

# **A HANDBOOK ON ELECTIVE POSITIONS IN KENYA**



**INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION**

# A HANDBOOK ON ELECTIVE POSITIONS IN KENYA

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INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

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## **FOREWORD**

This Handbook on Elective Positions has been developed to guide the facilitators, candidates, stakeholders and the general public in understanding the various Elective Positions. It provides information on the roles, qualifications for and disqualifications from various elective positions.

The handbook is meant to promote awareness about the six elective positions: President, Governor, Senator, Member of Parliament, County Woman Member of National Assembly, and Member of County Assembly

Voter education providers and stakeholders are expected to use this handbook in conducting voter education on the elective positions

The Commission is grateful to all stakeholders who participated in the development of this handbook

**Wafula Chebukati**

Chairman Independent Electoral and Boundaries Commission (IEBC)

## ACKNOWLEDGMENT

The Handbook on Elective Positions is intended to complement the use of the Voter Education Curriculum and Training Manual as the primary reference materials in voter education. It was made possible through the invaluable effort and contribution of numerous organisations, people, institutions and stakeholders.

We are greatly indebted to IEBC Chairperson (Mr. Wafula Chebukati), Commissioners, and Deputy Commission Secretaries for their guidance, contribution, and commitment to provision of quality voter education in general and in the realisation of this Handbook.

Special thanks to the Chairperson and members of the Voter Education and Media Committee (VEMC); and Directorate of Voter Education and Partnerships and IEBC staff for their dedication and commitment to the task of reviewing this Handbook.

We are greatly indebted to the United Nations Development Programme (UNDP) for the financial support and the Kenya Institute of Curriculum Development (KICD) for the technical and professional input in the review of the Handbook.

**Ezra Chiloba**

Commission Secretary /CEO

Independent Electoral and Boundaries Commission (IEBC)



## Introduction

This handbook is intended to educate the public on the six elective positions in Kenya. These are: President, Governor, Senator, Member of Parliament, County Woman Member of National Assembly, and Member of County Assembly.

The handbook describes qualifications and disqualifications for each of the elective positions and their respective roles.

The purpose of this handbook is to enable voters to understand the elective positions, roles and qualifications for various positions.

The information in this handbook is presented in narrative and illustrations for easier comprehension.



## THE ELECTIVE POSITIONS IN KENYA

### What are the elective positions in Kenya?

There are six elective positions in Kenya, namely:

1. **The President:** This is the Head of State and National Government elected by voters of the Republic of Kenya
2. **Member of National Assembly:** Member of Parliament elected to represent a Constituency in the National Assembly
3. **Senator:** Member of Parliament elected to represent a County in the Senate
4. **County Woman Member of the National Assembly ('Woman Representative'):** Member of Parliament elected to represent a County in the National Assembly
5. **County Governor:** The elected Chief Executive of the County Government
6. **Member of the County Assembly:** An elected member representing an electoral Ward in the County Assembly.

#### Elective Positions and Respective Electoral Areas

ELECTIVE POSITION	ELECTORAL AREA
The President	Republic of Kenya
Member of National Assembly	Constituency
Senator	County
County Woman Member of National Assembly	County
County Governor	County
Member of County Assembly	County Electoral Ward

