

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

SECOND ASSEMBLY-THIRD SESSION

NBI CA. PLC. 2019/ (79)

28th November, 2019

PAPER LAID

Pursuant to Standing Order 191 (6) I beg to lay the following Paper on the Table of the Assembly, today Thursday 28th November, 2019.

THE REPORT OF THE SELECT COMMITTEE ON POWERS AND PRIVILEGES ON THE ALLEGED INQUIRY INTO ALLEGATIONS OF HARASSMENT OF A WITNESS DURING A SITTING OF THE SECTORAL COMMITTEE ON CHILDREN, EARLY CHILDHOOD EDUCATION AND VOCATIONAL TRAINING ON 26TH JUNE 2019

(Chairperson, Select Committee on Powers and Privileges)

Copies to:
The Speaker
The Clerk
Hansard Editor
Hansard Reporters
The Press

Approved
[Signature]
28/11/2019

Paper laid on
28/11/2019
[Signature]

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

SECOND ASSEMBLY (THIRD SESSION)

Chairperson, Select Committee on Powers & Privileges

Subject: Adoption of the Report

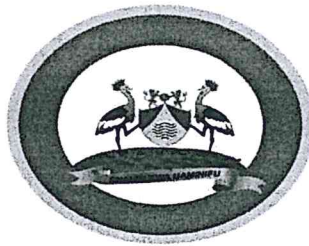
Hon. Speaker, I beg to give notice of the following Motion: -

THAT, This Assembly adopts THE REPORT OF THE SELECT COMMITTEE ON POWERS AND PRIVILEGES ON THE INQUIRY INTO THE ALLEGATION OF HARASSMENT OF A WITNESS DURING A SITTING OF THE SECTORAL COMMITTEE ON CHILDREN, EARLY CHILDHOOD EDUCATION AND VOCATIONAL TRAINING ON 26TH JUNE, 2019, laid on the Table of the Assembly today, Thursday, 28th November, 2019.

(Chairperson, Select Committee on Powers & Privileges)

Approved
[Signature]
28/11/2019

THE NAIROBI CITY COUNTY GOVERNMENT



THE NAIROBI CITY COUNTY ASSEMBLY

SECOND ASSEMBLY – THIRD SESSION

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INQUIRY INTO THE ALLEGATION OF HARASMENT OF A WITNESS DURING A
SITTING OF THE SECTORAL COMMITTEE ON CHILDREN, EARLY CHILDHOOD
EDUCATION AND VOCATIONAL TRAINING ON 26TH JUNE 2019.

2019

THE SELECT COMMITTEE OF POWERS AND PRIVILEGES

Clerk's Chambers,
CITY HALL,
NAIROBI.

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Approved
[Signature]

The Report of the Select Committee on Powers and Privileges

on 26th June 2019 during a sitting of the

28/11/2019

Appendices

- *Minutes of the Committee meetings*
- *Seargent-At-Arms statements*
- *Invitation letters for witnesses*
- *Responses to invitations*

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1.0 PREFACE

1.1 Establishment and Mandate

Hon. Members,

The Committee on Powers and Privileges is established pursuant to the Standing Order 183 as read together with Section 15 of the County Assemblies Powers and Privileges Act, 2017 (the Act). The Committee's mandate amongst others, as outlined under Section 15 of the Act is to:

- a. Inquire into the conduct of a member whose conduct is alleged to constitute a breach of privilege; and
- b. Either of its own motion or a result of a complaint made by any person, inquire into the conduct of a member whose conduct is alleged to constitute a breach of privilege
- c. Investigate, table reports and make recommendations to the floor of the house
- d. Issue summons to witnesses to appear before the committee,
- e. Receive evidence and to request for and receive papers and documents from the Government and the public.

Further, as envisaged under Section 18 of the Act as read with Article 195 of the Constitution of Kenya, the Committee as constituted has the same powers as the High Court.

1.2 Committee Membership

The Committee Membership comprises of:

- | | |
|-------------------------------|------------------------|
| 1. Hon. Beatrice Elachi, MCA | – Speaker/ Chairperson |
| 2. Hon. Naftaly Mathenge, MCA | – Vice-Chairperson |
| 3. Hon. Charles Thuo, MCA | |
| 4. Hon. Maurice Ochieng, MCA | |
| 5. Hon. Peter Wahinya Njau | |
| 6. Hon. Geoffrey Majiwa, MCA | |
| 7. Hon. Evans Otiso, MCA | |
| 8. Hon. Carolyne Mayunzu | |
| 9. Hon. Jacinta Wanjiru, MCA | |
| 10. Hon. Margaret Mbote, MCA | |
| 11. Hon. Jackline Apondi, MCA | |

1.3 Secretariat

- | | |
|---------------------|------------------------------------|
| 1. Monicah Muthami | – Acting Principal Clerk Assistant |
| 2. Judith Aron | – Clerk Assistant |
| 3. Robert Otieno | - Clerk Assistant |
| 4. Munase Mukhombwa | – Intern |

Hon. Members,

The County Assembly Committees are extensions of the Assembly established under the County Assembly Standing Orders and in accordance with Section 14 of the County Governments Act, 2012. The Committees are supposed to perform functions that the Assembly is not well fitted to consider in plenary.

The select Committee on Powers and Privileges exercises its mandate by investigating any matter pertaining conduct of members and staff within the precincts of the Assembly.

Pursuant to the provisions of Standing Order 183 as read together with Section 15 of the Act, the Select Committee on Powers and privileges had a meeting to consider, deliberate and lay modalities on how to proceed with matters that had been placed before the Committee for investigation. This was necessary for the effective discharge of the Committee's mandate.

Subsequently, the Select Committee on Powers and Privileges held the first sitting on the 2nd day of July 2019 at the Assembly Chamber Boardroom between 9.30 Am and 12.00 Noon.

The Committee held a total of **five (5) Sittings** during which evidence was received from witnesses and footage reviewed by the Committee. During the sittings, witnesses were summoned to appear and adduce evidence in chief. The Committee held sittings on 2nd, 9th, 10th, 15th and 16th July 2019.

The Committee summoned eleven (11) witnesses namely; Hon. Millicent Mugadi, MCA, Hon. Francis Ngesa, MCA, Hon. Julius Maina Njoka, MCA, Hon. Kennedy Oyugi, MCA, Mr. Halkano Waqo, CFO Nairobi City County, Ms. Lucia Mulwa, CEC Member Education Nairobi City County and staff from the County Assembly including, Mr. Gedion Ndunda, Mr. Dan Kanyoro, Ms. Elizabeth Njuguna, Mr. Benson Nkuito, Mr. Rashid Ochieng. The Committee having reviewed all the CCTV and Media footage of the incidences within the precincts of the Assembly and evidence tabled to the Committee in regard to the bribery allegations made observations and recommendations in accordance with this report.

1.4 Acknowledgement

Hon. Speaker, I wish to acknowledge with gratitude the Members of the Select Committee on Powers and Privileges for the dedication that they have portrayed in ensuring that the Committee implements its mandate and that the County Assembly upholds its dignity and integrity, while looking into the alleged unethical conduct of members within the precincts

and investigations into allegation of harassment of a witness during the sitting of the Sectoral Committee on Early Childhood Education and Vocational Training.

Hon. Members, my sincere appreciation also goes to the office of the Clerk of the County Assembly and the Secretariat of the Select Committee on Powers and Privileges for offering sound legal advice on the mentioned inquiry.

Hon. Members, it is therefore my pleasant duty and privilege to table this report before the Assembly and recommend it for adoption.

Thank You

Signed **Dated.....**

Hon. Beatrice Elachi, MCA
Speaker/ Chairperson

2.0 BACKGROUND TO THE INQUIRIES

2.1 Inquiry into the conduct of members on 26th June 2019 at a sitting of the Sectoral Committee on Early Childhood Education and vocational training and allegation of harassment of a witness.

On Wednesday, 26th June, 2019, during a sitting of the Sectoral Committee on Children, Early childhood Education and Vocational Training vide a letter from the Chief Finance Officer addressed to the Office of the Clerk of the County Assembly dated 28th June 2019 REF CFO/HWG/257/2019/E, it is alleged that the CFO was harassed by Hon. Members.

The Office of the Chief Sergeant-at-arms filed an incident report addressed to the Clerk of the Assembly REF: NCCA/CSAA/SIR/060/2019 dated 27th June 2019 giving an account of what transpired on the material day.

The matter was brought before the committee vide a direction from the Hon. Speaker on the floor of the House on 27th June 2019. A meeting of the Committee was subsequently convened on 2nd July 2019 where the committee deliberated upon the said issue and reiterated on the protection on witnesses as anchored in County Assemblies Powers and Privileges Act 2017, 20(1).

The committee resolved to invite eleven witnesses to adduce evidence.

2.2 Committee Inquiry into Privileges Breaches

a) Legal Framework

The Select Committee on Powers and Privileges draws its mandates and powers from various Constitutional and statutory provisions, as well as parliamentary dictates derived from long standing practice and procedure.

Primarily the enabling law to the mandate of the Committee is the Nairobi County Assembly Standing Orders, which draws its legality and powers from County Governments Act, 2012 and the Constitution. Standing Order 183 provides for the Powers and privileges of Committees, thus -

Committees shall enjoy and exercise all the powers and privileges bestowed on County Assembly by the Constitution and statute, including the power to summon witnesses, receive evidence and to request for and receive papers and documents from the Government and the public.

The Committee is established under the County Assemblies Powers and Privileges Act, 2017, Section 15 (1). The Act is established under Article 196(3) of the Constitution of Kenya, 2010.

The Committee's powers to summon witnesses for purposes of giving evidence is provided for under Article 196 of the Constitution, thus –

A county assembly or any of its committees has power to summon any person to appear before it for the purpose of giving evidence or providing information. For the purposes of clause (1), an assembly has the same powers as the High Court to—

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

Further, Article 196(3) provides that *Parliament shall enact legislation providing for the powers, privileges and immunities of county assemblies, their committees and members.* It is on the basis of the foregoing that the Senate and the National Assembly of the Republic of Kenya enacted the County Assemblies Powers and privileges Act, 2017.

Section 16 of the County Assemblies Powers and Privileges Act, 2017 states what constitutes to be a breach of the privileges and Section 15 of the Act gives the Committee the mandate to inquire into conduct of a Member whose conduct is alleged to constitute a breach of privileges in terms of Section 16.

The Act provides comprehensively for offenses, under Section 27 for failure to attend to summons and for general breaches of the law's provisions elsewhere.

b) Events Occasioning Breaches and the Inquiry

The matters for which the Select Committee on Powers and Privileges now undertakes this inquiry arose from the alleged unethical conduct of Members within the precincts of the Assembly which according to Section 20 (1) of the County Assemblies Powers and Privileges Act, 2017 may likely reflect adversely on the dignity or integrity of the County Assembly and its Members contrary to the best interests of the County Assembly.

The Committee was to inquire into the allegations of harassment of witnesses at a committee sitting within the precincts of the Assembly

2.3 Witnesses

The Committee invited **eleven (11)** witnesses to shed light on the incidence under inquiry. The witnesses comprised of honorable members whose names were implicated in the investigations; the Chairperson of the Sectoral Committee on Education; members of staff of the County Assembly and; two witnesses from outside the County Assembly membership.

On behalf of the Committee, the office of the Clerk of the County Assembly issued invitation letters to the following witnesses to appear before the committee to shed light on the investigations.

