

**REPUBLIC OF KENYA
INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION
THE ELECTORAL CODE OF CONDUCT ENFORCEMENT COMMITTEE**

ECCEC. COMPLAINT No. 2 OF 2026

IN THE MATTER OF ARTICLES 88 AND 91 OF THE CONSTITUTION OF KENYA, 2010

AND

IN THE MATTER OF THE ELECTIONS ACT, CAP 7 LAWS OF KENYA

AND

**IN THE MATTER OF THE ELECTORAL CODE OF CONDUCT SET OUT IN THE SECOND
SCHEDULE TO THE ELECTIONS ACT, CAP 7 LAWS OF KENYA**

AND

HON. DAVID GIKARIA.....RESPONDENT

JUDGMENT

A. INTRODUCTION

1. The Respondent Hon. David Gikaria, Member of the National Assembly for Nakuru Town East Constituency, was summoned to appear before the Electoral Code of Conduct Enforcement Committee (hereinafter "the Committee") to answer to allegations of alleged breach of the Electoral Code of Conduct (hereinafter "the Code") arising from utterances at a public rally in Ol Kalou, Nyandarua County, ahead of the by-election scheduled for 16th July 2026 in respect of the Ol Kalou Constituency parliamentary seat.
2. This was in relation to a video clip widely circulated both on the mainstream and social media depicting the Honorable Member addressing jubilant

members of the public at Mirangine Ward, Ol Kalou Constituency, Nyandarua County, in the course of outreach activities ahead of the 16th July 2026 parliamentary by-election.

3. Two strands of conduct are addressed:

(a) the Respondent's own account of the distribution of substantial sums of cash to persons attending the rally, and of the amounts involved; and

(b) the Respondent's remarks to the gathering that an identification document ("ID") was not required to vote.

B. THE IMPUGNED CONDUCT AND REMARKS

B.1 Distribution of Money

4. The Respondent is recorded, in his own voice, addressing the rally in the following terms:

"...lakini mimi nilikuwa na elfu mia mbili hamsini ya mikutano ya jana, watu wakajaa... I had to go home and get another 800,000/-... Jana pekee yake, hapa kwenu nilitumia 1.2 million...si niliwaambia mimi nimepewa 250,000/-? Hiyo ni ya jana, sindio? Leo nimepewa another 250,000/-."

5. On a plain reading, the Respondent states that he disbursed ("nilitumia" i.e., "I used/spent") a total of KES 1.2 million at the rally the previous day alone, having returned home to source a further KES 800,000/- after his initial KES 250,000/- was exhausted by attendee turnout, and that he had, on the day of the impugned rally itself, been furnished with a further KES 250,000/- for the same purpose.

B.2 Identification Document Remarks

6. The Respondent is further recorded, in the certified electronic evidence before the Committee, addressing residents in the following terms:

"Ulipiga kura, sivyo? Kuna kitambulisho ilikuwa inaitishwa? Hakuna kitambulisho ilikuwa ikiitishwa... Mtu alikuwa akifanya nini? Unaweka

kidole... kama ID haiitishwi unatumia kidole... ufike ujiwekee kidole, hakuna ID, hautaitishwa ID..."

7. The video record discloses further material that situates these remarks within a live, contested exchange and confirms the practice underlying them. At **minute 3:17**, the Respondent poses the question, "*Kuna kitambulisho ilikuwa ikiitishwa?... Kwa kupiga kura?*", to which an audience member responds "Eeeh" ("yes"). The Respondent presses, "Wapi?", then dismisses the attendee with the words "*wewe haukupiga kura.*"
8. The Respondent further states: "*Kama ID haiitishiwi...unatumia kidole alafu mnasema, watu wanaitisha ID wakaibe kura, kuna kidole ya mtu itakatwa alafu mimi niende nikawekelee?...Haiwezekani.*"
9. The Respondent's reassurance to the gathering, that identification is dispensable and that biometric verification alone suffices, is a representation that contradicts the requirement under section 10(1) of the Elections Act and its regulations that a voter produce a valid identification document at the polling station.

