	4,350	4,285	24,409
03 Mombasa	255	3,156	8,729	6,745	3,145	1,575	1,170	24,775	215	2,914	8,402	5,433	2,962	1,479	957	22,362
04 Kilifi	173	1,769	6,822	11,846	11,282	9,147	7,619	48,638	146	1,500	5,969	8,844	10,264	7,415	7,340	41,478
05 Tana River	289	834	1,536	1,768	1,244	786	624	7,081	259	693	1,436	1,277	1,140	662	570	6,037
06 Lamu	36	349	1,041	1,173	748	503	346	4,196	40	266	896	1,033	763	442	320	3,760
07 Nyandarua	253	4,135	7,838	3,535	1,141	310	134	17,346	247	4,088	7,621	3,555	1,272	347	149	17,279
08 Nyeri	152	4,475	8,157	2,953	644	176	141	16,698	157	4,322	7,923	2,937	829	222	127	16,517
09 Kirinyaga	186	3,750	5,617	2,517	892	297	188	13,447	206	3,561	5,479	2,513	994	378	181	13,312
10 Murang'a	429	7,977	11,907	4,747	1,287	398	216	26,961	453	7,377	11,372	4,775	1,670	479	198	26,324
11 Kiambu	419	12,349	23,852	7,826	2,104	741	556	47,847	359	11,755	22,302	7,258	2,231	665	375	44,945
12 Machakos	645	8,666	16,520	10,017	3,928	1,156	556	41,488	545	7,839	15,961	9,634	4,305	1,622	766	40,672
13 Kitui	844	5,434	12,771	14,373	7,644	3,186	1,508	45,760	714	4,699	12,618	11,523	7,454	3,359	1,900	42,267
14 Embu	288	4,328	6,027	3,270	1,229	455	256	15,853	275	3,937	5,832	3,047	1,460	571	306	15,428
15 Meru	558	6,357	15,030	11,427	4,920	2,030	1,073	41,395	561	5,765	14,238	9,693	5,151	1,902	1,039	38,349



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County Code & Name	2023											2022				
	Candidates' Age Group															
	12 & below	13	14	15	16	17	18 & above	Total	12 & below	13	14	15	16	18	18 & Above	Total
16 Marsabit	482	1,206	2,550	2,068	1,277	708	481	8,772	318	817	1,809	1,467	1,064	492	378	6,345
17 Isiolo	264	649	1,299	1,376	813	454	328	5,183	200	507	1,190	1,113	804	372	231	4,417
18 Makueni	676	6,740	12,936	8,982	3,818	1,237	568	34,957	634	6,205	12,510	8,741	4,142	1,452	702	34,386
19 Tharaka Nithi	228	2,464	4,775	3,480	1,656	743	452	13,798	225	2,199	4,379	3,014	1,777	783	554	12,931
20 Nairobi	1,247	18,439	36,815	15,422	5,545	2,183	2,211	81,862	1,113	16,315	32,966	13,519	5,076	1,859	1,410	72,258
21 Turkana	442	1,336	3,336	4,533	4,042	3,144	5,462	22,295	382	947	2,502	3,186	3,311	2,500	3,969	16,797
22 Samburu	343	1,029	2,017	1,899	1,092	515	419	7,314	319	740	1,733	1,250	790	386	273	5,491
23 Trans Nzoia	797	4,733	10,830	10,188	5,640	2,465	1,355	36,008	741	3,882	9,541	8,279	5,139	2,284	1,373	31,239
24 West Pokot	1,294	3,981	6,597	6,074	3,171	1,386	737	23,240	970	2,659	5,365	3,820	2,309	1,023	550	16,696
25 Bomet	2,334	8,233	11,677	8,811	4,675	2,022	1,211	38,963	1,841	5,846	9,149	6,612	3,910	1,740	1,003	30,101
26 Uasin Gishu	549	4,832	11,565	8,717	4,488	1,907	1,156	33,214	519	4,042	10,215	7,221	4,175	1,782	1,067	29,021
27 Nakuru	1,037	11,135	26,849	14,422	6,289	2,448	1,355	63,535	987	10,144	24,377	13,223	6,098	2,226	1,217	58,272
28 Kericho	2,050	8,267	11,436	7,296	3,811	1,532	842	35,234	1,838	6,427	9,555	6,199	3,223	1,388	867	29,497
29 Nandi	528	3,663	9,955	9,235	5,605	2,698	1,672	33,356	418	2,988	8,509	7,978	5,222	2,656	1,890	29,661
30 Lalipia	117	2,223	5,446	3,081	1,357	613	421	13,258	120	2,291	5,066	2,852	1,384	562	368	12,643
31	820	5,536	10,001	6,970	3,858	1,921	1,365	30,471	634	4,600	8,609	5,748	3,238	1,544	1,241	25,614