1. Hon. Millicent Mugadi, MCA- Chairperson Sectoral Committee on Education
2. Hon. Francis Ngesa, MCA
3. Hon. Julius Maina Njoka, MCA
4. Hon. Kennedy Oyugi, MCA
5. Mr. Halkano Waqo, CFO Nairobi City County
6. Ms. Lucia Mulwa, CEC Member Education Nairobi City County
7. Mr. Gedion Ndunda- Chief Sergeant-at-arms Nairobi County Assembly
8. Mr. Dan Kanyoro- Sergeant-at-aarm, Nairobi City County Assembly
9. Ms. Elizabeth Njuguna- Sergeant-at-arms, Nairobi City County Assembly
10. Mr. Benson Nkuito- Commisionaire, Nairobi City County Assembly
11. Mr. Rashid Ochieng- Commissionaire, Nairobi City County Assembly

3.0 APPEARANCE BEFORE THE COMMITTEE BY WITNESSES

3.1 Witnesses from the County Assembly Membership and Staff

Statements and oral testimony from witnesses from the County Assembly were reviewed and noted as follows: -

a) Hon. Millicent Mugadi, MCA

The witness appeared in person to adduce evidence based on an invitation letter from the Committee in her capacity as the Chairperson of the Sectoral Committee on Children, Early Childhood Education and Vocational Training. The witness was asked the following questions by the committee and subsequently responded as follows;

- ✚ The witness was asked whether she was aware why she had been invited before the committee, Hon. Millicent stated;

She was not aware. She was thereby reminded by the Chairperson why she had been invited. The Chairperson read the invitation letter to Hon. Millicent Mugadi, MCA. She acknowledged why she had been invited to appear before the Committee.

- ✚ The witness was tasked to brief the Committee on the events of 26th June 2019 during the Committee sitting within the precincts, she stated;

That, the Chief Finance Officer had been invited to shed light to the Committee on Education on the reason for delay in disbursement of Bursaries to needy students. That during the deliberation several members appeared as friends of the Committee.

That the Chief Officer was unable to respond to questions raised by the committee and not only got angry but refused to answer the questions under inquiry. She affirmed to the Committee that the Chief Finance Officer was not harassed during the sitting. That although having not answered the questions asked at the meeting she adjourned the meeting on that day without any altercations between members and officers from the executive.

She stated that if at all there was any harassment by honorable members then it must have happened after the meeting. The Chairlady informed the Committee that Hon. Malde Jayendra, MCA did not attempt to disrupt the meeting.

She informed the Committee that the CEC Member for Education disappeared shortly after adjourning the meeting but she did not hide under the table as alleged by the Chief Finance Officer, Mr. Halakano Waqo, because the Sergeant-at-arms offered her protection after adjourning.

She informed the committee that in her opinion there was no fracas during the sitting of the committee save for pertinent questions which were not fully responded to by officers from the executive.

✚ The witness was asked to comment on her observations of the incident

She stated that the situation would not be the same if members of the executive had provided sufficient information of the cause of delay of disbursement of the bursaries. In her opinion there was need to make changes in the Sector. She asked the Committee to consider this as part of its findings and recommendations.

b) Mr. Gedion Ndunda- Chief Sergeant-at-arms

The witness appeared in person to adduce evidence based on his incident report addressed to the Clerk of the Assembly REF: NCCA/CSAA/SIR/060/2019 dated 27th June 2019 giving an account of what transpired on the material day and in his capacity as the Chief Sergeant-at-arms. The witness was asked the following questions and gave his response as follows;

✚ The witness was asked whether he was aware why he had been invited to appear before the Committee on Powers and privileges

He stated he was aware that he had been invited to shed light on events of what had transpired on Wednesday, 26th June 2019 during a sitting of the Sectoral Committee on Children, Early Childhood Education and Vocational Training.

✚ The witness was asked to brief the committee on his understanding of what transpired

He stated that as part of his duties, he deploys officers to man and protect all committee sittings. That, on 26th June 2019, the Sergeant-at-arms, Elizabeth Njuguna was on duty at the Committee rooms to help in coordination and maintaining order. That, shortly after adjournment of the sitting of the Committee on Education, he was called by the sergeant on duty who informed him of an altercation at the Committee rooms. He immediately called reinforcement of the other officers in the Sergeant-at-arms department namely; Mr. Dan Kanyoro, Mr. Rashid Ochieng and Benson Nkuito. He also accompanied the officers to the basement of the City Hall Building at the Committee rooms.

That upon arrival in the committee room, he found the CEC member for education. He interrogated her to find out if all was well. He affirmed to the committee that she stated all was well. He shortly afterwards escorted her out of the precincts.

✚ The witness was tasked to inform the Committee of mechanisms to put in place to avoid such occurrences in future

He stated that going forward, he would deploy additional officers for the committees during committee sittings. Further, that the Assembly was working towards procuring additional CCTV cameras to be installed at the Committee Rooms.

The witness submitted a hand written statement to the committee and promised to hand to the committee CCTV footage of what transpired on 25th June 2019 at the Cafeteria the following day.

c) Mr. Daniel Kanyoro- Sergeant-at-arms

The witness appeared in person to adduce evidence based on an invitation letter from the Committee in his capacity as a Sergeant-at-arm in the Assembly. The witness was asked the following questions by the committee and subsequently responded as follows;

- ✚ **The witness was asked to introduce himself and to state to the Committee whether he was aware of why he had been invited**

The witness introduced himself as Daniel Kanyoro a sergeant-at-arm in the Assembly. He was also aware why he had been invited to appear before the committee.

- ✚ **The witness was asked to brief the Committee on what transpired on 26th June 2019**

He stated that he was not present at the altercation but he had received communication from the chief sergeant-at-arm informing him that there was an incident at committee rooms that needed his attention. He added that he immediately proceeded to the basement of the Assembly where he found the CEC Member for education in the Committee Room. She was escorted out of the precincts by the Chief Sergeant-at-arm. He therefore did not witness the altercation and as such could not comment further on the occurrence of the day.

Basing on the foregoing the witness was dismissed.

d) Ms. Elizabeth Njuguna- Sergeant-at-arms

- ✚ **The witness was asked to introduce herself and whether she was aware why she had been invited to appear before the Committee**

The witness introduced herself as Ms. Elizabeth Njuguna, a Sergeant-at-arm at the Assembly. She acknowledged receiving a communication from the Clerk's Office inviting her to appear before the Select Committee on Powers and Privileges purposefully to shed light on what transpired on 26th June 2019 at the Committee rooms.

✚ The witness was asked to brief the committee on what transpired, she stated;

That on 26th June 2019 as she was manning the Committee rooms, she heard a commotion from one of the committee rooms. That she rushed to see what was happening at the rooms as part of her duty. On her way, she met a number of honorable Members on the corridor together with the Chief Finance officer. She added that Members were shouting at the officer insisting that he address the press on bursary issue as they were under pressure from the electorate who were in need of the funds in order to attend school.

✚ The witness was asked to name honourable members she saw within the corridor. She stated;

That saw several honourable members but could only remember two namely; Hon. Francis Ngesa and Hon. Kennedy Oyugi. She added that the honorable members insisted that the officer must address members of the press.

✚ The witness was asked to share with the Committee what she witnessed and if she saw honourable members harass the Chief Finance officer. She stated;

That she did not see any honorable members harass the CFO but just witnessed an argument arising between the honorable members and the Officer on why bursaries had not been disbursed and demands by the members that the CFO must address the media on the issue to calm down the pressure members had from the electorate.

✚ The witness was tasked to inform the Committee of her duties during Committee sittings. She stated;

That her major role during a Committee sitting is to provide security to the honorable members, officers of the staff of the county Assembly and any witnesses invited to appear before the committees.

✚ The witness was asked whether she heard any honorable member use abusive language within the precincts on that day. She stated;

That she did not hear any member use abuse abusive language but confirmed seeing them argue demanding the CFO to address the media.

✚ The witness was asked if she saw where the CEC Member for Education was during the incident. She stated;

That she did not see the CEC Member but only saw the CFO within the corridors with the honorable members.

- ✚ The witness was asked to brief the committee on whether she was aware of the allegation that members of the Sectoral Committee on Justice and Legal Affairs had attended the sitting. She stated;

That she was not aware.

- ✚ The witness was asked to inform the committee of her actions to protect the County Finance Officer. She stated;

That upon noticing the altercation, she called her Head of department, the Chief Sergeant - At - Arms and told him that there was a commotion at the basement of the Assembly where committee rooms are located. She requested him to hurry and come with reinforcement. That her HOD responded promptly and the CFO was escorted out of the premises.

- ✚ The witness was asked of her opinion as to whether the honorable members acted morally or not and what should be done differently to avoid such circumstances in future.

She stated that the office of the Sergeant-at-arms should be promptly be informed in advance of any witnesses appearing before the Committees.

- ✚ The witness was asked on how deployment to Mann the Committee Rooms is done and if she is capable of controlling large crowds especially of men

She stated that deployment is done by Chief Sergeant At Arm and that she was unable to control because she was the only lady (Sergeant At Arms) present at the incident by that time the altercation began.

- ✚ The witness was asked if she had been assigned to Mann the education committee or the whole of committee meetings

She stated that she was assigned to Mann all Committees that day and she had not experienced that before that day, 26th June 2019.

- ✚ The witness was asked of her suggestions as to measures to be put in place in future to avoid such incidences

She stated that going forward it will be important that every committee be assigned at least one sergeant- at -arm or that the committee through the chairperson should write to the office of the sergeant - at -arms requesting for officers for specific meetings where the chairperson feels the agenda may lead to tension within the sitting.

- ✚ The witness was asked if the confrontation began in the committee room

She told the Committee that, she was not aware if indeed the fracas began in the Committee room because she was not present in the Committee room.

e) Mr. Benson Nkuito- Commissionaire

Whether he was aware why he was invited to the committee meeting.

He confirmed to have received a letter a day before the meeting informing him to appear before the Select Committee on Powers and Privileges and shed light on an incident that took place on 26th June 2019 at the committee room.

The witness was requested to Shed light on the incident

He refuted being stationed at the committee rooms, adding that he was manning the main gate. Adding that at some point, the chief sergeant - at - arms called them and informed them of a commotion in the Committee Rooms, and when they rushed to the incident site, they found that all the Members had left and only media personnel were there.

Upon checking all the rooms, they found CEC of education in Committee room number 3 and his security details.

He confirmed not seeing the CFO but stated that they took the CEC Education through the back door (the KICC gate and she went back to her office).

The witness was asked what the sergeant- At – Arms normally do when Members fight.

He stated that the role of sergeant - at- arms are; to restore order whenever there is a fight.

The witness was asked to confirm to the Committee whether he saw County Finance Officer or County Executive Committee member being harassed by the Members.

He said he didn't witness that.

f) Hon. Francis Otieno Ngesa, MCA

The witness appeared in person to adduce evidence as had been invited to appear before the Committee vide the Committee's letter REF NCCA/P&PC/2019/054 dated 10th July 2019. The witness took an oath to say the truth as directed by the Chairperson. During the deliberations the witness was asked the following questions and gave his response as follows;

✚ The witness was asked to introduce himself

He introduced himself as Hon. Francis Otieno Ngesa, MCA representing Dandora IV Ward. He confirmed that he was aware why he had been invited to appear before the Committee.

✚ The witness was asked to brief the Committee on the events of what transpired on 26th June 2019, Hon. Francis Ngesa stated;

That he attended the meeting of the Sectoral Committee on Education as a friend of the Committee. During the deliberation, the meeting was not stopped at any given time upto the time the meeting was adjourned. He reiterated that the meeting proceeded well to the end. At the time of leaving the meeting some members issues had not been fully answered. As a result of the insufficient information provided, at the time of adjournment the Chairlady of the Committee directed that the Chief Finance Officer, Mr. Halkano Waqo should address members of the press to inform Citizens of Nairobi why the bursaries had been delayed.

✚ The witness was asked of the Honorable members who were present during the sitting, he stated;

It was the Chairperson of the Committee on education, some members of the Sectoral Committee on Justice and Legal Affairs and Hon. Julius Maina Njoka, MCA among others.

✚ The witness was asked if it was true that the Chief Finance Officer was manhandled, he stated;

It was not true.

✚ The witness was asked of the presence of the CEC Member for Education, he stated;

That he did not know of the whereabouts of the CEC Member. However, on clarification of the name of the CEC Member for Education, he confirmed that she was present at the meeting.

✚ The witness was asked whether he or any other member harassed the Chief Finance Officer, he stated;

That he did not harass the CFO but asked pertinent questions with regard to release of bursaries. He refuted the allegation that he pushed and harassed the Chief Finance Officer. He did also see any honourable member who pushed the CFO or used abusive language. He stated that members were generally concerned of why the bursaries had been delayed for disbursement hence the need to address the media to inform the parents in the wards. He informed the committee that over the years, no CFO has ever been harassed hence it

was not true to state that he was harassed. He reiterated that members only wanted information with regard to delay in disbursement of bursaries.