C. EVIDENCE BEFORE THE COMMITTEE

Committee Secretary's Case (Complainant)

10. During the hearing, the Secretary to the Committee made oral submissions highlighting the identified breach of the Code.
11. In her submissions, she stated that the Respondent, Hon. David Gikeria is not just an ordinary citizen; he is a prominent office bearer, a recognized political leader and a Member of Parliament for Nakuru Town East Constituency. By virtue of his position, he owes the highest duty of fidelity, honesty, and integrity to the public, the people he represents and, in this case, the people of Ol Kalou. Instead, during a recent campaign rally in Olkalau, the Accused chose to weaponize his influence. He stood before a vulnerable electorate and wilfully, maliciously spread flagrant falsehoods designed to disenfranchise voters, while simultaneously boasting of using financial muscle on the innocent and so trusting members of the public.



12. In support of her submissions, she presented the following material as evidence before the Committee:

- (a) an audio-visual clip of the impugned remarks, broadcast by Citizen Digital/Citizen TV Kenya and uploaded on 7th July 2026 and accessible at <https://youtu.be/MHpviEHzMCE>, titled "MP David Gikaria explains to Ol Kalou residents why he demands IDs before giving handouts";
- (b) a Digital Forensic Report prepared by the Kenya Computer Incident Response Team – Coordination Centre (KE-CIRT/CC), domiciled at the Communications Authority of Kenya (CAK), confirming the source, broadcaster and date of the video; and
- (c) a Certificate of Electronic Evidence dated 10th July 2026, certifying the integrity of the electronic evidence.

Respondent's Case

13. The Respondent was represented by learned Counsel Michael Ombogi who made oral submissions.

14. In his submissions, he outlined that the Respondent was not served with the particular video clip produced by the Secretary and played before the Committee.

15. He further stated that the Respondent was not supplied with the transcriptions of the said video clip and as such it was his assumption that the prosecution only relied on documentary evidence.

16. Regarding the contents of the video, he asserted that there was no evidence that money changed hands and that the speech was not in itself an offer in exchange for them attending any particular meeting. Additionally, it was his assertion that there was no evidence that any voter was promised an award for voting a certain way.

17. It was his contestation that the forensic report produced before the Committee merely authenticated the video but did not prove that the respondent committed bribery.



18. In conclusion, he claimed that the Committee relied on its own interpretation of the words uttered by the Respondent, which he argued were taken out of context.

Complainant's Rejoinder

19. In a brief rejoinder, the Complainant stated that the report was duly served upon the respondent and that the same was only meant to show authenticity of the electronic evidence as required by Section 106 B (4) of the Evidence Act.

20. She further added that the words in the video were spoken in the national language i.e., Kiswahili and as such did not require transcription.

D. ISSUES FOR DETERMINATION

21. From the foregoing, the following issues arise for determination:

- (a) Whether the Respondent's remarks claiming he had distributed money to persons attending his rallies and that he had more, contravened Paragraph 6(h) of the Code;
- (b) Whether the Respondent's remarks claiming he had distributed money to persons attending his rallies and that he had more, constituted an abuse of his position for political purposes, contrary to Paragraph 6(i) of the Code; and
- (c) Whether the Respondent's identification document remarks constituted an abuse of his position for political purposes, contrary to Paragraph 6(i) of the Code.

E. DETERMINATION OF THE ISSUES

ISSUE 1: Whether the Respondent's remarks claiming he had distributed money and that he had more, contravened Paragraph 6(h) of the Code

22. Paragraph 6(h) of the Code commits every candidate to refrain from offering any document or reward to any person in consideration of such person, among others, attending or not attending any political event.