REPUBLIC OF KENYA



KNEC

County Code & Name	2023										2022									
	12 & below	13	14	15	16	17	18 & above	Total	12 & below	13	14	15	16	18	18 & Above	Total				
Kajiado																				
32 Narok	2,203	6,511	12,066	11,399	6,537	3,210	1,829	43,755	1,857	5,255	9,850	7,743	5,334	2,634	1,632	34,305				
33 Baringo	1,776	5,954	8,265	4,865	2,122	915	433	24,330	1,306	4,270	6,370	3,720	1,912	758	421	18,757				
34 Elgeyo Marakwet	494	2,652	6,332	5,693	3,232	1,457	746	20,606	355	1,775	4,851	4,209	2,789	1,283	672	15,934				
35 Busia	513	2,655	7,338	9,106	6,733	4,165	2,877	33,387	456	2,303	6,289	6,966	6,230	3,613	2,733	28,590				
36 Bungoma	3,011	10,649	18,869	18,242	9,898	5,172	2,721	68,562	2,819	8,229	15,973	12,436	8,440	3,791	2,369	54,057				
37 Kakamega	1,173	8,041	20,028	21,101	13,278	6,950	4,089	74,660	967	6,930	17,925	17,236	12,793	6,637	4,947	67,435				
38 Vihiga	211	2,548	6,984	6,385	3,514	1,648	992	22,282	154	2,114	6,147	5,643	3,561	1,759	1,171	20,549				
39 Kisumu	631	4,052	11,417	11,519	6,842	2,933	1,631	39,025	638	3,530	10,429	9,978	6,417	2,741	1,793	35,526				
40 Kisii	1,825	8,322	14,260	10,569	5,406	2,568	1,287	44,237	1,938	7,304	13,069	9,293	5,139	2,091	1,369	40,203				
41 Homa Bay	1,524	5,547	11,071	11,913	7,636	3,878	2,205	43,774	1,431	4,669	10,259	9,715	7,129	3,362	2,086	38,651				
42 Siaya	460	2,974	9,645	11,512	7,243	3,344	1,718	36,896	408	2,606	8,511	9,874	6,771	3,128	1,994	33,292				
43 Nyamira	897	3,879	6,961	4,879	2,379	947	477	20,419	1,040	3,976	6,386	4,520	2,239	878	498	19,537				
44 Migori	1,695	5,718	11,387	11,315	7,147	3,568	2,117	42,947	1,518	4,847	10,232	8,694	6,490	3,215	2,103	37,099				
45 Garissa	350	853	1,663	2,223	2,103	1,789	3,133	12,114	318	660	1,441	1,661	1,849	1,595	2,385	9,909				



REPUBLIC OF KENYA



KNEC

County Code & Name	2023								2022							
	Candidates' Age Group															
	12 & below	13	14	15	16	17	18 & above	Total	12 & below	13	14	15	16	18	18 & Above	Total
⁴⁶ Wajir	472	1,191	2,005	1,664	996	537	541	7,406	442	966	1,962	1,366	909	441	403	6,489
⁴⁷ Mandera	356	930	2,353	2,141	1,513	1,147	1,362	9,802	262	727	1,665	1,466	1,322	779	826	7,047
National	35,516 (2.51 %)	223,019 (15.7 5%)	451,986 (31.92 %)	348,854 (24.64 %)	192,022 (13.56%)	96,896 (6.84%)	67,590 (4.77%)	1,415,883 (100%)	31,498 (2.53%)	191,766 (15.41%)	405,780 (32.60%)	287,616 (23.11%)	178,520 (14.34%)	85,976 (6.91%)	63,210 (5.08%)	1,244,335 (100%)

99



REPUBLIC OF KENYA



KNEC

Table 6: KCPE Examination Overall Performance for Candidates by Range of Marks for the years 2021 to 2023

Standard Mark Range		Year and Candidature					
		2023		2022		2021	
		Number	Percentage	Number	Percentage	Number	Percentage
1.	400 – 500	8,523	0.60%	9,443	0.77%	11,857	0.97%
2.	300 – 399	352,782	24.92%	307,756	24.94%	314,785	25.69%
3.	200 – 299	658,278	46.49%	619,593	50.22%	578,106	47.17%
4.	100 – 199	383,025	27.05%	296,336	24.02%	308,113	25.14%
5.	001 – 099	2,060	0.15%	724	0.06%	1,170	0.10%
6.	Number Sat	1,406,557	99.34%	1,233,852	99.16%	1,214,031	99.06%
7.	Absent	9,354	0.66%	10,483	0.84%	11,523	0.94%
8.	Total Entry (Registered Candidates)	1,415,911		1,244,335		1,225,554	
9.	Highest mark (out of 500)	428		431		428	

Table 7: KCPE Examination Overall Performance for Candidates with Special Needs by Range of Marks for the years 2023 to 2021

Standard Mark Range		Year and Candidature					
		2023		2022		2021	
		Number	Percentage	Number	Percentage	Number	Percentage
1.	400 – 500	2	0.06%	39	1.83%	2	0.08 %
2.	300 – 399	318	9.20%	246	11.54%	337	13.57 %
3.	200 – 299	867	25.09%	702	32.94%	778	31.33 %
4.	100 – 199	1,417	41.00%	1,138	53.40%	1,302	52.44 %
5.	001 – 099	7	0.20%	6	0.28%	29	1.17 %
6.	Number Sat	2,611	75.55%	2,131	86.42%	2,591	96.86%
7.	Absent	845	24.45%	335	13.58%	84	3.14%
8.	Total Entry (Registered Candidates)	3,456		2,466		2,675	
9.	Highest mark (out of 500)	411		419		420	



REPUBLIC OF KENYA
MINISTRY OF INFORMATION, COMMUNICATIONS AND THE DIGITAL ECONOMY
STATE DEPARTMENT FOR ICT AND DIGITAL ECONOMY
Office of the Principal Secretary

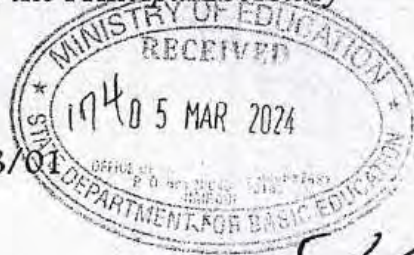
Telephone: +254-020-4920000

If calling or telephoning as

Email: psa@ict.go.ke

When replying please quote

Ref. No: MICDE/ICTDE/CONF/18/01



Telposta Towers
P. O. Box 30025-00100
Nairobi KENYA

4th March 2024

Dr. Belio Kipsang, PhD, CBS
Principal Secretary
State Department for Basic Education
Ministry of Education
NAIROBI

Dear PS,

*Sec
Let me discuss
with CEO KNEC
8/19/24*

AUDIT OF THE KNEC 2023 KCPE EXAMINATION ICT SYSTEMS

Reference is made to your letter dated 30th November, 2023 Ref: MOE.HQS 3/1/21 requesting the Ministry of Information, Communications and the Digital Economy to assist in carrying out Forensic Audit of the 2023 KCPE Examination ICT systems.