*Figure 1: Elective positions and respective electoral areas*

The elective positions represent both National and County Government

## STRUCTURE OF REPRESENTATION UNDER DEVOLVED GOVERNMENT

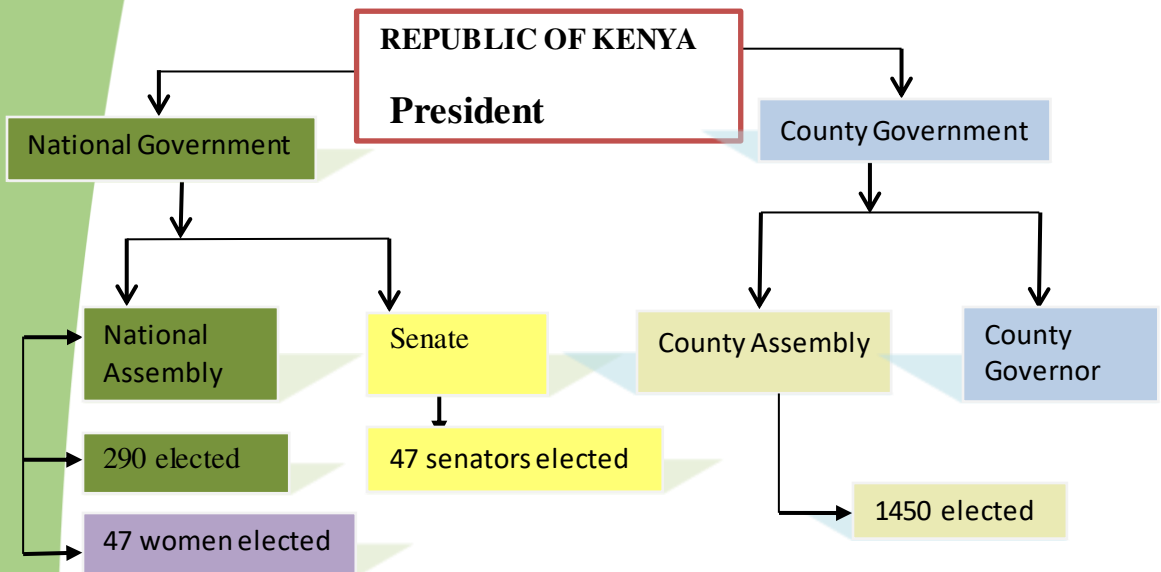


Figure 2: The levels of Devolved government: National and County Government.

## What are the elective positions in the National Government?

The elective positions in the National Government are:

1. The President
2. Member of the National Assembly
3. Senator
4. County Woman Member of the National Assembly

## Elective Positions in the National Government

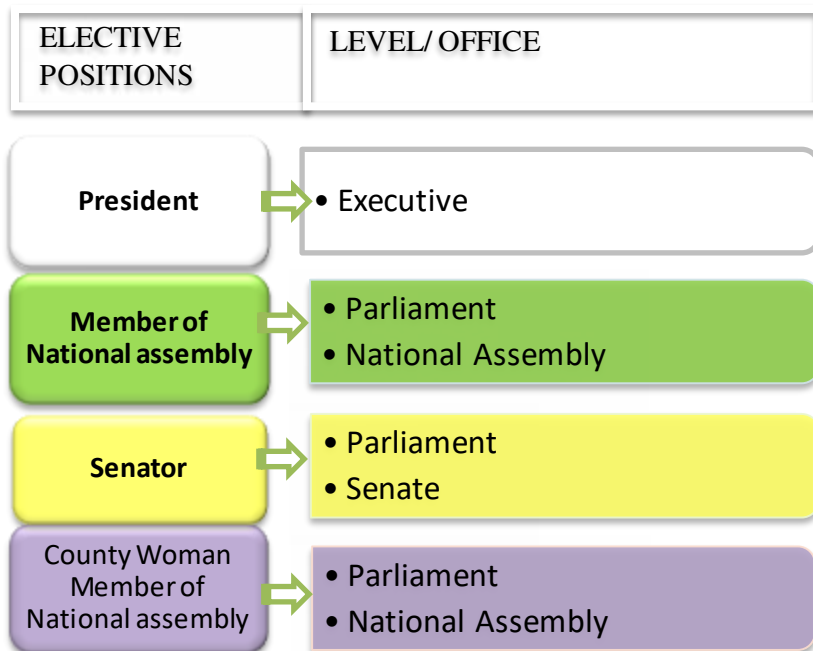


Figure 3 Elective positions in the National Government

## What are the elective positions in the County Government?

There are two elective positions in the County Government namely:

1. County Governor
2. Member of County Assembly

## Elective Positions in the County Government

ELECTIVE POSITION	ARM OF GOVERNMENT
County Governor	County Executive
Member of County Assembly	County Assembly

Figure 4: Elective positions in the County Government

## **What are the roles and functions of elected leaders?**

### **The president:**

- Is the head of state and national government;
- Is the commander-in-chief of the Kenya Defence Forces;
- Is the chairperson of the National Security Council;
- Is a symbol of national unity;
- Safeguards the sovereignty of the Republic;
- Promotes and enhances the unity of the Nation;
- Promotes respect for the diversity of the people and communities of Kenya;
- Ensures the protection of human rights, fundamental freedoms and the rule of law; and
- Chairs Cabinet meetings.