23. The Respondent's own account, set out at paragraphs 4 and 5 above, is a direct, public, first person statement of large scale cash disbursement. It was his own admission that the cash was distributed at political events he attended across the constituency.
24. This Committee is aware of the Kenyan political landscape. It is particularly aware of the behaviour of people where money is mentioned as well as the Kenyan culture of associating politics and handouts. Being a politician, and inferring from his remarks, it is obvious that the Respondent is also aware of this fact and was using it to lure people to attend political events where he drummed up support for his preferred candidate in the upcoming by election.
25. The Committee finds Hon. David Gikaria culpable of breach of Paragraph 6(h) of the Code.

ISSUE 2: Whether the Respondent's remarks claiming he had distributed money and that he had more, constituted an abuse of his position for political purposes, contrary to Paragraph 6(i) of the Code

26. Paragraph 6(i) of the Code commits every candidate to refrain from any attempt to abuse a position of power, privilege or influence for political purposes, including any offer of reward. The provision targets the deployment of standing, office, or advantage, rather than any specific category of statement, and its reach extends to the manner in which a candidate's authority is used, wherever that use serves a political end.
27. The meaning of "abuse" in this context can be defined as the wrongful or improper exercise of a power or position to confer a benefit upon oneself or others. On this footing, conduct that trades on the authority of public office to secure or safeguard an advantage through statements that the officeholder has reason to know misstate the true position amounts to an abuse of that office, irrespective of whether the advantage secured takes a pecuniary or a purely electoral form.



28. The term "political purpose" may be understood in relevant part, as any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office. This formulation accords with the treatment, in comparative electoral integrity practice, of "abuse of official position" as the deployment of the powers, privileges and standing attaching to public office to advance the electoral interests of a particular candidate or party.
29. In sum, a political purpose is present wherever an act, whatever its surface content, is directed at influencing the conduct, perception, or compliance of an electorate, or at protecting or advancing a candidate's electoral standing, ahead of a poll.
30. The distribution of funds, which the Respondent himself admits to doing, constitutes an abuse of his position under Paragraph 6(i). It was the Respondent's office, standing as a sitting Member of the National Assembly, and consequent capacity to convene, resource and finance a rally of the scale described, that permitted the disbursement scheme described at paragraphs 4 and 5 above. The financing and orchestration of that scheme is the deployment of the office, access to resources, and standing that only an incumbent legislator commands, for the purpose of mobilising and securing electoral support ahead of the by-election, within the meaning of "political purpose" set out above.
31. For the above stated reasons, the Committee finds Hon. David Gikaria culpable of breach of Paragraph 6(i) of the Code in respect of the distribution of money, independently of and in addition to the finding at Issue 1 above.

ISSUE 3: Whether the Respondent's identification document remarks constituted an abuse of his position for political purposes, contrary to Paragraph 6(i) of the Code

32. Section 10(1) of the Elections Act, CAP 7 provides that a person whose name and biometric data are entered in a register of voters at a particular



polling station, **and who produces an identification document** (emphasis ours), shall be eligible to vote at that polling station.

33. Accordingly, the statutory voting process requires both production of an acceptable identification document (namely, a national identity card or a valid Kenyan passport) and biometric verification. **Biometric verification does not operate as a statutory substitute for production of an identification document.**
34. To prove a breach of paragraph 6(i) of the Code, this Committee finds that it is important to consider three elements:
- (a) whether the Respondent occupied a position of power, privilege or influence;
 - (b) whether the Respondent's conduct amounted to an abuse of that position of influence; and
 - (c) whether that abuse was for a political purpose.
35. Position of power, privilege or influence: The Respondent is the sitting Member of Parliament for Nakuru Town East. He is a leader and a person of influence not only in his own constituency but within the region and the country at large.
36. Abuse of the position of influence: The deference customarily extended to an incumbent legislator placed him in a position of considerable influence over the assembled residents. Deploying that influential position, the Respondent proceeded to offer the rally attendees a representation on the ID requirement that misstates the position under the Elections Act and the attendant regulations. The use of his influence to press a representation of that kind, in order to secure or protect an advantage for the Respondent's preferred candidate, constitutes an abuse of the position within the meaning of Paragraph 6(i).
37. Political purpose: The remarks served the specific end of drumming up support for his preferred candidate. This falls squarely within the definition of "political purpose" set out above.