The honourable member further stated that, if it is true that the CFO was harassed on that day then, he and other honourable members did it out of frustrations and had no bad intention in regards to their conversation with the CFO that day. He further stressed that he and other honourable members did not harass the CFO at any given moment unless he didn't understand the meaning of the word harassment.

✚ The witness was asked of the measures he took as an honorable member to protect the witness on that day, he stated;

That on the particular day, it was not his duty to protect the CFO but to represent citizens of Dandora IV Ward and Nairobi at large. Further, there was nobody who wanted to beat up the CFO or harass him. There only request was that the CFO should address members of the fourth estate to inform people of Nairobi on why bursaries had been delayed.

✚ The witness was asked whether he forced the CFO to address the media, he stated;

That he told the CFO to address the media. He confirmed that at that particular time, that was the best way to address the matter and confirmed that as a result of the altercation bursaries had begun to be released as the time of the meeting of the Committee on privileges on 15th July 2019. He had no regrets for what had happened.

✚ The witness was asked if his concern during that day was for payment of per diem for members of the Sectoral Committee on Justice and Legal Affairs, he stated;

That his concern was for bursaries unless the committee could prove the allegation as to demand for per diem. He confirmed that in his ward, members of the public were camping at his home for disbursement of their bursaries. He therefore represented his people in asking for the bursaries.

At this juncture, a video of the occurrence was played to the witness to see.

✚ The witness was asked to confirm his presence in the video that was played

He told the Committee that he had seen someone like him but questioned the source of the video and the committee's trust on the same. Adding that from the video that was just watched, the CFO is seen to be almost slapping someone. He further urged the Committee to be keen on sources of video since he too had the ability to bring another video showing the CFO harass him. And that the video was not captured from the commencement of the said event.

- ✚ The witness was asked whether the conduct of honorable members on 26th June 2019 was acceptable.

He said that he could not pre-empt how honourable members could have behaved comparing his leadership life in the slams that is Dandora iv and the one for his Minority Party Leader who represent people from kileleshwa Ward whom he termed as not being disturbed about bursary issues as compared to him whom when he wakes up, finds the poor women and children by his door seeking for the whereabouts of bursaries

The honourable members added that there was nothing that was strange in regards to what transpired on that day and that may be others misunderstood his normal voice to be noise reiterating that, if it is noise that may make bursaries be issued on time, then he promised to do it several times to the governor according to him.

The honourable member further advised that, going forward it is important that they seal loopholes to avoid such circumstances by the office of the governor making sure that bursaries are issued on time and in case of delays then, earlier preparations and engagements by the Education committee is important.

- ✚ The witness was asked if the Chairperson of the Education Committee provided sufficient protection to the witness, he stated;

She provided protection during the sitting. She even adjourned the meeting when the CFO was not able to provide sufficient information on when the bursaries would be disbursed.

In his final remarks, he stated that after the sitting he had talked loudly so that his frustration would be noted by the Chief Finance Officer. This was not meant to harass the CFO but for him to note the frustration of honourable members. He concluded by stating that if the committee felt he offended anyone he was sorry and asked for forgiveness.

The Chairperson thanked the member for appearing before the committee.

g) Hon. Julius Maina Njoka, MCA

The witness appeared in person to adduce evidence as had been invited to appear before the Committee vide the Committee's letter REF NCCA/P&PC/2019/053 dated 10th July 2019. The witness took an oath to say the truth as directed by the Chairperson. During the deliberations the witness was asked the following questions and gave his response as follows;

- ✚ The witness was asked to introduce himself and whether he was aware of why he had been invited before the committee;

The witness introduced himself as Hon. Julius Maina Njoka, MCA for Kariobangi South Ward and he was aware why he had been invited to appear before the Committee.

- ✚ The witness was asked to brief the Committee on the events of 26th June 2019 during the Committee sitting within the precincts

He had attended the sitting of the Sectoral Committee on Education as a friend of the Committee. Theirs was performance of their role as representatives of the people in ensuring that bursaries are disbursed to the citizens of Nairobi. He could not recollect all the members who were present for the sitting.

He stated that on that day the Honourable members were pressing for answers on disbursement of bursaries. During the sitting, it was resolved that the Executive and the Assembly sector on education holds a press brief to address the raising questions on why the bursaries had not been disbursed to those in need. He added that the meeting was shortly afterwards adjourned. Upon adjournment, members from the executive did not wish to address the media hence the confrontation.

- ✚ The witness was asked whether he came across any member using abusive language, he stated;

There was no member who either insulted or used abusive language on officers from the Executive within the precincts.

- ✚ The witness was asked whether he forced the officers from the executive to address the media, he stated;

He did not force the officers to address the media but only requested the officers to address the media as had been resolved during the sitting.

- ✚ On the allegation of demands for per diem, he stated;

It was a lie, much as it was true there were per diem pending, the focus of the day was why the bursaries had not been disbursed to citizens of Nairobi and not per diem payments.

- ✚ As to whether the sitting was a joint sitting between the Sectoral Committee on Education and the Sectoral Committee on Justice and Legal Affairs, he stated;

He is a member of the Sectoral Committee on Justice and Legal Affairs but the sitting was not a joint sitting.

At this juncture, the video evidence of the incident was played for the witness to view.

✚ On his advice on the best way to avoid such fracas in future, he stated;

Whenever the Assembly invites officers from the Executive to shed light on issues they should be advised to willingly participate and give answers to members. He stated the committee on that day appeared to be begging for this information which should not be the case.

Further, that the Assembly should deploy at least two sergeant-at-arms at committee sittings for protection and security this is because the security offered by the Chairperson to the Committee was not enough.

h) Hon. Kennedy Oyugi, MCA

The witness appeared in person to adduce evidence as had been invited to appear before the Committee vide the Committee's letter REF NCCA/P&PC/2019/055 dated 10th July 2019. The witness sought an apology from the committee for not communicating on the postponement of the meeting in which he was to attend on Thursday 11th June 2019. Through the chairperson it was clarified that the member was issued with a text message confirming the postponement before a letter was issued on Friday 12th July 2019. Further, it was clarified that at the time that he had been scheduled to appear before the committee on Monday 15th July 2019 the committee was cross examining another witness hence the reason the committee did not meet him on the day.

The member thereafter took an oath to say the truth as directed by the Chairperson. During the deliberations the witness was asked the following questions and gave his response as follows;

✚ The witness was asked to introduce himself

He introduced himself as Hon. Kennedy Oyugi, MCA a member of the Sectoral Committee on Education and the member representing Highrise Ward. He confirmed being aware why he had been invited.

✚ The witness was asked to shed light on what transpired on 26th June 2019 during the sitting of the Sectoral Committee on Education, he stated;

The complaint by Mr. Halkano Waqo is misplaced. He stated that the meeting began and ended as directed by the sitting Chairperson. He reiterated that it was not interrupted or aborted. At the end of the sitting but before adjournment, there was a suggestion by Hon. Kabiyo Mbugua and members present, based on the lie in the public that honourable members had refused to disburse bursaries to the needy, that the CFO should address the fourth estate on why bursaries had not been issued. The proposal was accepted during the

sitting except two officers from the executive. He CFO was disorderly and threw hands to members of the committee and friends of the committee. Hon. Oyugi confirmed that the CFO was neither harassed nor manhandled.

He added that on the issue of per diem members were not demanding for per diem but focus was on bursaries. He also felt that some forces were behind the investigation as in the incident report from the sergeant at arms he is mentioned to be a non-member of the committee on Education.

✚ The witness was asked what he witnessed of other honourable members and if he saw them harass the CFO, he stated;

All members present were not satisfied with the response from the executive but the CFO was not harassed.

At this juncture the video of the incident was played to the witness.

The honourable member confirmed he is part of the persons present in the video. He acknowledged that members were demanding that the executive addresses the media and as a result of the demands bursaries were just about to be issued as at the time of the current meeting.

✚ On whether the CFO and members of the executive were given sufficient protection, he stated;

There was no threat during the sitting and as a such the issue of security or protection was a non-issue.

✚ On why he restrained the CFO from leaving at the corridor, he stated;

He was behind the CFO even in the footage and therefore he could not restrain the CFO from behind to him from walking ahead.

✚ The witness was asked if he agreed that the CFO was threatened and harassed, he stated;

That the CFO was not harassed by stating, "No". He corroborated this by stating that if he was threatened chances are high that he would have been bitten up but that was not the case. He admitted that members were shouting at him but none bit up the CFO.

In his final remarks, he stated that the committee should note that as a result of this demand from members on that day, bursaries were just about to be given to the needy students as at the time of the meeting and as such he requested that no member should punished for

working on their roles as representatives of the people. And he did not regret representing the people.

i) Mr. Rashid Ochieng- Commissionaire, Nairobi City County Assembly

The witness appeared in person to adduce evidence as had been invited to appear before the Committee vide the Committee's letter dated 3rd July 2019. The witness took an oath to say the truth as directed by the Chairperson. During the deliberations the witness was asked the following questions and gave his response as follows;

✚ The witness was asked to introduce himself

He introduced himself as Mr. Rashid Ochieng, a Commissionaire at Nairobi City County Assembly. He confirmed that he was aware why he had been invited to appear.

✚ The witness was asked to shed light on what transpired on 26th June 2019, he stated;

That he was performing his duties of manning the gate when he was called by the Chief Sergeant-at-arms to accompany him to the Committee rooms at the basement of City Hall Buildings. Upon arrival, he found the bodyguard of the CEC Member for Education in the corridors but the CEC Member was not present. Upon looking inside the committee rooms they found the CEC Member standing in one of the corners of the Committee room. They accompanied and escorted the CEC Member up to the gate and left her with the bodyguard.

✚ The witness was asked to clarify of the position of the CEC Member in the committee room and whether she was under the table, he stated;

He reiterated that she was standing and wasn't under the table. *(The witness proceeded to demonstrate to the committee the position of the CEC Member)*

✚ The witness was asked of the honourable members present during the incident and whether he saw member harassing the CFO, he stated;

During the occurrence he was at the gate and did not witness the altercation.

✚ The witness was asked on how deployed is done at their department, he stated;

That the officers are assigned duties in the department and the duties change from time to time. This includes manning committee rooms, the gate or even the parking. He confirmed that the department doesn't have a custodian of keys but it was present for all staff to access.

In his final remarks and suggestion of the best way forward in future, he suggested to the committee that the committee rooms should be installed with CCTV and the rooms should have at least 2 sergeants. He concluded by thanking the members for listening to him.

3.2 Witnesses from outside the County Assembly membership

a) Mr. Halkano Waqo- Chief Finance Officer, Nairobi City County

The witness appeared in person to adduce evidence based on his letter of complaint REF CFO/HWG/257/2019/E dated 28th June 2019 addressed to the Clerk of the Assembly which is the basis of the matter under inquiry. The witness was cross examined and responded as follows;

✚ The witness was asked to introduce himself

The witness introduced himself as Mr. Halkano Waqo, the Chief Finance Officer- Nairobi City County.

✚ On inquiry as to whether he was aware why he had been invited to appear before the committee

Mr. Halkano Waqo informed the Committee that he was aware that the Committee had invited him to shed light on two incidences that transpired within the precincts on Tuesday, 25th June 2019 just after the Assembly sitting, in which the Budget Statement had been read and 26th June 2019 during a sitting of the Sectoral Committee on Children, Early Childhood Education and Vocational Training.

✚ The witness was tasked to brief the Committee on the events of what transpired on the two days, he stated;

That On Tuesday, 25th June 2019 at the rise of the house after pronouncement of the Budget Statement by the CEC Member for Finance, while members were having tea at the members lounge, some members approached him demanding to have word with him. That Hon. Francis Otieno Ngesa and Hon. Julius Maina Njoka confronted him demanding to be paid their per diem allowances from a retreat with the Executive. He stated that he informed them that due to the pressure of closing books of the Financial year, the per diem was not yet paid but he promised that the same would be paid to the members.