The Ministry of Information, Communications and The Digital Economy constituted a technical team of officers drawn from the State Department for ICT and Digital Economy, Communications Authority of Kenya and National Computer and Cybercrimes Coordination Committee(NC4) to undertake the audit.

The Multi-Agency team met on 4th December, 2023 with the Kenya National Examination Council (KNEC) team represented by the Chief Executive Officer and the Director ICT to be briefed and deliberate on the matter. The areas of discussion included:-

- i) Delays in Access
- ii) Mix-up of Grades
- iii) Incomplete Marks
- iv) SMS Charges

The team was able to carry out an audit and came up with findings and recommendations.

The purpose of this letter therefore, is to forward the report of the Forensic Audit for your information and further action.



Ministry of Information, Communications
and The Digital Economy

**AUDIT OF THE KNEC 2023 KCPE
EXAMINATION ICT SYSTEMS REPORT**

This is the Exhibit marked AFO-4
referred to in the annexed affidavit/declaration of
Andrew Thomas Otiemo
Sworn before me this 26th day of
declared May 2024 at Nairobi
Commissioner for Oaths

15TH DECEMBER, 2023

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ABBREVIATIONS AND ACRONYMS

MICDE	Ministry of Information, Communications and The Digital Economy
ICTA	The Information and Communication Technology Authority
NC4	National Computer and Cybercrimes Coordination Committee
KNEC	Kenya National Examination Council
CAK	Communications Authority of Kenya
KCPE	Kenya Certificate of Primary Education
TELCOS	Telecommunication Companies
SMS	Short Message Service
CEO	Chief Executive Officer
DR	Disaster recovery
API	Application Programming Interface

1. INTRODUCTION

The Ministry of Education requested the Ministry of Information, Communications and the Digital Economy to assist in carrying out forensic audit of the 2023 KCPE examination ICT systems vide letter dated 30th November, 2023 Ref: No. MOE.HQS 3/1/21.

The Ministry of Information, Communications and the Digital Economy constituted a technical team of officers drawn from the Ministry of Information, Communications and the Digital Economy, Communications Authority of Kenya, National Computer and Cybercrimes Coordination Committee (NC4) and the ICT Authority (ICTA).

The multi-agency team met on 4th December 2023 with Kenya National Examination Council (KNEC) Team represented by the CEO and ICT Director to get brief and deliberate on the matter.

The areas of discussion included the following: -

- i.) Delays in Access
- ii.) Mix-up of Grades
- iii.) Incomplete Marks
- iv.) SMS charges

2. BACKGROUND

The Cabinet Secretary, Ministry of Education release KCPE Results, and KNEC instantly uploads the provisional results on the KNEC portal for schools to access, download and issue provisional results slips to the candidates.

The schools Principals have login credentials to access the KNEC system for their school results and are able to log in and access their candidates' results slip instantly after the release of the results by the Cabinet Secretary.

Upon access activation, they can generate provisional results slip from the server on real-time basis. The schools' access individual candidates' provisional result slip, which they download and print then authenticate and stamp before they issue to the respective candidates. After release of the KCPE results, KNEC also prints the results for each school and dispatches the same to the Sub-County Directors of Education who later deliver to the respective schools under them.

The Cabinet Secretary, Ministry of Education released 2023 KCPE results on 23rd November, 2023 at around 11:00am. To improve service delivery and enhance access to information, KNEC since 2009 has been using short code messages 40054 through a service provider to give the public access to the KCPE results. However, the public could not get results on the SMS service until at around 2:30pm. Upon receiving the results, some anomalies such as mix-up of grades and incomplete marks were detected.

Procedurally, KNEC, outsource the SMS service provider who must be licensed and accredited by Communication Authority of Kenya to provide the connectivity to mobile network operators and therefore provide the general public with means to access KNEC examination results via mobile short message service. The premium SMS service is charged a fee of Kes. 25.00 against airtime per SMS request.

KNEC prepare results for release on both the KNEC portal and the SMS platform. The data transmission process happens after completion of

processing of the results. The data on the KNEC portal and the data given to the SMS service provider must be from the same source and therefore identical. For the SMS platform, KNEC exports the results data and hands over to the SMS provider at the start of the release ceremony for security purposes to ensure that no one gets access to the results before release by the Cabinet Secretary. The service provider to upload the data into their servers to facilitate access by the Telcos. Once the results have been imported into the database server of the SMS service provider, then the integration done with the Telcos SMS platforms fetches the data and avails the results to the public upon requests through SMS.