38. All three elements being established, the Committee finds, on the totality of the evidence, that the Respondent's remarks on the identification requirement amount to an abuse of his position of power, privilege and influence as Member of the National Assembly, deployed for a political purpose, in breach of Paragraph 6(i) of the Electoral Code of Conduct, independently of and in addition to the finding at ISSUE 2 above.

F. DETERMINATION

39. The Committee finds Hon. David Gikaria, Member of the National Assembly for Nakuru Town East Constituency, CULPABLE of breaching:

(a) Paragraph 6(h) of the Code, by reason of his claims that he distributed cash, as found at ISSUE 1 above;

(b) Paragraph 6(i) of the Code, by reason of the same cash distribution claims, which independently amounts to an abuse of his position and influence as a Member of the National Assembly for political purposes, as found at ISSUE 2 above; and

(c) Paragraph 6(i) of the Code, separately and independently, by reason of his misrepresentation to his own assembled audience that identification documents were not required to vote, an abuse of his position and influence for political purposes, as found at ISSUE 3 above,

in each case in respect of the conduct and utterances at the public rally in Ol Kalou, Nyandarua County.

40. This determination is consistent with the jurisprudence of the Supreme Court of Kenya in ***Wetang'ula & Another -vs- Kombo & 5 others [2015] KESC 12 (KLR)***, where the court affirmed that improper inducement strikes at the heart of electoral integrity and undermine the constitutional requirement that elections be free and fair.

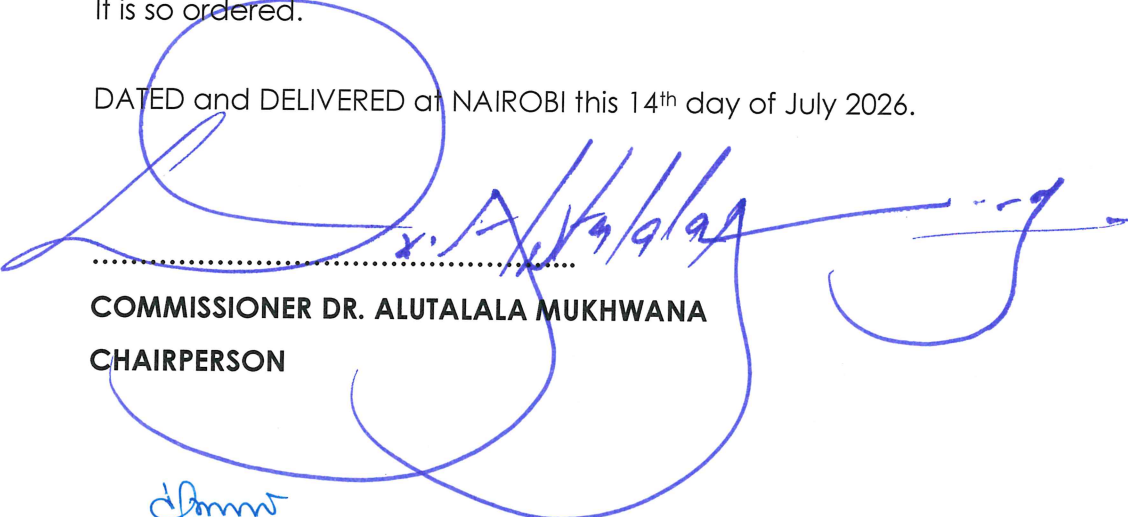
G. ORDERS

41. The Committee, having considered all the submissions and authenticated digital evidence and found the Respondent culpable on all three limbs, and in the exercise of its powers under the Code, ORDERS as follows:

