



To be laid as a message from the T/A Authority by the SCA  
*[Signature]*  
SCA  
10/11/15

**TRANSITION AUTHORITY**

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Ref TA/HRM/15

27th October, 2015

**Mr. Henry Rotich**  
Cabinet Secretary  
The National Treasury  
**NAIROBI.**

**Prof. Jacob Kaimenyi**  
Cabinet Secretary  
Ministry of Education,  
Science and Technology  
**NAIROBI**



Dear

*Mr. Speakers of County Assemblies,*

**RE: TRANSFER OF VOCATIONAL TRAINING AND EARLY CHILDHOOD FUNCTIONS**

The Transition Authority (TA) is established under Section 4 of the Transition to Devolved Government Act, 2012 (TDGA), with the mandate of facilitating and coordinating the transition to devolved system of government.

In line with its mandate, the authority transferred the above mentioned functions to the County Governments vide gazette Notice No 116 of February, 2013 and Gazette Supplement No.116 of 9<sup>th</sup> August 2013. However, the implementation of these functions has continued to experience myriad of challenges including nonpayment of salaries for youth polytechnic instructors, delayed release of



capitation for Youth Polytechnic trainees and salaries for Board of Governors employed staff, expiry of contracts and nonpayment of gratuity for the Youth Polytechnic instructors under Economic Stimulus Program (ESP) and recruitment of Early Childhood Development (ECD) teachers among others.

In an attempt to resolve this matter the Transition Authority organized an inter-governmental consultative meeting at Intercontinental Hotel, Nairobi on 2nd December, 2014 which was attended by among others the Permanent Secretary, Ministry of Education Science and Technology, The Chairman of the Committee on Education Council of Governors, The Secretary Public Service Commission, The Chairman Transition Authority, Treasury representative and other senior Government officers. The meeting resolved that:

- i. County Governments shall make arrangements to pay Youth Polytechnic instructors with effect from 1<sup>st</sup> September, 2014 following the transfer of the payrolls by the Ministry of Education Science and Technology.
- ii. Public Service Commission and National Treasury extend the contracts for 1274 instructors under the Economic Stimulus Program up to 30th June 2015.
- iii. County Governments make budgetary provisions to absorb the ESP instructors in their County establishments on permanent and pensionable terms with effect from 1<sup>st</sup> July 2015.
- iv. The Ministry expedites the payment of service gratuity for the 1274 on expiry of the contract period.
- v. The National Treasury facilitates releases to the County Governments funds for capitation for Youth Polytechnic trainees and grants for instructors employed by the Board of Governors as conditional grants to the Counties.

Subsequently, it has come to the attention of the Transition Authority that while a number of the above resolutions have been implemented as agreed including

payment of salaries and extension of contracts for the ESP instructors the following issues are still outstanding:

- i. The Ministry of Education has not paid the ESP instructors their salaries and gratuity for the period 1<sup>st</sup> November, 2014 to 30<sup>th</sup> June 2015.
- ii. The Ministry of Education and National Treasury have not released funds for capitation.
- iii. The County Governments have not absorbed ESP staff on permanent terms as agreed and their salaries have not been paid from July to date.
- iv. Some counties have advertised the positions held by the ESP youth instructors and removed those who are not indigenous to the counties purporting that they are not qualified. All the staff who were serving in the counties prior to devolution were deemed to be in the service of the county government on secondment from National Government with their terms of service as at that date and –
  - The officers' terms of service including remuneration, allowances and pension or other benefits shall not be altered to officers' disadvantage.
  - The officers shall not be removed from the service except in accordance with their terms and conditions applicable.
  - Any action taken contrary to the provision of Section 138(1) in respect of the above provisions is deemed illegal, discriminatory and subject to legal challenges.

During a consultative meeting between TA and the Cabinet Secretary MoEST, on 1<sup>st</sup> October, 2015, the Authority learnt that in the course of 2014/2015 the Directorate of Youth Training was not allocated any funds to meet its obligation on payment of salaries for the ESP instructors for the period November to June 2015. The National Treasury also did not release to the County Governments funds for capitation as stated above and therefore it was difficult to operationalise this function under the circumstances.

In addition to vocational training the authority has learnt that while early childhood and other related functions have been transferred, no resources for implementing these functions have been transferred.

In view of the foregoing therefore, TA observes that non-adherence to the principle of 'resources follow functions' as enshrined in article 187 of the Constitution and failure by both levels of government to honour their obligations will put in jeopardy the whole process of devolution. We therefore advise that all owing funds to the counties, Youth trainees and instructors be released by the National Government with immediate effect and by the same token the County Governments fast-track absorption of ESP Youth Polytechnic Instructors and payment of their salaries from July 2015.

In the light of the above, the Transition Authority is in the process of urgently convening an inter-Governmental Sector consultative meeting with a view to review the progress made towards devolution of Vocational training and Early Childhood functions and the challenges facing the sector. The date and venue will be communicated to you in due course.

Yours



**KINUTHIA WAMWANGI, EBS  
CHAIRMAN**

**Copy to:**

**H.E William Samoei Ruto,EGH**  
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Harambee Avenue  
**NAIROBI.**

**M/S Anne Waiguru, OGW**  
Cabinet Secretary,  
Ministry of evolution and Planning  
**NAIROBI.**

**Hon. Githu Muigai, EGH, SC**  
Attorney General  
State Law Office  
Sheria House  
**NAIROBI.**

**H.E Hon. Peter Munya**  
Chairman, Council of Governors &  
Governor, Meru County  
Delta House  
**NAIROBI**

**All Governors**

**All Speakers of County Assemblies**

**Mr. J. M. Nyegenye, CBS**  
The Clerk to the Senate  
Parliament Buildings  
**NAIROBI.**

**Prof. Margaret Kobia, CBS**  
Chairperson  
Public Service Commission  
**NAIROBI**

**Mr. Micah Chesem**  
The Chairman  
Commission on Revenue Allocation  
**NAIROBI.**

**Mr. Francis Ole Kaparo, EGH**  
**Chairman**  
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**Mrs Grace Otieno, EBS**  
Principal Administrative Secretary  
Directorate of Public Service Management  
Harambee House  
**NAIROBI**

**Arch. Philip Kungu**

Chairperson, County Public Service Boards Forum &  
Chairperson, Nairobi County Public Service Board  
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**NAIROBI**

**Mr. Tom M. Odege**

Secretary General  
Union of Kenya Civil Servants  
P.O. Box 48083-00100 GPO

**NAIROBI-KENYA. (Letter Ref. UKCS/NYI/CORR/1/98 refers)**

**All County Secretaries**

**All Secretaries**

**County Public Service Boards**

**Naphtaly Mattah**

CECM Education & ICT  
Secretary CECM Forum Chair,