### **The role of Member of National Assembly and County Woman Member of the National Assembly.**

- Represent the people of the constituencies and the special groups in the National Assembly;
- Deliberate on and resolves issues of concern to the people;
- Make national laws;
- Decide on the allocation of national revenue between the levels of Government and other national state organs;
- Oversee state organs, national revenue and its expenditure;
- Review the conduct of the President, the Deputy President and other State officers and may initiate the process of removing them from office.



*The National Assembly*

## **Roles of the Senator**

- Represents the Counties
- Protects the interest of the County Governments
- Makes laws for the County Governments
- Decides the allocation of revenue among counties
- Oversees national revenue allocated to the County Government
- Participate in the oversight of the state offices

- Has a final vote (impeachment) of the President or Deputy President from office



*The Senate*

## **The role of the County Governor**

- Provide leadership in the County's governance and development;
- Provide leadership to the County Executive Committee and administration based on the County policies and plans;
- Promote democracy, good governance, unity and cohesion within the County;
- Promote peace and order within the County;

- Promote the competitiveness of the County;
- Be accountable for the management and use of the County resources; and
- Promote and facilitate citizen participation in the development of policies and plans, and delivery of services in the County

## **Role of the Member of County Assembly**

- Maintain close contact with the electorate and consult them on issues before or under discussion in the county assembly;
- Present views, opinions and proposals of the electorate to the county assembly;
- Attend sessions of the county assembly and its committees;
- Provide a linkage between the county assembly and the electorate on public service delivery; and
- Extend professional knowledge, experience or specialized knowledge to any issue for discussion in the county assembly.



## What are the Qualifications and Disqualification for election to each of the elective positions?

There are different requirements for one to qualify to be elected in any of the six elective positions.



*Figure 5 : Officers verifying nomination requirements*



## A. Candidate for Presidential Election (and Running Mate)

### Qualifications:

1. Must be a Kenyan citizen by birth;
2. Must be a registered voter
3. Must not owe allegiance to a foreign state;
4. Is qualified to stand for election as a member of Parliament;
5. Is a holder of a degree from a University recognized in Kenya;
6. Is nominated by a Political Party or is an independent candidate;
7. Must not be a public officer or acting in any State of public office other than, President, Deputy President or Member of Parliament;
8. Must meet the moral and ethical requirements under the Leadership and Integrity Act;
9. Must not hold dual citizenship unless citizenship of the other country has been obtained by operation of law without capacity to opt out;
10. Must not be an undischarged bankrupt;
11. Must not be a person of unsound mind;
12. Must not be subject to a sentence of imprisonment of at least six months from the date of registration of candidates or date of elections;
13. Must not have been found to have abused or misused state or public office or contravened Chapter Six of the Constitution; and
14. Must not have been dismissed or removed from public office for contravening the provisions of Articles 75, 76, 77 and 78 of the Constitution.

### Requirements:

*(All requirements for a presidential candidate apply to a deputy presidential candidate)*



## What are the reasons for disqualification from being nominated as a President?

Reasons for disqualification from being nominated as Presidential candidate:

Owes allegiance to a foreign state;

is of unsound mind;

is undischarged bankrupt;

has been found in accordance with any law to have misused or abused a state office or public office;

Fails to enlist the required number of supporters as required in the Constitution and the Elections Act;

is subject to a sentence of imprisonment of at least six months, as at the date of registration as a candidate, or at the date of election;

Is a public officer, or is acting in any State or other public office. Except for President, Deputy President; a Member of Parliament; a Member of County Assembly, a County Governor or a Deputy Governor;

Participates directly or indirectly in any public fundraising within eight months preceding a general election or during an election period. Except when fundraising for a person who is contesting an election or fundraising for a political party;

Failure to resign from public service on or before the prescribed period.