That on Wednesday, 26th June 2019 he had been invited to a meeting with the Sectoral Committee on Children, Early Childhood Education and Vocational Training to shed light on why there was delay in disbursement of bursaries to the needy children. He stated that the meeting was interrupted when other honorable members disguised as 'friends of the committee' walked into the meeting demanding that he should address members of the fourth estate and to explain the mismanagement of One hundred million Kenya Shillings allocated for bursaries in the Financial year 2017/2018.

He stated that members became disorderly causing the Chairperson to adjourn the meeting of the Committee. Upon leaving the Committee room, honourable members roughed him up and manhandled him demanding that he must address them and their concern on whether the bursaries would be handed to the needy students.

He added that the CEC Member for Education even hid under the table after the meeting was adjourned.

✚ The witness was asked of the members he was referring to in his statement who had interjected asking him to address the press while he gave an address to queries raised by the Committee on Education, he stated;

That, Hon. Julius Maina Njoka, MCA and Hon. Francis Otieno Ngesa, MCA had confronted him and confirmed that they physically roughed him up.

He added that Hon. Malde Jayendra, MCA and members of the Justice and Legal Affairs Committee interrupted the meeting demanding that the Officer meet with the Committee to address their grievances as to pending per diem payments. He stated that Hon. Malde Jayendra called him later and apologized for the altercation verbally.

✚ The witness was asked if in his opinion the Chairperson of the Committee on Education provided sufficient protection during the meeting, he stated;

That he felt the Chairperson did not protect him to the best of her capabilities. He was harassed by the members in the corridors as he left the meeting.

The Witness thereafter submitted to the committee video evidence of the incidence at the County Assembly Committee Rooms.

b) Ms. Lucia Mulwa- CEC Member for Education, Nairobi City County

The witness appeared in person to adduce evidence as had been invited to appear before the Committee vide the Committee's letter REF NCCA/P&PC/2019/056 dated 12th July 2019. The witness took an oath to say the truth as directed by the Chairperson. During the deliberations the witness was asked the following questions and gave her response as follows;

✚ The witness was asked to introduce herself and whether she was aware why she had been invited to appear before the Committee

She introduced herself as Ms. Lucia Mulwa the CEC Member for Education, Sports, Culture, Youth and Social Services in Nairobi City County. She confirmed that she was aware of why she had been invited to appear before the Committee.

- ✚ The witness asked to brief the Committee on why she had appeared before the Sectoral Committee on Education on 26th June 2019, she stated;

That indeed she had appeared before the said committee. She submitted that the meeting was a three-fold agenda: vide an invitation letter dated 18th June 2019, she was to present a report on disbursement of bursaries; a presentation of a report on subsidized vocational training centers and; a presentation of a report on un-procedural allocation of county primary schools to private owners from the defunct Nairobi City Council.

- ✚ The witness was asked to brief the committee on her recollection of events on 26th June 2019. She stated;

That she reported before the Sectoral Committee on Education with her colleagues from the executive to report on the raised issues from her invitation letter. She admitted that the members from the executive were given the chance to ventilate on the said issues. She confirmed having submitted on the report on the grant for subsidized vocational training centers and the Honorable member for Mountain View Ward who had requested for the statement was satisfied with their response. That on presentation of the report on allocation of primary schools the members of the committee were not satisfied prompting an invitation to a later meeting to deliberate on the issue.

That on presentation of the report of the third issue on disbursement of bursaries, officers were given a chance to report on the issue and they did but several question arose from honorable members. That officers from the executive answered according to the best of their knowledge. They however were not informed if it was satisfactory or not. The meeting become disorderly and hence the meeting could not proceed leading to adjournment of the meeting by the Chairperson.

- ✚ The witness was asked to brief the committee on how the meeting became disorderly and what transpired after adjournment, she stated;

That different questions were coming from different members at the same time which is usually not the procedure of meetings before the committee and that that was her justification of the term disorderly.

She stated when the meeting was adjourned she remained in the Committee room. She did not leave the room as other members and officers exited the room. As such she was not privy to the happenings of the events after the meeting but only read about the incident in the newspapers.

- ✚ The witness was asked of her position inside the room upon adjournment of the meeting and after she had of a commotion outside the Committee room and whether she hid under the table in the Committee room. She stated;

That it was not true that she hid under the table. But confirmed that she was a little scared due to the noise outside the committee room.

✚ The witness was asked if she had her security on the day, she stated;

That she had the security officer outside the meeting room but not inside the committee room. She confirmed that after the incident it was her security together with some officers from the Assembly wing that escorted her outside the precincts of the Assembly.

✚ The witness was asked of any honorable members she felt threatened or harassed by. she stated;

There were no members who threatened her or harassed her during or after the sitting. She only chose to remain in the room after the meeting to allow members cool down as the questions on the bursaries had not been answered fully. She reiterated this by stating that she had not made any formal complain to either the assembly or any other authority.

✚ The witness was asked whether she was restrained from leaving the county Assembly

She confirmed that she was not restrained by any member from leaving the precincts.

✚ The witness was asked if she noticed the presence of the Assembly sergeants inside the committee room she stated that she could not recollect.

✚ The witness was asked if any honorable member assaulted or intimidated her or the CFO, she stated

That the CFO could answer for himself but on her part she has no complain against the honorable members. She stated the reaction to stay in the room was the best way she felt to deal with the issue at that particular time. She confirmed having no knowledge of what transpired outside the room other than what had been reported by members of the fourth estate.

✚ As to whether the chairperson of the Sectoral Committee on Education provided sufficient protection to her and officers of the executive, she stated;

That she was not able to define what sufficient protection meant due to lack of knowledge of the assembly rules.

✚ The witness was asked if she knew any honorable member who had forced the CFO to address the media. She stated;

That she did not witness that and stated that the CFO can talk for himself to confirm if he was forced to address the media.

✚ The witness was asked of the difference between the sitting on 26th June 2019 and other meetings, she stated;

There was no order with regards to the manner in which the questions were being asked.

In her final remarks she thanked the committee for the invitation to shed light on what had transpired on the day.

4.0 THE COMMITTEE'S OBSERVATIONS AND FINDINGS

Upon review of the footage, documentary evidence and examination of witnesses, the Select Committee on Powers and Privileges made the following observations and findings;

1. That indeed there was a meeting between the Sectoral Committee on Children, Early Childhood Education and Vocational Training and the Sector on education on 26th June 2019.
2. That other honorable members joined the meeting as friends of the committee as the issue under discussion was pertinent to the members and the various wards in Nairobi.
3. That the meeting was chaired by the Chairperson of the Sectoral Committee on Education. From the oral evidence submitted by the witnesses, the meeting began and was adjourned by the Chairperson in accordance with procedures of the Assembly.
4. That the issue under discussion was the delay in disbursement of bursaries to needy students within the various wards of Nairobi City County.
5. That during the said meeting, no fracas were witnessed.
6. That officers from the executive did not respond with satisfaction to the questions asked by the honorable members at the sitting. This prompted the honorable members to react and demand that the officers from the Executive address the media to explain to citizens the reason for the delay of bursaries.
7. That the officers from the executive did not wish to speak to the media on the said issue prompting a misunderstanding upon adjournment of the meeting.
8. That the Chief Finance Officer was not harassed, bitten or manhandled as alleged as he did not tender any evidence to support this allegation.
9. That the Chief Finance Officer lied on oath to the Committee that the County Executive Committee Member (CECM) for education at one time hid under the table due to the fracas he had alleged under his complaint letter. Due to this lie, the Committee could not rely on the evidence of the Chief Finance Officer. The CECM confirmed to the committee that she did not hide under any other table.
10. That the CFO was a hostile witness at the meeting as he did not only fail to answer the questions asked at the meeting but also spoke arrogantly and threw hands at the honorable members during the sitting of the committee on Education.
11. That the Chief Sergeant-at-arm exercised their mandates promptly.
12. That the sergeant-at-arm department responded promptly and diligently to the incident. However, there is need to have more sergeants manning the committee rooms during the meetings.
13. That there is a need to have CCTV camera installed in the Committee rooms at the Assembly precincts.

14. All the witnesses were given an opportunity to tender evidence of or against the allegations as contemplated under Section 39 of the County Assembly Services Act, 2017 as read together Section 20 of the County Assemblies Powers and Privileges Act.

5.0 COMMITTEE RECOMMENDATIONS







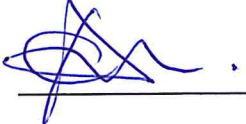



Having: received evidence in chief from summoned witnesses; reviewed video footage; having examined primary and secondary documentary evidence tabled before the Committee and; having deliberated and made observations and findings, the Select Committee on Powers and Privileges makes the following recommendations-

THAT,

- a) Pursuant to Article 195 of the Constitution of Kenya, upon the Select Committee on Powers and Privileges summoning the Chief Finance Officer, and upon the CFO not tabling any evidence of the allegation of harassment by honorable members, as alleged in his letter of complaint dated 28th June 2019, REF: CFO/HWG/257/2019/E the Committee finds no fault on the part of the honorable members;
- b) The Secretariat to Committees in the County Assembly do communicate to the office of the Chief Sergeant-at-arms when the various committees have summoned witnesses to appear before the Committee. In addition the committee on Powers and Privileges urges the County Assembly membership and staff especially the office of the Sergeant-at-arms to take note of Section 20 of the County Assemblies Powers and Privileges Act, 2017 and to ensure that any such witnesses summoned to appear are offered the necessary protection before, during and after the meetings;
- c) Pursuant to Section 40 of the County Services Act, 2017 as read together with Section 20 (2) of the County Assembly Powers and Privileges Act, 2017, all witnesses summoned to appear before Committees of the Assembly should be advised of their obligation to answer the question raised by the committees and to produce documentary or any other form of evidence in their custody.
- d) The Assembly does fasten the procurement process of CCTV cameras and the installation of such cameras within the Committee Rooms section within the Assembly and any other sensitive areas currently not covered with the CCTV cameras.
- e) The Chief Finance Officer be summoned by the Sectoral Committee on Education to answer to the question of allegation of misappropriation of one hundred million shillings meant for bursaries in FY 2017/2018.
- f) The Committee resolved to do a warning letter to Mr. Halkano Waqo informing him of his individual responsibility as a witness when invited to a Committee meeting by the Assembly failure to which, the Assembly shall censor him henceforth.

6.0 ADOPTION OF THE REPORT BY THE COMMITTEE

WE, the undersigned Members of the Committee of Powers and Privileges, having considered this Report on the investigations into alleged unethical conduct of members within the precincts of the Assembly on 26th June 2019 during the Sitting of the Sectoral Committee on Early Childhood Education and Vocational training, do hereby confirm our agreement with the content of the Report and request the Chairperson to present the Report to the Assembly -

Name	Signature
1. Hon. Beatrice K. Elachi, CBS- Chairperson	
2. Hon. Naftaly Mathenge, MCA- V. Chairperson	
3. Hon. Charles Thuo, MCA- Majority Leader	
4. Hon. Maurice Ochieng	
5. Hon. Jackline Apondi	
6. Hon. Geoffrey Majiwa, MCA	
7. Hon. Evans Otiso, MCA	
8. Hon. Carolyne Mayunzu	
9. Hon. Jacinta Wanjiru, MCA	
10. Hon. Margaret Mbote, MCA	
11. Hon. Peter Wahinya Njau, MCA	

MINUTES OF THE 32ND SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY POWERS AND PRIVILEGES COMMITTEE HELD ON 16TH JULY, 2019 IN THE ASSEMBLY CHAMBER BOARDROOM AT 11.15 AM

MEMBERS PRESENT

- | | |
|--------------------------------|---------------------|
| 1. Hon. Evans Otiso, MCA- | Sitting Chairperson |
| 2. Hon. Naftaly Mathenge, MCA- | Vice- Chairman |
| 3. Hon. Margaret Mbote, MCA | |
| 4. Hon. Wanjiru Jacinta, MCA | |
| 5. Hon. Geoffrey Majiwa, MCA | |
| 6. Hon. Peter Wahinya, MCA | |
| 7. Hon. Maurice Ochieng, MCA | |
| 8. Hon. Jackline Apondi, MCA | |
| 9. Hon. Carolyne Mayunzu, MCA | |

MEMBERS ABSENT

1. Hon. Chege Mwaura, MCA- Ag. Speaker/ Chairman
2. Hon. Abdi I. Hassan, MCA- Leader of Majority
3. Hon. Sylvia Moseiya, MCA

SECRETARIAT

1. Judith Aron- Clerk Assistant
2. Munase Klinsman- Legislative Fellow

WITNESSES IN ATTENDANCE

1. Hon. Kennedy Oyugi, MCA
2. Ms. Lucia Mwilu- CEC Member, Education, Nairobi City County
3. Mr. Rashid Ochieng- Commissionaire, Nairobi City County Assembly

AGENDA

1. Preliminaries (Prayers and adoption of the Agenda)
2. Apperance before the Committee by;
 - i) Ms. Lucia Mulwa- CEC Member, Education, Nairobi City County
 - ii) Hon. Kennedy Oyugi, MCA
 - iii) Mr. Rashid Ochieng- Commissionaire, Nairobi City County Assembly
3. A.O.B.
4. Adjournment

MIN.119/P&P/JULY/2019: PRELIMINARIES

The meeting was Chaired by Hon. Evans Otiso, MCA. The Chairperson called the meeting to order at 10:15 a.m. He welcomed members present to the meeting. The agenda of the meeting was then adopted as proposed by Hon. Jackline Apondi, MCA and seconded by Hon. Margaret Mbote, MCA.