After receiving the result from KNEC, the SMS service provider experienced a challenge with importing the data from Microsoft Excel file into their database. This contributed to the delay in access of the results by public to the various mobile network operators (Safaricom, Airtel and Telkom) and the SMS platform was accessed from 2.30pm. During the time the SMS platform was not accessible, an SMS message was sent to the public informing them of the delay and the message read: *'Greeting, we apologize for the delay in accessing KCPE 2023 results. We will update you once they are available on 40054'*

The various mobile network operators (Safaricom, Airtel and Telkom) confirmed that no person was charged for SMSs sent before the results could be accessed and only received an SMS informing them of the delay. The SMS platform that was used to access the 2023 KCPE results was configured in such a way that whenever a client sent a request and the service was not available or accessible, then it would respond with a default message: *'Dear Customer, the KCPE 2023 results are not available. Kindly try again later'*. The configuration done on the SMS platform and the agreement with all network operators was that a client would not be charged for any unsuccessful attempt or hit in the results database. It is only those SMS queries that successfully hit the database and the results were sent back that were charged.

3. RATIONALE FOR THE KNEC 2023 KCPE SYSTEMS AUDIT

Immediately, after the Cabinet Secretary, Ministry of Education released the 2023 KCPE Results on 23rd November, 2023, the public could not access the results on the short code messaging service platform 40054. It was until 2:30pm that the public were able to get the results on the SMS service and even after that the results had anomalies. This prompted a lot of concern on the credibility of the results by the public, Parliament and other stakeholders.

To clear any doubts and restore confidence in the education sector, identify the gaps and put in requisite measures to ensure the situation does not repeat itself, Cabinet Secretary, Ministry of Education wrote to the Ministry of Information, Communications and the Digital Economy requesting for assistance to carry out the system audit. This is an important exercise as it would guide making informed decision in the process of handling examination results moving forward.

4. AUDIT PROCESS METHODOLOGY

The Ministry of Information, Communications and the Digital Economy formed a multi-agency technical team from MOICT, CA, NC4 and ICTA to undertake the audit exercise.

The methodology used to undertake the investigations was as follows;

- 1) Conducting meetings with KNEC CEO, KNEC ICT Director, and MVAS Technical Team to understand the process.
- 2) Inspection of KNEC Server systems and understanding of the SMS service system in order to develop an understanding of the significant processes and workflows in the examination results analysis as related to the objective of the audit.
- 3) Documents analysis from KNEC and MVAS in the form of general actual reports, tender documents, licenses, letters from the mobile network operators (Safaricom, Airtel and Telkom), and the other information in order to develop and perform analyses.

5. AUDIT FINDINGS

1. The short code service tender by KNEC to MVAS Limited was awarded on 22nd November, 2023 and the provisional results were released on 23rd November, 2023.
2. The short code service system is hosted on a cloud environment at Safaricom and Contabo cloud in Germany as the DR site. It is run on MSQl 8.0.3 database and API integration with different Telcos. Data from KNEC is sent separately to the SMS system.
3. The delays in access were occasioned by the SMS system experiencing the following challenges in the form of: -
 - o **Data Truncation** - Special characters in the provided dataset caused an unforeseen truncation of information during the file upload process. This truncation resulted in the incomplete representation of data, leading to discrepancies in the displayed information to the users.
 - o **Formatting Issues** - The special characters also triggered formatting anomalies, particularly in the context of the language marks. The system displayed 'KIS' instead of the expected 'KSW' marks, indicating a misinterpretation or mishandling of the language data.
 - o **Score Representation** - For example, scores with appended symbols, such as 'B+', underwent encoding challenges that resulted in an inaccurate display, showing only 'B' due to the encoding interpretation.
4. This made MVAS put a locker on the Short code system to give time to fix them. During this time, the SMS platform was not accessible, an SMS message was sent to the public informing them of the delay and the message read: *'Greeting, we apologize for the delay in accessing KCPE 2023 results. We will update you once they are available on 40054'*.

5. The premium SMS service is charged at a fee of Kes. 25.00 against airtime per SMS request for successful return of results. However, there was no SMS charge for the failure to return results. *(See attached letters from Safaricom, Airtel and Telkom)*
6. Some cases, the results for Kiswahili paper for some candidates were being presented at the position for Kenyan Sign Language. This was caused by misalignment of data set shared.
7. There were incomplete marks leading to low marks in one of the subjects as compared to other subjects mainly in English, Kiswahili and Social Studies. These are subjects in which more than one paper is combined to determine a candidates' subject grade.
8. In-depth check of the whole database to find those affected by the low marks in one subject while other subjects had high grades and established that there were one hundred and thirty-three (133) candidates affected in seventy-seven (77) schools. These cases were flagged out and the answer sheets for affected candidates searched, vetted and candidates' results updated appropriately.

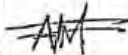
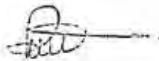
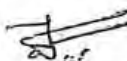
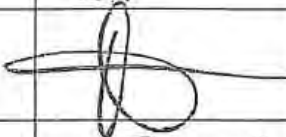
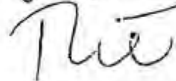
6. RECOMMENDATIONS

1. Build internal capacity for the KNEC to provide the SMS short code service.
 - o Engage Communications Authority of Kenya for the provision of the SMS short code.
2. Multi-sectoral Committee
 - o Establishment of ICT multi-sectoral committee that will be head by the Ministry of Information, Communication and The Digital Committee; to oversee the process from the start of marking of exams up to the announcement of KNEC results
3. Contracting
 - o Receiving tender award one day to the results dissemination meant that there were potential challenges to the award process.
 - o Ensure realistic timelines when implementing ICT projects to allow for adequate system development life cycle (feasibility studies, design, development, testing, deployment).
4. Proactive Stakeholder Communication
 - o Proactive communication strategy to ensure all stakeholders are consistently well-informed and aligned.
 - o Maintenance of clear channels for timely updates, facilitating ongoing coordination and swift resolution of potential issues.
5. Data Sharing Procedures
 - o Emphasis on early data provision to enable comprehensive load testing and pre-empt potential challenges.
 - o Tie all parties in Non-Disclosure agreements to mitigate the sensitive nature of the data involved.