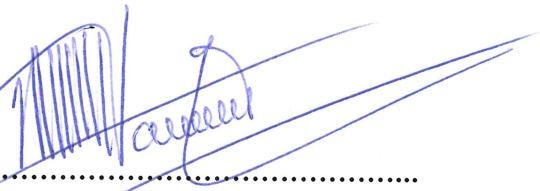
- (i) THAT the Respondent, Hon. David Gikaria, is hereby issued a severe formal warning to cease and desist forthwith from making statements that imply financial inducement or reward to the electorate;
- (ii) THAT the Respondent, Hon. David Gikaria, is hereby issued a severe formal warning to cease and desist forthwith from making any further misleading statements regarding statutory voting requirements;
- (iii) THAT the Hon. David Gikaria to issue a public retraction and apology in person, at the Commission's headquarters located at Anniversary Towers, 6th Floor, on **Wednesday 15th July 2026** at **10:00 A.M.**, undertaking that the same was wrong and shall not be repeated;
- (iv) THAT the authenticated video evidence presented before this Committee be referred to the Office of the Director of Public Prosecutions to investigate potential offences under the Election Offences Act. If established, the said Hon. David Gikaria be prosecuted criminally under the law.
- (v) THAT the Hon. David Gikaria, is hereby condemned to pay a fine of Kenya Shillings Two Million, Five Hundred Thousand, (KES. 2,500,000/-) within forty-eight hours (48) hours of this determination;
- (vi) THAT failure to comply with the orders, will attract further sanctions that will include but not limited to barring the Hon. David Gikaria from contesting in any election conducted and supervised by the Independent Electoral and Boundaries Commission (IEBC), in accordance with the applicable law.

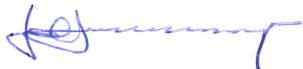
It is so ordered.

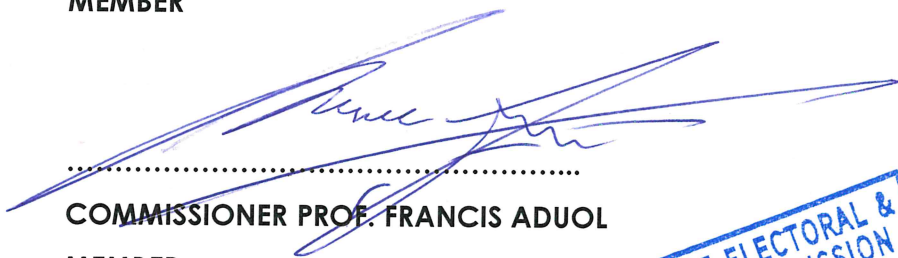
DATED and DELIVERED at NAIROBI this 14th day of July 2026.

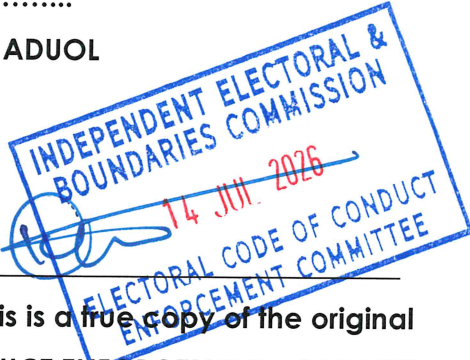

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COMMISSIONER DR. ALUTALALA MUKHWANA
CHAIRPERSON


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COMMISSIONER FAHIMA ARAPHAT ABDALLAH OGW
MEMBER


.....
COMMISSIONER HASSAN NOOR, EBS
MEMBER


.....
COMMISSIONER ANNE NDERITU, CBS
MEMBER


.....
COMMISSIONER PROF. FRANCIS ADUOL
MEMBER


I CERTIFY that this is a true copy of the original
ELECTORAL CODE OF CONDUCT ENFORCEMENT COMMITTEE SECRETARY

