

REPUBLIC OF KENYA

IN THE ELECTORAL CODE OF CONDUCT ENFORCEMENT COMMITTEE AT NAIROBI

COMPLAINT NO. IEBC/ECCEC/BE/04/2025

IN THE MATTER OF ARTICLE 88 (4) (J) OF THE CONSTITUTION OF KENYA, 2010

IN THE MATTER OF THE SECOND SCHEDULE OF THE ELECTIONS ACT, CAP 7

THE RETURNING OFFICER, KASIPUL CONSTITUENCY..... COMPLAINANT

VERSUS

BOYD WERE ONG'ONDO 1ST RESPONDENT

ORANGE DEMOCRATIC MOVEMENT PARTY2ND RESPONDENT

DECISION

SUMMARY OF THE COMPLAINT

1. The Complainant is the Returning Officer for Kasipul Constituency. She approached the Electoral Code of Conduct Enforcement Committee on 14th November, 2025 by lodging a complaint regarding an updated campaign schedule she received from the ODM candidate for Kasipul Constituency in the upcoming by-elections.

2. She asserted that the submitted updated schedule which spans from 18th to 24th November 2025 directly contravenes the official harmonized campaign schedule agreed upon by all stakeholders on 10th October, 2025. Further, it creates a conflict with the planned campaigns of four other candidates.
3. It is her contention that she convened a security meeting with the candidates on 12th November, 2025 where the issue was raised and discussed. Only six out of the ten candidates attended the meeting. In the aforesaid meeting, it was agreed that the harmonized schedule would be adhered to and should there be changes, the same should be done by the Returning Officer with the consensus of all candidates.
4. Previously, the schedule was contravened and led to loss of life and property.
5. She requested that the Committee intervenes immediately to resolve the matter in order to avert the significant risk of escalating tensions that may lead to a repeat of the violent incidents previously observed.

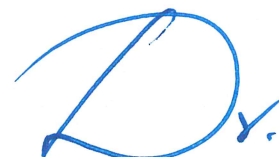
COMPLAINANT'S CASE

6. The Complaint was heard on 17th November, 2025, where the Complainant gave her evidence on oath.
7. The Complainant stated that there was a pre-nomination meeting held on 3rd October, 2025. She further stated that during the meeting, she explained to the aspirants that, one of the requirements they were required to submit to the Returning Officer on the day of Registration of Candidates, was their campaign schedule.
8. She averred that all candidates submitted their campaign schedules which were later harmonized on 10th October, 2025 after which all candidates were given a copy of the harmonized schedule. The principal purpose of the schedule is to prevent conflicts and overlaps in campaign activities by different candidates.

9. It was her position that following instances of violence that had ravaged the area, she organized a security meeting with the candidates on 12th November, 2025. During the meeting, one of the issues that came up, was that some candidates were not following the harmonized campaign schedule.
10. Only six out of the ten candidates attended the meeting, and as such, it was not possible to make changes to the harmonized schedule. It was therefore agreed, that the harmonized schedule would be adhered to, and should there be changes, the same should be with the consensus of all candidates.
11. On 13th November, 2025, she received a letter from the ODM candidate, the 1st Respondent herein, with an updated campaign schedule. She realized that the updated schedule submitted by the 1st Respondent clashed with the schedules of other candidates in the area.
12. She expressed fears that failure by the candidates to adhere to the schedule played a major part in the violence witnessed. As a result, she did not respond to the letter and sought the intervention of the Committee to make a determination in the matter.

RESPONDENTS' CASE

13. The Respondents were represented by Counsel Jackson Awele.
14. He stated that the Returning Officer received the letter from the 1st Respondent on 14th November, 2025 but failed to respond to the letter. Instead, she abdicated her duty to sit with the candidates and agree on matters regarding the campaign schedule before referring the matter to the Committee.
15. Counsel averred that, law was made for man, and the Returning Officer should applaud a candidate who informs her of intended alterations to their campaign

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schedule well in advance. Further, the Returning Officer ought to have called the candidates and revise the schedules.