6. Advancements in Load Testing Protocols
 - o Regular, thorough load tests to continually assess system performance under diverse conditions.
7. Quality Assurance Reporting
 - o Mandating quality assurance teams to produce detailed reports on test outcomes before actual data goes live.
8. Engage an independent body to verify whether any omissions or offenses were committed during the processing and release of the 2023 KCPE results.
9. Upgrade the KNEC ICT infrastructure moving forward so that there is enough capacity especially with CBC being active and generating a lot of data.
10. Implement a continuous performance monitoring system to proactively identify potential system anomalies or discrepancies.
 - o Periodic evaluations should be conducted post-results dissemination to verify the accuracy and integrity of the information. This ensures swift corrective actions if discrepancies are detected, guaranteeing the integrity of examination results throughout the process.
11. Invest in robust cybersecurity measures to safeguard the integrity of the examination system.
 - o Conduct regular vulnerability assessments and penetration testing to identify and address potential weaknesses. Furthermore, establish strict access controls, encryption protocols, and authentication mechanisms to prevent unauthorized access, data tampering, or manipulation of examination data. Collaborate with cybersecurity experts and regulatory bodies to fortify the system against potential cyber threats and breaches.

7. AUDIT TEAM

NO.	NAME	ORGANISATION	SIGNATURE
1.	Alexander Njiru	MICDE	
2.	Rebecca Molo	CAK	
3.	Ledie Bitt	NCH	
4.	Juma Modie	MICDE	
5.	James Kuning'u	NCH	
6.	Dennis Logothum	CA	
7.	Ann Njoroge	MICDE	
8.	STANSON MAKIWA	MICDE	

8. APPENDIX

8.1 Tender Award letter



THE KENYA NATIONAL EXAMINATIONS COUNCIL

*All official correspondence should be addressed to:
The Council Secretary, Chief Executive Officer*


KNEC is a Government of Kenya Entity

REF: KNEC/ONT/2023-2024/05

22nd November, 2023

The Managing Director
MVAS Limited
P.O.Box 18990 00503
NAIROBI

Email: info@mvas.co.ke

**RE: TENDER FOR PROVISION OF SMS SHORT CODE SERVICES TENDER No.
KNEC/ONT/2023-2024/05**

- 1.0 This is in reference to your tender for Provision of SMS Short Code Services, Tender number KNEC/ONT/2023-2024/05.
- 2.0 KNEC is pleased to advise that your bid has been accepted. Consequently, you have been awarded the contract to provide SMS Short Code Services.
- 3.0 Please acknowledge receipt of this letter signifying your unconditional acceptance.
- 4.0 You may contact the undersigned for any other further clarification on the subject matter of this letter of award notification.

Dr. David Njengere, MBS
CHIEF EXECUTIVE OFFICER

8.2 MVAS Content Service Provider license

REPUBLIC OF KENYA COMPLIANCE CERTIFICATE <i>This is to certify that</i> MVAS LIMITED <i>of Post Office Box 24863 Nairobi 00100</i> <i>has complied with the licence conditions for</i> CONTENT SERVICE PROVIDER <i>in the Republic of Kenya in accordance with the Kenya Information & Communications Act, 1998 and the Kenya Information & Communications Regulations 2010 and the Terms & Conditions of the referenced licence.</i> This certificate is valid up to.....30TH JUNE 2024.....after which it MUST be renewed Signed <u><i>DA Wanjiku</i></u>.....<u>9th / August / 2023</u>..... For: Director General Date (day/month/year) Please note that this is not a licence but proof of compliance Serial No. 05-00415-00-09-0416	
---	--

8.3 Mobile network operators (Safaricom, Airtel and Telkom) letters



airtel

AIRTEL NETWORKS KENYA LIMITED

Your Ref: REF:KNEC/LEG/GEN/2023/1043

7th December 2023

Dr. David Njengere, Airtel,
Chief Executive Officer,
The Kenya National Examinations Council,
The New Mithani House, South C,
P.O. Box 71584 - 00100 City Square,
NAIROBI, KENYA

Sr.

RE: REQUEST FOR CONFIRMATION ON CHARGES ON ERROR MESSAGES DURING RELEASE OF THE 2023 KCPE EXAMINATION RESULTS

We refer to the above matter and to your letter dated 6th December 2023, with the above matter and respond to the query as follows:

On Thursday, 21st September, 2023, the KCPE results were released by the KNEC. As a company, we were notified to provide the results to our subscribers in our three contractual agreements with KNEC. We have the data for the 2023 KCPE results.

Between 11:00 AM and 2:00 PM, subscribers were able to send their unique numbers to 40054. During this period, the system was configured to respond with an error message indicating the unavailability of the system. Subscribers were not charged for the error message during this period.

The KNEC system was then upgraded to transmit results at 2:00 PM on the 21st September. Airtel subscribers were sent a correct error message charged and results were transmitted as generated by the system. Subscribers who entered an invalid number were not charged for the error message.

We received 21 complaints in the period between 21st and 26th November 2023 related to the error message. We have since updated the system to verify and we are yet to receive feedback.

Kindly feel free to reach out to us via our feature any other feedback.

Yours faithfully,
Airtel Networks Kenya Limited

Ray Njengere
Legal & Regulatory Director

7th December 2023

The Chief Executive Officer,
The Kenya National Examinations Council
The New Mithani House, South C
Nairobi

Dear Sir,

REF: REQUEST FOR CONFIRMATION ON CHARGES ON ERROR MESSAGES DURING RELEASE OF THE 2023 KCPE EXAMINATION RESULTS

We refer to the above matter and to your letter dated 6th December 2023,

Ref:KNEC/LEG/GEN/2023/1043.