MIN.120/P&P/JULY/2019: APPEARANCES BEFORE THE COMMITTEE

The Chairperson issued a Communication of what was before the committee before invitation of the witnesses to adduce evidence. As such the following witnesses appeared before the committee and testified as follows;

1. Ms. Lucia Mulwa- CEC Member for Education, Nairobi City County

The witness appeared in person to adduce evidence as had been invited to appear before the Committee vide the Committee's letter REF NCCA/P&PC/2019/056 dated 12th July 2019. The witness took an oath to say the truth as directed by the Chairperson. During the deliberations the witness was asked the following questions and gave her response as follows;

- ⚡ The witness was asked to introduce herself and whether she was aware why she had been invited to appear before the Committee

She introduced herself as Ms. Lucia Mulwa the CEC Member for Education, Sports, Culture, Youth and Social Services in Nairobi City County. She confirmed that she was aware of why she had been invited to appear before the Committee.

- ⚡ The witness asked to brief the Committee on why she had appeared before the Sectoral Committee on Education on 26th June 2019, she stated;

That indeed she had appeared before the said committee. She submitted that the meeting was a three-fold agenda: vide an invitation letter dated 18th June 2019, she was to present a report on disbursement of bursaries; a presentation of a report on subsidized vocational training centers and; a presentation of a report on un-procedural allocation of county primary schools to private owners from the defunct Nairobi City Council.

- ⚡ The witness was asked to brief the committee on her recollection of events on 26th June 2019. She stated;

That she reported before the Sectoral Committee on Education with her colleagues from the executive to report on the raised issues from her invitation letter. She admitted that the members from the executive were given the chance to ventilate on the said issues. She confirmed having submitted on the report on the grant for subsidized vocational training centers and the Honorable member for Mountain View Ward who had requested for the statement was satisfied with their response. That on presentation of the report on allocation of primary schools the members of the committee were not satisfied prompting an invitation to a later meeting to deliberate on the issue.

That on presentation of the report of the third issue on disbursement of bursaries, officers were given a chance to report on the issue and they did but several question arose from honorable members. That officers from the executive answered according to the best of their knowledge. They however were not informed if it was satisfactory or not. The meeting become disorderly and hence the meeting could not proceed leading to adjournment of the meeting by the Chairperson.

- ⚡ The witness was asked to brief the committee on how the meeting became disorderly and what transpired after adjournment, she stated;

That different questions were coming from different members at the same time which is usually not the procedure of meetings before the committee and that that was her justification of the term disorderly.

She stated when the meeting was adjourned she remained in the Committee room. She did not leave the room as other members and officers exited the room. As such she was not privy to the happenings of the events after the meeting but only read about the incident in the newspapers.

- ⊥ The witness was asked of her position inside the room upon adjournment of the meeting and after she had of a commotion outside the Committee room and whether she hid under the table in the Committee room. She stated;

That it was not true that she hid under the table. But confirmed that she was a little scared due to the noise outside the committee room.

- ⊥ The witness was asked if she had her security on the day, she stated;

That she had the security officer outside the meeting room but not inside the committee room. She confirmed that after the incident it was her security together with some officers from the Assembly wing that escorted her outside the precincts of the Assembly.

- ⊥ The witness was asked of any honorable members she felt threatened or harassed by. she stated;

There were no members who threatened her or harassed her during or after the sitting. She only chose to remain in the room after the meeting to allow members cool down as the questions on the bursaries had not been answered fully. She reiterated this by stating that she had not made any formal complain to either the assembly or any other authority.

- ⊥ The witness was asked whether she was restrained from leaving the county Assembly

She confirmed that she was not restrained by any member from leaving the precincts.

- ⊥ The witness was asked if she noticed the presence of the Assembly sergeants inside the committee room she stated that she could not recollect.

- ⊥ The witness was asked if any honorable member assaulted or intimidated her or the CFO, she stated

That the CFO could answer for himself but on her part she has no complain against the honorable members. She stated the reaction to stay in the room was the best way she felt to deal with the issue at that particular time. She confirmed having no knowledge of what transpired outside the room other than what had been reported by members of the fourth estate.

- ⊥ As to whether the chairperson of the Sectoral Committee on Education provided sufficient protection to her and officers of the executive, she stated;

That she was not able to define what sufficient protection meant due to lack of knowledge of the assembly rules.

- ⚡ The witness was asked if she knew any honorable member who had forced the CFO to address the media. She stated;

That she did not witness that and stated that the CFO can talk for himself to confirm if he was forced to address the media.

- ⚡ The witness was asked of the difference between the sitting on 26th June 2019 and other meetings, she stated;

There was no order with regards to the manner in which the questions were being asked.

In her final remarks she thanked the committee for the invitation to shed light on what had transpired on the day.

2. Hon. Kennedy Oyugi, MCA

The witness appeared in person to adduce evidence as had been invited to appear before the Committee vide the Committee's letter REF NCCA/P&PC/2019/055 dated 10th July 2019. The witness sought an apology from the committee for not communicating on the postponement of the meeting in which he was to attend on Thursday 11th June 2019. Through the chairperson it was clarified that the member was issued with a text message confirming the postponement before a letter was issued on Friday 12th July 2019. Further, it was clarified that at the time that he had been scheduled to appear before the committee on Monday 15th July 2019 the committee was cross examining another witness hence the reason the committee did not meet him on the day.

The member thereafter took an oath to say the truth as directed by the Chairperson. During the deliberations the witness was asked the following questions and gave his response as follows;

- ⚡ The witness was asked to introduce himself

He introduced himself as Hon. Kennedy Oyugi, MCA a member of the Sectoral Committee on Education and the member representing Highrise Ward. He confirmed being aware why he had been invited.

- ⚡ The witness was asked to shed light on what transpired on 26th June 2019 during the sitting of the Sectoral Committee on Education, he stated;

The complaint by Mr. Halkano Waqo is misplaced. He stated that the meeting began and ended as directed by the sitting Chairperson. He reiterated that it was not interrupted or aborted. At the end of the sitting but before adjournment, there was a suggestion by Hon. Kabiro Mbugua and members present, based on the lie in the public that honourable members had refused to disburse bursaries to the needy, that the CFO should address the fourth estate on why bursaries had not been issued. The proposal was accepted during the sitting except two officers from the executive. He CFO was disorderly and threw hands to

members of the committee and friends of the committee. Hon. Oyugi confirmed that the CFO was neither harassed nor manhandled.

He added that on the issue of per diem members were not demanding for per diem but focus was on bursaries. He also felt that some forces were behind the investigation as in the incident report from the sergeant at arms he is mentioned to be a non-member of the committee on Education.

✚ The witness was asked what he witnessed of other honourable members and if he saw them harass the CFO, he stated;

All members present were not satisfied with the response from the executive but the CFO was not harassed.

At this juncture the video of the incident was played to the witness.

The honourable member confirmed he is part of the persons present in the video. He acknowledged that members were demanding that the executive addresses the media and as a result of the demands bursaries were just about to be issued as at the time of the current meeting.

✚ On whether the CFO and members of the executive were given sufficient protection, he stated;

There was no threat during the sitting and as a such the issue of security or protection was a non-issue.

✚ On why he restrained the CFO from leaving at the corridor, he stated;

He was behind the CFO even in the footage and therefore he could not restrain the CFO from behind to him from walking ahead.

✚ The witness was asked if he agreed that the CFO was threatened and harassed, he stated;

That the CFO was not harassed by stating, "No". He corroborated this by stating that if he was threatened chances are high that he would have been bitten up but that was not the case. He admitted that members were shouting at him but none bit up the CFO.

In his final remarks, he stated that the committee should note that as a result of this demand from members on that day, bursaries were just about to be given to the needy students as at the time of the meeting and as such he requested that no member should be punished for working on their roles as representatives of the people. And he did not regret representing the people.

3. Mr. Rashid Ochieng- Commissionaire, Nairobi City County Assembly

The witness appeared in person to adduce evidence as had been invited to appear before the Committee vide the Committee's letter dated 3rd July 2019. The witness took an oath to say the truth as directed by the Chairperson. During the deliberations the witness was asked the following questions and gave his response as follows:

⚡ The witness was asked to introduce himself

He introduced himself as Mr. Rashid Ochieng, a Commissionaire at Nairobi City County Assembly. He confirmed that he was aware why he had been invited to appear.

⚡ The witness was asked to shed light on what transpired on 26th June 2019, he stated;

That he was performing his duties of manning the gate when he was called by the Chief Sergeant-at-arms to accompany him to the Committee rooms at the basement of City Hall Buildings. Upon arrival, he found the bodyguard of the CEC Member for Education in the corridors but the CEC Member was not present. Upon looking inside the committee rooms they found the CEC Member standing in one of the corners of the Committee room. They accompanied and escorted the CEC Member up to the gate and left her with the bodyguard.

⚡ The witness was asked to clarify of the position of the CEC Member in the committee room and whether she was under the table, he stated;

He reiterated that she was standing and wasn't under the table. *(The witness proceeded to demonstrate to the committee the position of the CEC Member)*

⚡ The witness was asked of the honourable members present during the incident and whether he saw member harassing the CFO, he stated;

During the occurrence he was at the gate and did not witness the altercation.

⚡ The witness was asked on how deployed is done at their department, he stated;

That the officers are assigned duties in the department and the duties change from time to time. This includes manning committee rooms, the gate or even the parking. He confirmed that the department doesn't have a custodian of keys but it was present for all staff to access.

In his final remarks and suggestion of the best way forward in future, he suggested to the committee that the committee rooms should be installed with CCTV and the rooms should have at least 2 sergeants. He concluded by thanking the members for listening to him.

MIN.121/P&P/JULY/2019 ANY OTHER BUSINESS



The Chairperson thanked members for cooperation during the examination of witnesses' exercise that had just been concluded. He informed members that they are now tasked to work on observations, make findings and recommendations for tabling a report before the assembly.

Upon deliberation the Committee resolved to have a sitting outside the precincts of the Assembly to make the said recommendation from Thursday 18th July 2019 to Monday 22nd July 2019.

MIN.122/P&P/MAY/2019 ADJOURNMENT

There being no other business, and the time being quarter past twelve noon the Chairperson adjourned the meeting to Friday 19th July 2019 at 9.30AM.