16. He added that, most of the candidates whose campaign schedules conflicted with the updated campaign schedule submitted by the 1st Respondent were not participating in campaigns.

ANALYSIS AND DETERMINATION

17. The Complaint raises the following issue for determination:

i. Whether a candidate can unilaterally change their campaign schedule

18. Article 84 of the Constitution of Kenya, 2010 provides that

84. In every election, all candidates and all political parties shall comply with the code of conduct prescribed by the Independent Electoral and Boundaries Commission.

19. Section 110 of the Elections Act requires every political party and person who participates in an election or referendum under the Constitution and the Act to subscribe to, and observe the Electoral Code of Conduct set out in the Second Schedule of the Act.

20. Paragraph 6 of the Second Schedule to the Elections Act Cap 7, outlines;

6. All those bound by this Code shall, throughout an election period—

a) ...

b) ...

c) ...

d) ...

e) co-operate and liaise in good faith with other parties to avoid organizing public meetings, demonstrations, rallies or marches to take place at the same time and venue as similar political events organized by other parties;

21. The Committee notes that the object of the Electoral Code of Conduct as set out under Paragraph 3 is to promote conditions conducive to the conduct of free and fair elections and a climate of tolerance in which political activity may take place without fear, coercion, intimidation or reprisals.
22. It is against this background that campaign schedules are harmonized to avert the risk of clashing political activities which may result in violence as has been witnessed in Kasipul Constituency.
23. The Returning Officer intimated that the violence witnessed was largely due to lack of adherence to the harmonized campaign schedule. Consequently, the Returning Officer organized a security meeting on 12th October, 2025 where the issue of the campaign schedule was addressed and a resolution was passed that the already harmonized schedule be adhered to, and any changes thereto shall be done in the presence of all the candidates.
24. The Committee noted that the 1st Respondent was present in the security meeting held on 12th October, 2025. It further noted that the 1st Respondent submitted the updated campaign schedule on 13th October, 2025 which was only a day after the said security meeting.
25. The Committee finds that the submission of the updated schedule may not have been done in good faith as the Committee had been informed that the issue of altering the harmonized schedule had been held in abeyance until all candidates were present.
26. Paragraph 6(k)(i) of the Electoral Code of Conduct obligates all persons subject to the Code to recognize the Commission's authority in managing an election or referendum throughout the entire election period. Under paragraph 6(k)(iii), they must implement the orders and/or directions of the Commission.

27. Our inference from the above provisions, is that the 1st Respondent was obligated to abide by the harmonized campaign schedule as directed by the Returning Officer who acts on behalf of the Commission.

28. The Committee acknowledges that the 1st Respondent had a right to request for an amendment to his campaign schedule. However, in the interest of fairness, good order and peace, this can only be altered by way of consensus of all candidates. In this regard, the Committee finds merit in the Returning Officer's inclusive reasoning requiring all candidates to be present while making changes to the harmonized campaign schedule.

ORDERS

29. The Committee has considered the Complaint, submissions made by the parties, and relevant provisions of the law. Cognizant of the much reported violence associated with campaigns within the constituency, the Committee is keen on according all the candidates participating in the by-elections a level playing field and that the candidates can campaign without fear and intimidation.

30. In the premises, the Committee makes the following orders;

- (i) That all the candidates for the Kasipul Constituency by-election should abide by the harmonized campaign schedule which was agreed upon in the presence of all candidates on 10th October, 2025.

- (ii) That should there be reported conflict or clashes arising from failure to adhere to the harmonized campaign schedule, this committee will exercise its powers as provided under paragraph 7 of the Second Schedule of the Elections Act, Cap 7.

- (iii) No orders as to costs



DATED AT NAIROBI THIS 17th DAY OF NOVEMBER, 2025

DR. ALUTALALA MUKHWANA 17/11/2025

CHAIRPERSON

HASSAN NOOR, EBS [Signature]

MEMBER

MARYKAREN SOROBIT [Signature]

MEMBER

ANNE NDERITU, CBS [Signature]

MEMBER

PROF. FRANCIS W.O. ADUOL [Signature]

MEMBER