We hereby confirm that customers were not charged for unsuccessful access to the Short Code SMS service 40054.

Yours Sincerely,

pp *Fawzia Ali*

Peter Ndegwa
CHIEF EXECUTIVE OFFICE



THE KENYA NATIONAL EXAMINATIONS COUNCIL

Ref: KNEC/LEG/GEN/2023/1043

December 6, 2023

The Chief Executive Officer,
The Kenya National Examinations Council,
The New Mithani House, South C,
P.O. Box 71584 - 00100 City Square,
NAIROBI

Dear Sir,

REF: REQUEST FOR CONFIRMATION ON CHARGES ON ERROR MESSAGES DURING RELEASE OF THE 2023 KCPE EXAMINATION RESULTS

Reference is made to the above matter.

The Council approved before the National Examinations Council on Education today, 6th December 2023. One of the issues that they sought clarity on is whether during the release of the 2023 KCPE results on the 21st November 2023, clients who sent SMS on code 40054 to access results, and were not successful in accessing the results, whether they were charged or not.

The Council is required to provide confirmation of this issue when it appears before Parliament tomorrow, 7th December 2023. The Council will appreciate receiving the same before close of business today as we are to appear with this confirmation by 9:00am tomorrow.

Yours Sincerely,

[Signature]

Dr. David Njengere, KNEC
CHIEF EXECUTIVE OFFICER

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8.4 MVAS limited similar short code projects.

MVAS Limited
P.O. Box 1000, Nairobi
Nairobi, Kenya
Email: mvas@mvas.co.ke
Tel: 011 2211818

REPUBLIC OF KENYA

PROCESSED BY: 17/04/2023

MVAS Limited
P.O. Box 1000, Nairobi
Nairobi, Kenya
Email: mvas@mvas.co.ke
Tel: 011 2211818

LETTER OF AWARD FOR SUPPLY, INSTALLATION, TESTING AND COMMISSIONING OF MASSAGE THERAPY SYSTEMS FOR A PERIOD OF THREE (3) YEARS.

This is to certify that your Tender dated 17th February, 2023, for Supply, Installation, Testing and Commissioning of Massage Therapy Systems for a Period of Three (3) Years Tender No. IT/001/2023/2023 has been awarded at a total amount of KES 1,000,000.00 (One Million Kenya Shillings) and Two Hundred Only (Kshs. 222,200.00) and the SMS price as indicated below:

MVAS MASSAGE THERAPY AWARD PRICE

ITEM	UNIT	QUANTITY	UNIT PRICE	TOTAL PRICE
1. MASSAGE THERAPY SYSTEM (BUNDLE)	1	1	1,000,000.00	1,000,000.00
2. MASSAGE THERAPY SYSTEM (BUNDLE)	1	1	1,000,000.00	1,000,000.00
3. MASSAGE THERAPY SYSTEM (BUNDLE)	1	1	1,000,000.00	1,000,000.00
4. MASSAGE THERAPY SYSTEM (BUNDLE)	1	1	1,000,000.00	1,000,000.00
5. MASSAGE THERAPY SYSTEM (BUNDLE)	1	1	1,000,000.00	1,000,000.00
6. MASSAGE THERAPY SYSTEM (BUNDLE)	1	1	1,000,000.00	1,000,000.00
7. MASSAGE THERAPY SYSTEM (BUNDLE)	1	1	1,000,000.00	1,000,000.00
8. MASSAGE THERAPY SYSTEM (BUNDLE)	1	1	1,000,000.00	1,000,000.00
9. MASSAGE THERAPY SYSTEM (BUNDLE)	1	1	1,000,000.00	1,000,000.00
10. MASSAGE THERAPY SYSTEM (BUNDLE)	1	1	1,000,000.00	1,000,000.00

You are now required to go to a formal unconditional acceptance within 7 days. You are required to furnish a Performance Security of Kenya Shillings One Hundred and Fifty Thousand (Kshs. 150,000) and daily fixed levy security (Kshs. 100,000).

We take this opportunity to congratulate you and look forward to a satisfactory working relationship.

MVAS Limited
P.O. Box 1000, Nairobi
Nairobi, Kenya
Email: mvas@mvas.co.ke
Tel: 011 2211818



4th October, 2017

Ref: EBC/PROC/49/2017-2018

Managing Director,
MVAS Limited
P.O. Box 1000, Nairobi
Nairobi

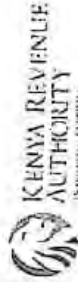
RE: NOTIFICATION OF AWARD FOR TENDER NO. EBC/43/2017-2018 SUPPLY AND DELIVERY OF BULK SMS.

Reference is made to the above mentioned tender.

The Independent Technical and Financial Commission has accepted your bid for supply and delivery of Bulk SMS on an annual recurring basis for a period of three years at a unit price of Thirty Five Cents Only (KES 0.35), inclusive of VAT.

Please acknowledge receipt of this letter of notification (signifying your acceptance. The contract shall be signed by both parties subsequently.

COMMISSION SECRETARY/CEO



Office of the Commissioner General

KRA/HR/IN/04/2017-2018

27th March 2018

The Chief Executive Officer,
Till Technologies Limited
P.O. Box 1000, Nairobi
Nairobi, Kenya.

Kindly acknowledge receipt of this letter.

RE: NOTIFICATION OF INTENTION TO AWARD A FRAMEWORK CONTRACT FOR PROVISION OF BULK SMS SHORT CODE AND SMS PAYWAY SOLUTION AND SERVICE FOR A PERIOD OF THREE (3) YEARS.