CONFIRMED AS A TRUE RECORD OF THE PROCEEDINGS

	SIGN	DATE
CHAIRPERSON		31/10/19.
SECRETARY		31/10/2019

MINUTES OF THE 31st SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY POWERS AND

PRIVILEGES COMMITTEE HELD ON 15TH JULY, 2019 IN THE ASSEMBLY CHAMBER
BOARDROOM AT 11.15 AM

MEMBERS PRESENT

1. Hon. Naftaly Mathenge, MCA- Vice- Chairman
2. Hon. Margaret Mbote, MCA
3. Hon. Evans Otiso, MCA
4. Hon. Wanjiru Jacinta, MCA
5. Hon. Geoffrey Majiwa, MCA

MEMBERS ABSENT

1. Hon. Chege Mwaura, MCA- Ag. Speaker/ Chairman
2. Hon. Abdi I. Hassan, MCA- Leader of Majority
3. Hon. Sylvia Moseiya, MCA
4. Hon. Carolyne Mayunzu, MCA
5. Hon. Peter Wahinya, MCA
6. Hon. Maurice Ochieng, MCA
7. Hon. Jackline Apondi, MCA

SECRETARIAT

1. Gavin R. Castro- Senior Clerk Assistant
2. Judith Aron- Clerk Assistant
3. Munase Klinsman- Legislative Fellow

WITNESSES IN ATTENDANCE

1. Hon. Francis Ngesa, MCA
2. Hon. Julius Maina Njoka, MCA

AGENDA

1. Preliminaries (Prayers and adoption of the Agenda)
2. Apperance before the Committee by;
 - a) Hon. Francis Ngesa, MCA
 - b) Hon. Julius Maina Njoka, MCA
 - c) Hon. Kennedy Oyugi, MCA
3. A.O.B.
4. Adjournment

MIN.115/P&P/JULY/2019: PRELIMINARIES

The meeting was Chaired by the Honourable Vice-Chairman. The Chairperson called the meeting to order at 11:15 a.m. He welcomed members present to the meeting. The agenda

of the meeting was then adopted as proposed by Hon. Margaret Mbote, MCA and seconded by Hon. Evans Otiso, MCA.

MIN.116/P&P/JULY/2019: APPEARANCES BEFORE THE COMMITTEE

The Chairperson issued a Communication of what was before the committee before invitation of the witnesses to adduce evidence. As such the following witnesses appeared before the committee and testified as follows;

a) Hon. Francis Otieno Ngesa, MCA

The witness appeared in person to adduce evidence as had been invited to appear before the Committee vide the Committee's letter REF NCCA/P&PC/2019/054 dated 10th July 2019. The witness took an oath to say the truth as directed by the Chairperson. During the deliberations the witness was asked the following questions and gave his response as follows;

⚡ The witness was asked to introduce himself

He introduced himself as Hon. Francis Otieno Ngesa, MCA representing Dandora IV Ward. He confirmed that he was aware why he had been invited to appear before the Committee.

⚡ The witness was asked to brief the Committee on the events of what transpired on 26th June 2019, Hon. Francis Ngesa stated;

That he attended the meeting of the Sectoral Committee on Education as a friend of the Committee. During the deliberation, the meeting was not stopped at any given time upto the time the meeting was adjourned. He reiterated that the meeting proceeded well to the end. At the time of leaving the meeting some members issues had not been fully answered. As a result of the insufficient information provided, at the time of adjournment the Chairlady of the Committee directed that the Chief Finance Officer, Mr. Halkano Wago should address members of the press to inform Citizens of Nairobi why the bursaries had been delayed.

⚡ The witness was asked of the Honorable members who were present during the sitting, he stated;

It was the Chairperson of the Committee on education, some members of the Sectoral Committee on Justice and Legal Affairs and Hon. Julius Maina Njoka, MCA among others.

⚡ The witness was asked if it was true that the Chief Finance Officer was manhandled, he stated;

It was not true.

⚡ The witness was asked of the presence of the CEC Member for Education, he stated;

That he did not know of the whereabouts of the CEC Member. However, on clarification of the name of the CEC Member for Education, he confirmed that she was present at the meeting.

- ⚡ The witness was asked whether he or any other member harassed the Chief Finance Officer, he stated;

That he did not harass the CFO but asked pertinent questions with regard to release of bursaries. He refuted the allegation that he pushed and harassed the Chief Finance Officer. He did also see any honourable member who pushed the CFO or used abusive language. He stated that members were generally concerned of why the bursaries had been delayed for disbursement hence the need to address the media to inform the parents in the wards. He informed the committee that over the years, no CFO has ever been harassed hence it was not true to state that he was harassed. He reiterated that members only wanted information with regard to delay in disbursement of bursaries.

The honourable member further stated that, if it is true that the CFO was harassed on that day then, he and other honourable members did it out of frustrations and had no bad intention in regards to their conversation with the CFO that day. He further stressed that he and other honourable members did not harass the CFO at any given moment unless he didn't understand the meaning of the word harassment.

- ⚡ The witness was asked of the measures he took as an honorable member to protect the witness on that day, he stated;

That on the particular day, it was not his duty to protect the CFO but to represent citizens of Dandora IV Ward and Nairobi at large. Further, there was nobody who wanted to beat up the CFO or harass him. There only request was that the CFO should address members of the fourth estate to inform people of Nairobi on why bursaries had been delayed.

- ⚡ The witness was asked whether he forced the CFO to address the media, he stated;

That he told the CFO to address the media. He confirmed that at that particular time, that was the best way to address the matter and confirmed that as a result of the altercation bursaries had begun to be released as the time of the meeting of the Committee on privileges on 15th July 2019. He had no regrets for what had happened.

- ⚡ The witness was asked if his concern during that day was for payment of per diem for members of the Sectoral Committee on Justice and Legal Affairs, he stated;

That his concern was for bursaries unless the committee could prove the allegation as to demand for per diem. He confirmed that in his ward, members of the public were camping at his home for disbursement of their bursaries. He therefore represented his people in asking for the bursaries.

At this juncture, a video of the occurrence was played to the witness to see.

- ⚡ The witness was asked to confirm his presence in the video that was played
He told the Committee that he had seen someone like him but questioned the source of the video and the committee's trust on the same. Adding that from the video that was just watched, the CFO is seen to be almost slapping someone. He further urged the Committee to be keen on sources of video since he too had the

ability to bring another video showing the CFO harass him. And that the video was not captured from the commencement of the said event.

- ✚ The witness was asked whether the conduct of honorable members on 26th June 2019 was acceptable.

He said that he could not pre-empt how honourable members could have behaved comparing his leadership life in the slams that is Dandora iv and the one for his Minority Party Leader who represent people from kileleshwa Ward whom he termed as not being disturbed about bursary issues as compared to him whom when he wakes up, finds the poor women and children by his door seeking for the whereabouts of bursaries

The honourable members added that there was nothing that was strange in regards to what transpired on that day and that may be others misunderstood his normal voice to be noise reiterating that, if it is noise that may make bursaries be issued on time, then he promised to do it several times to the governor according to him.

The honourable member further advised that, going forward it is important that they seal loopholes to avoid such circumstances by the office of the governor making sure that bursaries are issued on time and in case of delays then, earlier preparations and engagements by the Education committee is important.

- ✚ The witness was asked if the Chairperson of the Education Committee provided sufficient protection to the witness, he stated;

She provided protection during the sitting. She even adjourned the meeting when the CFO was not able to provide sufficient information on when the bursaries would be disbursed.

In his final remarks, he stated that after the sitting he had talked loudly so that his frustration would be noted by the Chief Finance Officer. This was not meant to harass the CFO but for him to note the frustration of honourable members. He concluded by stating that if the committee felt he offended anyone he was sorry and asked for forgiveness.

The Chairperson thanked the member for appearing before the committee.

b) Hon. Julius Maina Njoka, MCA

The witness appeared in person to adduce evidence as had been invited to appear before the Committee vide the Committee's letter REF NCCA/P&PC/2019/053 dated 10th July 2019. The witness took an oath to say the truth as directed by the Chairperson. During the deliberations the witness was asked the following questions and gave his response as follows;

- ✚ The witness was asked to introduce himself and whether he was aware of why he had been invited before the committee;

The witness introduced himself as Hon. Julius Maina Njoka, MCA for Kariobangi South Ward and he was aware why he had been invited to appear before the Committee.

- ✚ The witness was asked to brief the Committee on the events of 26th June 2019 during the Committee sitting within the precincts

He had attended the sitting of the Sectoral Committee on Education as a friend of the Committee. Theirs was performance of their role as representatives of the people in ensuring that bursaries are disbursed to the citizens of Nairobi. He could not recollect all the members who were present for the sitting.

He stated that on that day the Honourable members were pressing for answers on disbursement of bursaries. During the sitting, it was resolved that the Executive and the Assembly sector on education holds a press brief to address the raising questions on why the bursaries had not been disbursed to those in need. He added that the meeting was shortly afterwards adjourned. Upon adjournment, members from the executive did not wish to address the media hence the confrontation.

- ✚ The witness was asked whether he came across any member using abusive language, he stated;

There was no member who either insulted or used abusive language on officers from the Executive within the precincts.

- ✚ The witness was asked whether he forced the officers from the executive to address the media, he stated;

He did not force the officers to address the media but only requested the officers to address the media as had been resolved during the sitting.

- ✚ On the allegation of demands for per diem, he stated;

It was a lie, much as it was true there were per diem pending, the focus of the day was why the bursaries had not been disbursed to citizens of Nairobi and not per diem payments.

- ✚ As to whether the sitting was a joint sitting between the Sectoral Committee on Education and the Sectoral Committee on Justice and Legal Affairs, he stated;

He is a member of the Sectoral Committee on Justice and Legal Affairs but the sitting was not a joint sitting.

At this juncture, the video evidence of the incident was played for the witness to view.

- ✚ On his advice on the best way to avoid such fracas in future, he stated;

Whenever the Assembly invites officers from the Executive to shed light on issues they should be advised to willingly participate and give answers to members. He stated the committee on that day appeared to be begging for this information which should not be the case.

Further, that the Assembly should deploy at least two sergeant-at-arms at committee sittings for protection and security this is because the security offered by the Chairperson to the Committee was not enough.




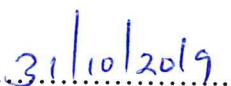
MIN.117/P&P/JULY/2019 ANY OTHER BUSINESS

There was no item under this minute.

MIN.118/P&P/MAY/2019 ADJOURNMENT

There being no other business, and the time being twenty minutes to one o'clock the Chairperson adjourned the meeting to Tuesday 16th July 2019 at 9.30AM.

CONFIRMED AS A TRUE RECORD

	SIGN	DATE
CHAIRPERSON		
SECRETARY		

MINUTES OF THE 30TH SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY POWERS
AND PRIVILEGES COMMITTEE HELD ON WEDNESDAY 10TH JULY 2019 AT 10:00
A.M IN THE CHAMBER BOARDROOM.

MEMBERS PRESENT

1. Hon. Naftali Mathenge, MCA- Vice- Chairman
2. Hon. Geoffrey Majiwa, MCA
3. Hon. Jackline Apondi, MCA
4. Hon. Jacinta Wanjiru, MCA
5. Hon. Peter Wahinya Njau', MCA
6. Hon. Sylviah Museiya, MCA
7. Hon. Evans otiso, MCA
8. Hon. Margret mbote, MCA

MEMBERS ABSENT

1. Hon. Chege Mwaura, MCA Ag. Speaker Nairobi County Assembly.
2. Hon. Abdi I. Hassan, MCA- Leader of Majority Party
3. Hon. Maurice Ochieng, MCA
4. Hon. Caroline Mayunzu, ,MCA

SECRETARIAT

1. Mr. Romeo Castro - Snr. Clerk Assistant
2. Ms. Judith Aron - Clerk Assistant
3. Mr. Klinsman Munase - Legislative Fellow

MIN.111/P&P/JULY/2019: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 10:30 a.m. He prayed and welcomed Members present to the meeting.

The agenda for the day was as follows;

1. Preliminaries (Prayers and adoption of the Agenda)
2. Appearance before the Committee by;
 - i) Hon. Francis Ngesa, MCA
 - ii) Hon. Julius Maina Njoka, MCA
 - iii) Hon. Kennedy Oyugi, MCA
 - iv) Hon. Jayendra Malde, MCA
 - v) Mr. Benson Nkuito
 - vi) Mr. Mr. Rashid Ochieng
 - vii) Ms. Elizabeth Njuguna.
3. Any Other Business
4. Adjournment

The agenda of the day was adopted as proposed by Hon. Jacinta Wanjiru, MCA, seconded by Hon. Jackline Apondi, MCA

MIN.112/P&P/JULY/2019: APPEARANCE BEFORE THE COMMITTEE BY; HON. FRANCIS NGESE, MCA, HON. JULIUS MAINA NJOKA, MCA, HON. KENNEDY OYUGI, MCA, HON. JAYENDRA MALDE, MCA, MR. BENSON NKUITO, MR. RASHID OCHIENG, MS. ELIZABETH NJUGUNA.

a) MS. ELIZABETH NJUGUNA

- ✚ The witness was asked to introduce herself and whether she was aware why she had been invited to appear before the Committee

The witness introduced herself as Ms. Elizabeth Njuguna, a Sergeant-at-arm at the Assembly. She acknowledged receiving a communication from the Clerk's Office inviting her to appear before the Select Committee on Powers and Privileges purposefully to shed light on what transpired on 26th June 2019 at the Committee rooms.