Reference is made to your bid submitted in response to the Framework Contract for provision of Bulk SMS Short Code and SMS Payway Solution and Service for a period of three years at a unit price of Thirty Five Cents Only (KES 0.35), inclusive of VAT.

The contract shall be signed by both parties subsequently.

A. Contract		B. Framework Contract	
Item	Unit Price	Item	Unit Price
1. BULK SMS SHORT CODE	1,000,000.00	1. BULK SMS SHORT CODE	1,000,000.00
2. BULK SMS PAYWAY SOLUTION	1,000,000.00	2. BULK SMS PAYWAY SOLUTION	1,000,000.00
3. BULK SMS PAYWAY SOLUTION	1,000,000.00	3. BULK SMS PAYWAY SOLUTION	1,000,000.00
4. BULK SMS PAYWAY SOLUTION	1,000,000.00	4. BULK SMS PAYWAY SOLUTION	1,000,000.00
5. BULK SMS PAYWAY SOLUTION	1,000,000.00	5. BULK SMS PAYWAY SOLUTION	1,000,000.00
6. BULK SMS PAYWAY SOLUTION	1,000,000.00	6. BULK SMS PAYWAY SOLUTION	1,000,000.00
7. BULK SMS PAYWAY SOLUTION	1,000,000.00	7. BULK SMS PAYWAY SOLUTION	1,000,000.00
8. BULK SMS PAYWAY SOLUTION	1,000,000.00	8. BULK SMS PAYWAY SOLUTION	1,000,000.00
9. BULK SMS PAYWAY SOLUTION	1,000,000.00	9. BULK SMS PAYWAY SOLUTION	1,000,000.00
10. BULK SMS PAYWAY SOLUTION	1,000,000.00	10. BULK SMS PAYWAY SOLUTION	1,000,000.00

Talpe Uthman, Tuguegarao

8.6 MVA CR12



BUSINESS REGISTRATION SERVICE
P. O. BOX 30031
NAIROBI
14 AUG 2023

To
DANIEL KIWANI MBUGUA
P. O. Box 59243
00100 - G.P.O. NAIROBI

THE COMPANIES ACT, 2015

Records relating to the below company held by the Companies Registry as at 14 Aug 2023

COMPANY	MVAS LIMITED
COMPANY NUMBER	PVT-GYUDYDL
NOMINAL SHARE CAPITAL	100,000.00
NUMBER AND TYPE OF SHARES (VALUE PER SHARE)	ORDINARY: 1000 (KES 100.00 EACH)
DATE OF REGISTRATION	24TH APR, 2019
REGISTERED OFFICE	P.O BOX 44296 CITY SQUARE TELEPHONE: +2547388 10438, EMAIL: MMGAKI11@GMAIL.COM COUNTY: NAIROBI, DISTRICT: STAREHE DISTRICT, LOCALITY: CBD STREET: MOIMBASA ROAD, BUILDING VISION PLAZA
POSTAL ADDRESS	P.O BOX 44296 CITY SQUARE
ENCUMBRANCES	

Name of Directors and Shareholders of the above company with their particulars are as follows

NAME	DESCRIPTION	ADDRESS	NATIONALITY	SHARES
JAMES MUTUA KING'OO	DIRECTOR/SHAREHOLDER	P.O BOX 13990 G.P.O NAIROBI	KENYAN	ORDINARY: 200
EMMANUEL CHEBORET TARUS	DIRECTOR/SHAREHOLDER	P.O BOX 13990 G.P.O NAIROBI	KENYAN	ORDINARY: 500
MORGAN EZEKIEL KIPCHIRCHIR KIPKURUI	DIRECTOR/SHAREHOLDER	P.O BOX 13990 G.P.O NAIROBI	KENYAN	ORDINARY: 300
TOTAL				1000

Yours Faithfully,
REGISTRAR OF COMPANIES

REF NO: 05-BIFEJADR

COMPANIES ACT, 2015

8.7 Snapshot of email from KNEC to MVAS



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8.8 KNEC Infrastructure

KNEC currently has a Wide Area Network (WAN) linking its premises in different locations. The network is supported by core switches as well as network access switches. The council is supported by 300 MB internet link, with a 100 MB link for its MPLS WAN operations

8.8.1 Hardware

The total capacity that KNEC has for storage for both the Primary (PR) and Disaster Recovery (DR) sites is 598 TB. The Data centre also has VMware for virtualization of its environment to enhance efficiency. The KNEC Data Centre equipment was upgraded in 2016 and 2020 to respond to emerging needs and improve the reliability of KNEC services with the acquisition of the following hardware equipment:

No	Item	Description	Qty
1.	HP Rack	Rack System	4
2.	HP C7000 Blade Enclosure and Accessories	Blade Enclosure	1
3.	HPE Synergy12000 CTO Frame	Synergy Frame	3
4.	HPE SY 660 Gen10	Blade servers	8
5.	HPE Synergy Composer		6
6.	HP BL660c Gen 9	Blade servers	4
7.	SAN Switch - HPE SN6600B 32Gb 48/48PP+ 48p SFP + Switch	SAN switches	8
8.	Network Switch HPE FF 5940 48XGT 6QSFP+ Switch	Network Switches	8
9.	3 PAR 8440 Storage with 2 Nodes and Accessories	STORAGE	4

The end user devices run on windows 11 and 10 and Microsoft Office 365 for office productivity and collaboration. KNEC uses Microsoft Exchange server for the management of emails. KNEC has provided staff members with Personal Computers/Laptops for daily and routine operations.

8.8.2 Software

The Operating System in use is Windows Server 2019 and the database is

Microsoft SQL Server enterprise edition. KNEC has over the years automated most of its examination related operations. Automation has achieved a digitized environment with occasional manual intervention required during data input or processing. KNEC has deployed ACCPAC Enterprise Resource Planning (ERP) software to support all the back-office operations.

KNEC has examination registration, processing, grading and archival systems for the summative examinations. At the onset of the first grade 3 assessment, KNEC developed an online platform to support the competency-based assessment from registration/ identification of learners, upload of assessment tools and instructions on conduct, uploading/keying of assessment outcomes and analysis of the results. This has now been extended to grade four (4), five (5), grade six (6) and grade seven (7).

In the last one year the organization has piloted and rolled out e-assessment and e-marking platform in the teacher assessments. Increase in assessment areas and the innovation around offering assessments using technology, requirements in technological investments both in hardware and software and building human resource capacity is very critical. KNEC as organization is also keen to integrate emerging technologies including Artificial intelligence and Block chain as it continues to digitize the assessments processes.

8.8.3 Security

To respond to the emerging cyber security concerns as well as safeguarding the organization information assets, KNEC has invested in the following solutions: Kaspersky antivirus system for end user device protection; FortiGate firewall for network perimeter protection; web filtering; antispam and intrusion prevention; Fortisiem for pro-actively logging events for all components on the network.

8.8.4 Backup and Disaster recovery

KNEC already has licensed backup software VEEAM 12 for backup and recovery. The country has experienced a rise in cyber-attacks targeting many government institutions. The ransomware is targeting virtualization platforms

encrypting data storage in the storage appliances and physical servers' disks. VEEAM software is used to automate the backups to the storage appliance, it has capability of making the backups immutable hence difficult to be altered by any ransomware attack.

8.8.5 Way Forward

The existing ICT infrastructure has been able to support the current summative assessment examinations that is conducted for KPSEA, KCPE and KCSE examinations. Based on the recent task force report requiring the council to collect and store school-based assessment data for grades 3, 4, 5 and 6 carrying 60% of the score to be combined with grade 6 summative assessment catering for the remaining 40%. The same is going to happen for the grades under junior secondary. Adoption of e-assessment in teacher education will require additional resources. KNEC is also intending to roll-out e-assessment in basic education. KNEC will be required to store enormous amounts of data which is a shift from the two main examinations (KCPE, and KCSE) that are conducted annually. In order to administer these assessments effectively, there will be need to develop and implement an item writing/banking software and other applications that support online registration and assessment of candidates. It is evident that the current ICT infrastructure will be over-stretched in terms of storage, performance, computing resource requirements and will therefore need upgrading.



THE KENYA NATIONAL EXAMINATIONS COUNCIL

"Transforming Lives Through Quality Assessment and Credible Certification"



All official correspondence should be addressed to:
The Council Secretary/Chief Executive Officer

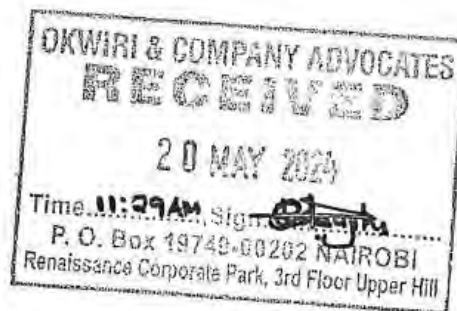
KNEC is ISO 9001:2015 Certified

KNEC/LEG/CIV/2024/117/1

May 4, 2024

Olieti Raphael Okubo C/o
Okwiri & Co Advocates
Renaissance Corporate Park, 3rd Floor,
Elgon Road, Upperhill
P. O. Box 19749-00202,
NAIROBI

Email: raphael@okwiriadvocates.com
okuboraphael@yahoo.com



Dear Sir,

**RE: REQUEST FOR INFORMATION BY RAPHAEL OBUBO OLJETI
RELATING TO THE REPORTED IRREGULARITIES IN THE RECENT
RELEASED KCPE RESULTS BY THE MINISTRY OF EDUCATION**

Reference is made to your letter dated 8th December 2023 (Ref: KNEC/AC/8-12/23) on the above matter.

As per your request, the Council encloses the following documents that contain the information requested.

1. The KNEC Rules of 2015, (Legal Notices No.129-131 of 2015).
2. User Guide for the Management of KCPE Examinations.
3. User Guide for the Management of KCSE Examinations.
4. The KNEC Service Charter.
5. Audit of the KNEC 2023 KCPE Examination ICT Systems by the Ministry of ICT.
6. Year 2023 KCPE Essential Statistics.
7. Year 2023 KCSE Essential Statistics.
8. Cabinet Secretary Speech on the Release of the 2023 KCPE Results
9. Cabinet Secretary Speech on the Release of the 2023 KCSE Results
10. Report to the Parliamentary Committee on Issues around the 2023 KCPE Examination in December 2023.
11. Past Examination Reports
 - 11.1 Year 2022 KCPE examination Report.
 - 11.2 Year 2022 KCSE examination Report, Volume 1 – Languages.
 - 11.3 Year 2022 KCSE examination Report, Volume 2 – Mathematics & Science.
12. Circular on the 2023 KCPE Examination Results.

The Council assures you of continued support.

Yours sincerely,


Dr. David Njengere, MBS
CHIEF EXECUTIVE OFFICER

Encls.

This is the Exhibit marked Afo - 5
referred to in the annexed affidavit/declaration of
ANDREW FARUKI OLEND
Sworn before me this 26th day of
declared May 2024 at Kakungu
Commissioner for Elections