- ✚ The witness was asked to brief the committee on what transpired, she stated;

That on was 26th June 2019 as she was manning the Committee rooms, she heard a commotion from one of the committee rooms. That she rushed to see what was happening at the rooms as part of her duty. On her way, she met a number of honorable Members on the corridor together with the Chief Finance officer. She added that Members were shouting at the officer insisting that he address the press on bursary issue as they were under pressure from the electorate who were in need of the funds in order to attend school.

- ✚ The witness was asked to name honourable members she saw within the corridor. She stated;

That saw several honourable members but could only remember two namely; Hon. Francis Ngesa and Hon. Kennedy Oyugi. She added that the honorable members insisted that the officer must address members of the press.

- ✚ The witness was asked to share with the Committee what she witnessed and if she saw honourable members harass the Chief Finance officer. She stated;

That she did not see any honorable members harass the CFO but just witnessed an argument arising between the honorable members and the Officer on why bursaries had not been disbursed and demands by the members that the CFO must address the media on the issue to calm down the pressure members had from the electorate.

- ✚ The witness was tasked to inform the Committee of her duties during Committee sittings. She stated;

That her major role during a Committee sitting is to provide security to the honorable members, officers of the staff of the county Assembly and any witnesses invited to appear before the committees.

- ‡ The witness was asked whether she heard any honorable member use abusive language within the precincts on that day. She stated;

That she did not hear any member use abuse abusive language but confirmed seeing them argue demanding the CFO to address the media.

- ‡ The witness was asked if she saw where the CEC Member for Education was during the incident. She stated;

That she did not see the CEC Member but only saw the CFO within the corridors with the honorable members.

- ‡ The witness was asked to brief the committee on whether she was aware of the allegation that members of the Sectoral Committee on Justice and Legal Affairs had attended the sitting. She stated;

That she was not aware.

- ‡ The witness was asked to inform the committee of her actions to protect the County Finance Officer. She stated;

That upon noticing the altercation, she called her Head of department, the Chief Sergeant - At - Arms and told him that there was a commotion at the basement of the Assembly where committee rooms are located. She requested him to hurry and come with reinforcement. That her HOD responded promptly and the CFO was escorted out of the premises.

- ‡ The witness was asked of her opinion as to whether the honorable members acted morally or not and what should be done differently to avoid such circumstances in future.

She stated that the office of the Sergeant-at-arms should be promptly be informed in advance of any witnesses appearing before the Committees.

- ‡ The witness was asked on how deployment to Mann the Committee Rooms is done and if she is capable of controlling large crowds especially of men

She stated that deployment is done by Chief Sergeant At Arm and that she was unable to control because she was the only lady (Sergeant At Arms) present at the incident by that time the altercation began.

- ‡ The witness was asked if she had been assigned to Mann the education committee or the whole of committee meetings

She stated that she was assigned to Mann all Committees that day and she had not experienced that before that day, 26th June 2019.

- ‡ The witness was asked of her suggestions as to measures to be put in place in future to avoid such incidences

She stated that going forward it will be important that every committee be assigned at least one sergeant-at-arms or that the committee through the chairperson should write to the office of the sergeant-at-arms requesting for officers for specific meetings where the chairperson feels the agenda may lead to tension within the sitting.

✚ The witness was asked if the confrontation began in the committee room

She told the Committee that, she was not aware if indeed the fracas began in the Committee room because she was not present in the Committee room.

b) MR. BENSON NKUITO (SERGENT AT ARM)

✚ Whether he was aware why he was invited to the committee meeting.

He confirmed to have received a letter a day before the meeting informing him to appear before the Select Committee on Powers and Privileges and shed light on an incident that took place on 26th June 2019 at the committee room.

✚ The witness was requested to Shed light on the incident

He refuted being stationed at the committee rooms, adding that he was manning the main gate. Adding that at some point, the chief sergeant-at-arms called them and informed them of a commotion in the Committee Rooms, and when they rushed to the incident site, they found that all the Members had left and only media personnel were there.

Upon checking all the rooms, they found CEC of education in Committee room number 3 and his security details.

He confirmed not seeing the CFO but stated that they took the CEC Education through the back door (the KICC gate and she went back to her office).

✚ The witness was asked what the sergeant-at-Arms normally do when Members fight.

He stated that the role of sergeant-at-arms are; to restore order whenever there is a fight.

✚ The witness was asked to confirm to the Committee whether he saw County Finance Officer or County Executive Committee member being harassed by the Members.

He said he didn't witness that.

MIN.113/P&P/JULY/2019. COMMITTEE'S RESOLUTIONS ON WITNESSES WHO DID NOT APPEAR AND FRESH UNDERTAKINGS.

At its sitting of Wednesday 10th July 2019, the Committee resolved to reschedule its sitting which was earlier scheduled for Thursday 11th July, 2019 at 10.30am to Monday 15th July,

2019 at 10.00am to give witnesses sufficient time to prepare responses and for the meeting owing to other due Assembly commitments.

The purpose for the honourable members' invitation to appear before the Committee remained as was stated in the letters they received.

The office of the Clerk was to do correspondences to the honourable members purposefully to invite them for a meeting of the Committee to be held on Monday 15th July, 2019 at 10.00am at the Chamber Boardroom, City Hall Building, Assembly Wing.

The following members and staff were to appear before the Committee to shed light on what transpired on 26th June 2019 in Committee room;

- i) Hon. Francis Ngesa, MCA
- ii) Hon. Julius Maina Njoka, MCA ,
- iii) Kennedy Oyugi, MCA,
- iv) Mr. Rashid ochieng – Seageant –Art –Arms

The Committee noted that Hon. Jayendra Malde, MCA was not present in the Country and therefore was excused.

The Committee too resolved to call CEC Education on Tuesday 16th July 2019 to shed light on what transpired on that day.

MIN.114/P&P/JULY/2019 ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business, and the time being 11:30 a.m, the V. Chairperson adjourned the meeting to the following week on Monday 9th July 2019.

.....

Chairperson

.....

Committee Clerk

..... 31/10/19 .

Date

..... 31/10/2019

Date

MINUTES OF THE 29th SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY POWERS AND PRIVILEGES COMMITTEE HELD ON 9TH JULY, 2019 IN THE ASSEMBLY CHAMBER BOARDROOM AT 10.20AM

MEMBERS PRESENT

1. Hon. Naftaly Mathenge, MCA- Vice- Chairman
2. Hon. Margaret Mbote, MCA
3. Hon. Evans Otiso, MCA
4. Hon. Wanjiru Jacinta, MCA
5. Hon. Geoffrey Majiwa, MCA
6. Hon. Carolyne Mayunzu, MCA
7. Hon. Peter Wahinya, MCA
8. Hon. Maurice Ochieng, MCA
9. Hon. Jackline Apondi, MCA

MEMBERS ABSENT

1. Hon. Chege Mwaura, MCA- Ag. Speaker/ Chairman
2. Hon. Abdi I. Hassan, MCA- Leader of Majority
3. Hon. Sylvia Moseiya, MCA

SECRETARIAT

1. Gavin R. Castro- Senior Clerk Assistant
2. Judith Aron- Clerk Assistant
3. Munase Klinsman- Intern

WITNESSES IN ATTENDANCE

1. Mr. Halkano Waqo- Chief Finance Officer- Nairobi City County
2. Hon. Millicent Mugadi- MCA and Chairperson, Sectoral Committee on Children, Early Childhood Education and Vocational Training.
3. Mr. Gedion Ndunda- Chief Sergeant-at-arms, Nairobi City County Assembly
4. Mr. Daniel Kanyoro- Sergeant-at-arms, Nairobi City County Assembly

AGENDA

1. Preliminaries (Prayers and adoption of the Agenda)
2. Apperance before the Committee by:
 - a) Mr. Halkano Waqo- Chief Finance Officer- Nairobi City County
 - b) Hon. Millicent Mugadi, MCA
 - c) Mr. Gedion Ndunda- Chief Sergeant-at-arms, Nairobi City County Assembly
 - d) Mr. Daniel Kanyoro- Sergeant-at-arms, Nairobi City County Assembly

3. A.O.B.
4. Adjournment

MIN.107/P&P/JULY/2019: PRELIMINARIES

The meeting was Chaired by the Honourable Vice-Chairman. The Chairperson called the meeting to order at 10:20 a.m. He welcomed members present to the meeting. The agenda of the meeting was then adopted as proposed by Hon. Jacinta Wanjiru, MCA and seconded by Hon. Jackline Apondi, MCA.

The Committee had convened to conduct investigations of an incident that transpired within the Assembly precincts on Wednesday, 26th June 2019 during or after a sitting of the Sectoral Committee on Children, Early Childhood Education and Vocational Training. Chairperson issued a communication on how the Committee will proceed with the investigations and informed the Committee that they would cross examine four witnesses namely:

1. Mr. Halkano Waqo- Chief Finance Officer- Nairobi City County
2. Hon. Millicent Mugadi- MCA and Chairperson, Sectoral Committee on Children, Early Childhood Education and Vocational Training.
3. Mr. Gedion Ndunda- Chief Sergeant-at-arms, Nairobi City County Assembly
4. Mr. Daniel Kanyoro- Sergeant-at-arms, Nairobi City County Assembly

The Committee proceeded to cross examine the witnesses.

MIN.108/P&P/JULY/2019: APPEARANCES BEFORE THE COMMITTEE

- a) Mr. Halkano Waqo- Chief Finance Officer, Nairobi City County

The witness appeared in person to adduce evidence based on his letter of complaint REF CFO/HWG/257/2019/E dated 28th June 2019 addressed to the Clerk of the Assembly which is the basis of the matter under inquiry. The witness was cross examined and responded as follows;

- ⊕ The witness was asked to introduce himself

The witness introduced himself as Mr. Halkano Waqo, the Chief Finance Officer- Nairobi City County.

- ⊕ On inquiry as to whether he was aware why he had been invited to appear before the committee

Mr. Halkano Waqo informed the Committee that he was aware that the Committee had invited him to shed light on two incidences that transpired within the precincts on Tuesday, 25th June 2019 just after the Assembly sitting, in which the Budget Statement had been read and 26th June 2019 during a sitting of the Sectoral Committee on Children, Early Childhood Education and Vocational Training.

- ⊕ The witness was tasked to brief the Committee on the events of what transpired on the two days, he stated;

That On Tuesday, 25th June 2019 at the rise of the house after pronouncement of the Budget Statement by the CEC Member for Finance, while members were having tea at the members lounge, some members approached him demanding to have word with him. That Hon. Francis Otieno Ngesa and Hon. Julius Maina Njoka confronted him demanding to be paid their per diem allowances from a retreat with the Executive. He stated that he informed them that due to the pressure of closing books of the Financial year, the per diem was not yet paid but he promised that the same would be paid to the members.

That on Wednesday, 26th June 2019 he had been invited to a meeting with the Sectoral Committee on Children, Early Childhood Education and Vocational Training to shed light on why there was delay in disbursement of bursaries to the needy children. He stated that the meeting was interrupted when other honorable members disguised as 'friends of the committee' walked into the meeting demanding that he should address members of the fourth estate and to explain the mismanagement of One hundred million Kenya Shillings allocated for bursaries in the Financial year 2017/2018.

He stated that members became disorderly causing the Chairperson to adjourn the meeting of the Committee. Upon leaving the Committee room, honourable members roughed him up and manhandled him demanding that he must address them and their concern on whether the bursaries would be handed to the needy students.

He added that the CEC Member for Education even hide under the table after the meeting was adjourned.

✚ The witness was asked of the members he was referring to in his statement who had interjected asking him to address the press while he gave an address to queries raised by the Committee on Education, he stated;

That, Hon. Julius Maina Njoka, MCA and Hon. Francis Otieno Ngesa, MCA had confronted him and confirmed that they physically roughed him up.

He added that Hon. Malde Jayendra, MCA and members of the Justice and Legal Affairs Committee interrupted the meeting demanding that the Officer meet with the Committee to address their grievances as to pending per diem payments. He stated that Hon. Malde Jayendra called him later and apologized for the altercation verbally.

✚ The witness was asked if in his opinion the Chairperson of the Committee on Education provided sufficient protection during the meeting, he stated;

That he felt the Chairperson did not protect him to the best of her capabilities. He was harassed by the members in the corridors as he left the meeting.

The Witness thereafter submitted to the committee video evidence of the incidence at the County Assembly Committee Rooms.

b) Hon. Millicent Mugadi, MCA

The witness appeared in person to adduce evidence based on an invitation letter from the Committee in her capacity as the Chairperson of the Sectoral Committee on Children, Early

Childhood Education and Vocational Training. The witness was asked the following questions by the committee and subsequently responded as follows;

- ✚ The witness was asked whether she was aware why she had been invited before the committee, Hon. Millicent stated;

She was not aware. She was thereby reminded by the Chairperson why she had been invited. The Chairperson read the invitation letter to Hon. Millicent Mugadi, MCA. She acknowledged why she had been invited to appear before the Committee.

- ✚ The witness was tasked to brief the Committee on the events of 26th June 2019 during the Committee sitting within the precincts, she stated;

That, the Chief Finance Officer had been invited to shed light to the Committee on Education on the reason for delay in disbursement of Bursaries to needy students. That during the deliberation several members appeared as friends of the Committee.

That the Chief Officer was unable to respond to questions raised by the committee and not only got angry but refused to answer the questions under inquiry. She affirmed to the Committee that the Chief Finance Officer was not harassed during the sitting. That although having not answered the questions asked at the meeting she adjourned the meeting on that day without any altercations between members and officers from the executive.

She stated that if at all there was any harassment by honourable members then it must have happened after the meeting. The Chairlady informed the Committee that Hon. Malde Jayendra, MCA did not attempt to disrupt the meeting.

She informed the Committee that the CEC Member for Education disappeared shortly after adjourning the meeting but she did not hide under the table as alleged by the Chief Finance Officer, Mr. Halakano Waqo, because the Sergeant-at-arms offered her protection after adjourning.

She informed the committee that in her opinion there was no fracas during the sitting of the committee save for pertinent questions which were not fully responded to by officers from the executive.

- ✚ The witness was asked to comment on her observations of the incident

She stated that the situation would not be the same if members of the executive had provided sufficient information of the cause of delay of disbursement of the bursaries. In her opinion there was need to make changes in the Sector. She asked the Committee to consider this as part of its findings and recommendations.

c) Mr. Gedion Ndunda- Chief Sergeant-at-arms

The witness appeared in person to adduce evidence based on his incident report addressed to the Clerk of the Assembly REF: NCCA/CSAA/SIR/060/2019 dated 27th June 2019 giving an account of what transpired on the material day and in his capacity as the Chief Sergeant-at-arms. The witness was asked the following questions and gave his response as follows;

- ⚡ The witness was asked whether he was aware why he had been invited to appear before the Committee on Powers and privileges

He stated he was aware that he had been invited to shed light on events of what had transpired on Wednesday, 26th June 2019 during a sitting of the Sectoral Committee on Children, Early Childhood Education and Vocational Training.

- ⚡ The witness asked to brief the committee on his understanding of what transpired

He stated that as part of his duties, he deploys officers to man and protect all committee sittings. That, on 26th June 2019, the Sergeant-at-arms, Elizabeth Njuguna was on duty at the Committee rooms to help in coordination and maintaining order. That, shortly after adjournment of the sitting of the Committee on Education, he was called by the sergeant on duty who informed him of an altercation at the Committee rooms. He immediately called reinforcement of the other officers in the Sergeant-at-arms department namely; Mr. Dan Kanyoro, Mr. Rashid Ochieng and Benson Nkuito. He also accompanied the officers to the basement of the City Hall Building at the Committee rooms.

That upon arrival in the committee room, he found the CEC member for education. He interrogated her to find out if all was well. He affirmed to the committee that she stated all was well. He shortly afterwards escorted her out of the precincts.

- ⚡ The witness was tasked to inform the Committee of mechanisms to put in place to avoid such occurrences in future

He stated that going forward, he would deploy additional officers for the committees during committee sittings. Further, that the Assembly was working towards procuring additional CCTV cameras to be installed at the Committee Rooms.

The witness submitted a hand written statement to the committee and promised to hand to the committee CCTV footage of what transpired on 25th June 2019 at the Cafeteria the following day.

d. Mr. Daniel Kanyoro- Sergeant-at-arms

The witness appeared in person to adduce evidence based on an invitation letter from the Committee in his capacity as a Sergeant-at-arm in the Assembly. The witness was asked the following questions by the committee and subsequently responded as follows;

- ⚡ The witness was asked to introduce himself and to state to the Committee whether he was aware of why he had been invited

The witness introduced himself as Daniel Kanyoro a sergeant-at-arm in the Assembly. He was also aware why he had been invited to appear before the committee.

- ⚡ The witness was asked to brief the Committee on what transpired on 26th June 2019

He stated that he was not present at the altercation but he had received communication from the chief sergeant-at-arm informing him that there was an incident at committee rooms that needed his attention. He added that he immediately proceeded to the basement of the Assembly where he found the CEC Member for education in the Committee Room. She was escorted out of the precincts by the Chief Sergeant-at-arm. He therefore did not witness the altercation and as such could not comment further on the occurrence of the day.

Basing on the foregoing the witness was dismissed.

MIN.109/P&P/JULY/2019 Any Other Business

There was no item under this minute.

MIN.110/P&P/JULY/2019 ADJOURNMENT

There being no other business, and the time being ten minutes to one o'clock the Chairperson adjourned the meeting to Wednesday 10th July 2019 at 9.00AM.

CONFIRMED AS A TRUE RECORD

	SIGN	DATE
CHAIRPERSON 31/10/19.....
SECRETARY 31/10/19.....

MINUTES OF THE 28TH SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY POWERS AND PRIVILEGES COMMITTEE HELD ON 2ND JULY 2019 AT 12:20 P.M IN THE CHAMBER BOARDROOM.

MEMBERS PRESENT

1. Hon. Naftali Mathenge, MCA- Vice- Chairman
2. Hon. Geoffrey Majiwa, MCA
3. Hon. Caroline mayunzu, MCA
4. Hon. Jacinta Wanjiru, MCA
5. Hon. Maurice ochieng', MCA
6. Hon. Sylvia Museiya, MCA
7. Hon. Evans otiso, MCA
8. Hon. Margret mbote, MCA

MEMBERS ABSENT

1. Hon. Chege Mwaura, MCA Ag. Speaker Nairobi County Assembly.
2. Hon. Abdi I. Hassan, MCA- Leader of Majority Party
3. Hon. Peter Wahinya Njau, MCA
4. Hon. Jackline Apondi, MCA

SECRETARIAT

1. Mr. Romeo Castro - Snr. Clerk Assistant
2. Ms. Judith Aron - Clerk Assistant
3. Mr. Klinsman Munase - Legislative fellow

MIN.104/P&P/JULY/2019: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 12:20 p.m. He prayed and welcomed Members present to the meeting.

The agenda for the day was as follows;

1. Preliminaries (*Prayers and adoption of the Agenda*)
2. Deliberations on matters committed to the Committee.
 - i) A direction by the honorable speaker on an incident of misconduct emanating from the examination of a witness invited to appear before the select Committee on Early Childhood Education and vocational training during a meeting held on 26th June 2019 referring the matter to the Powers and privileges Committee.
 - ii) An appeal letter from honorable Mary Arivitsa, MCA to the Select Committee on Powers and Privileges.
3. Any Other Business
4. Adjournment

The agenda of the day was adopted as proposed by Hon. Caroline Mayunzu, MCA, seconded by Hon. Margaret Mbote, MCA

MIN.105/P&P/JULY/2019. A DIRECTION BY THE HONORABLE SPEAKER ON AN INCIDENT OF MISCONDUCT EMANATING FROM THE EXAMINATION OF A WITNESS INVITED TO APPEAR BEFORE THE SELECT COMMITTEE ON EARLY CHILDHOOD EDUCATION AND VOCATIONAL TRAINING DURING A MEETING HELD ON 26TH JUNE 2019 REFERRING THE MATTER TO THE POWERS AND PRIVILEGES COMMITTEE.

Honorable Caroline Mayunzu, MCA took the committee through chief Officer's letter as requested by the chairperson, Honorable Margaret Mbote, MCA further took members through a communication from the speaker on management and attendance of witnesses and honorable Maurice Ochieng, MCA took members through a statement from the office Sergeant – At- Arms Nairobi City County Assembly before the committee.

Upon deliberations, the committee reiterated on the protection on witnesses as anchored in the County Assemblies Powers and Privileges Act 2017, 20(1)

The Select Committee on Powers and Privileges considered the matter as committed before it and identified eleven (11) witnesses including;

- i) Halkano Waqo – Chief officer Finance
- ii) Jayendra Malde, MCA – Member for Parklands
- iii) Millicent Mugadi, MCA – Chairperson Sectoral Committee on Children, Early Childhood Education and Vocational Training
- iv) Hon. Francis Otieno, MCA – Member for Dandora iv Ward
- v) Hon. Kennedy Oyugi, MCA – Member for Highrise Ward
- vi) Hon. Julius Maina Njoka, MCA – Member for Kariobangi South
- vii) Ms. Elizabeth Njuguna - Sergeant – At- Arms Nairobi City County Assembly
- viii) Mr. Gideon Ndunda – Sergeant – At- Arms Nairobi City County Assembly
- ix) Mr. Rashid Ochieng, MCA – A commissioner Nairobi City County Assembly
- x) Mr. Benson Nkuito, MCA - A commissioner Nairobi City County Assembly
- xi) Mr. Dan Kanyoro, MCA Sergeant -At- Arms Nairobi City County Assembly

The committee resolved to invite witnesses before it and adduce evidences on scheduled dates, being from Tue 9th July 2019.

It was agreed unanimously by the Committee to request for an extension of time, from the 14 days given to an additional 14 days, so that the Committee report is tabled first thing when the house resumes from recess on 15th July, 2019. This is to enable the Committee expeditiously deal with the matter.

MIN.105/P&P/JULY/2019. AN APPEAL LETTER FROM HONORABLE MARY ARIVITSA, MCA TO THE SELECT COMMITTEE ON POWERS AND PRIVILEGES.

The Committee upon deliberations, considered the honorable members appeal at length, during which it made several observations, key being the following:

Firstly, the member's attention being drawn to the provisions of the County Assemblies Powers and Privileges Act, 2017.

The member ought to note, that the Act provides for no appeal mechanisms, the assumption being that the Committee has complied with the provisions of the said law, Article 47 of the Constitution on fair administration action and Article 50 on fair hearing. Any finding made by the Committee is considered to have taken an affected member's concerns and therefore, the adoption of such findings by the house is final and leaves no room for appeal.

Accordingly, the honorable member may further note that Section 10 of the County Assemblies Powers and Privileges Act, 2017 speaks to the foregoing, providing thus; -

No proceedings or decisions of a County Assembly or the Committee of Powers and Privileges acting in accordance with this Act shall be questioned in any Court

Secondly, an appeal process in a matter such as those affecting the honorable member is similarly not provided for in the Standing Orders for the same reason.

In the circumstances, the Committee regretted to inform the honorable member that it had no jurisdiction to entertain her appeal.

As such, a communication on Committee's resolution in regards to the same was to be done to the honorable member through a letter.

MIN.106/P&P/JULY/2019 ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business, and the time being 12:37 p.m, the V. Chairperson adjourned the meeting to the following week on Tuesday 9th July 2019.

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Chairperson

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Chairperson

.....
Chairperson

.....
Committee Clerk

..... 31/10/19.....
Date

Date

..... 31/10/19.....
Date

Date



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