*Figure 6: Reasons for disqualification for election as a President.*

## B. Candidate for election as Member of National Assembly (including County Woman representative to National Assembly)

Elective Position	Qualification
Member of National Assembly and County Woman Member of National Assembly.	<ol style="list-style-type: none"> <li>1. Must have been a Kenyan citizen for at least 10 years before the election;</li> <li>2. Must not hold allegiance to a foreign state;</li> <li>3. Must be a registered voter;</li> <li>4. Is nominated by a Political Party or is an independent candidate;</li> <li>5. Must meet the statutory moral and ethical requirements under the Leadership and Integrity Act;</li> <li>6. Must not be a public officer or acting in any State of public office other than a Member of Parliament;</li> <li>7. Must not hold dual citizenship unless citizenship of the other country has been obtained by operation of law without capacity to opt out;</li> <li>8. Must not be an undischarged bankrupt;</li> <li>9. Must not be a person of unsound mind;</li> <li>10. Must not be subject to a sentence of imprisonment of at least six months from the date of registration of candidates or date of elections;</li> <li>11. Must not have been found to have abused or misused state or public office or contravened Chapter Six of the Constitution; and</li> <li>12. Must not have been dismissed or removed from public office for contravening the provisions of Articles 75, 76, 77 and 78 of the Constitution</li> </ol>

	<b>N/B.</b> County Woman Member of National Assembly <b>must</b> be a Woman.
	<b>Disqualification</b>
	<ul style="list-style-type: none"> <li>• Is a State officer or other public officer, other than a Member of Parliament</li> <li>• has held office as a member of the Independent Electoral and Boundaries Commission in the immediate past five years</li> <li>• has not been a citizen of Kenya for at least the ten years immediately before the date of election</li> <li>• is a Member of County Assembly</li> <li>• is of unsound mind</li> <li>• is undischarged bankrupt</li> <li>• is subject to a sentence of imprisonment of at least six months, as at the date of registration as a candidate, or at the date of election</li> <li>• has been found in accordance with any law to have misused or abused a state office or public office</li> <li>• Participates directly or indirectly in any public fundraising within eight months preceding a general election or during an election period. This disqualification excludes fundraising for a person who is contesting an election or to a fundraising for a political party</li> <li>• Fails to enlist the required number of supporters as required in the Constitution and the Elections Act in case of an independent candidate.</li> </ul>

## C. Candidate for Senate election

Elective Position	Qualifications
<b>Senator</b>	<ol style="list-style-type: none"> <li>1) Must have been a Kenyan citizen for at least 10 years before the election;</li> <li>2) Must not owe allegiance to a foreign state;</li> <li>3) Must be a registered voter;</li> <li>4) Is nominated by a Political Party or is an independent candidate;</li> <li>5) Must meet the statutory moral and ethical requirements under the Leadership and Integrity Act;</li> <li>6) Must not be a public officer or acting in any State of public office other than a Member of Parliament;</li> <li>7) Must not hold dual citizenship unless citizenship of the other country has been obtained by operation of law without capacity to opt out;</li> <li>8) Must not be an undischarged bankrupt;</li> <li>9) Must not be a person of unsound mind;</li> <li>10) Must not be subject to a sentence of imprisonment of at least six months from the date of registration of candidates or date of elections;</li> <li>11) Must not have been found to have abused or misused state or public office or contravened Chapter Six of the Constitution; and</li> <li>12) Must not have been dismissed or removed from public office for contravening the provisions of Articles 75, 76, 77 and 78 of the Constitution</li> </ol>
	<b>Disqualification</b>
	<ul style="list-style-type: none"> <li>• Is a State officer or other public officer, other than a Member of Parliament</li> <li>• has held office as a member of the Independent Electoral and Boundaries Commission in the immediate past five years</li> <li>• has not been a citizen of Kenya for at least the ten years immediately before the date of election</li> <li>• is a Member of County Assembly</li> <li>• is of unsound mind</li> <li>• is undischarged bankrupt</li> </ul>

- is subject to a sentence of imprisonment of at least six months, as at the date of registration as a candidate, or at the date of election
- has been found in accordance with any law to have misused or abused a state office or public office
- Participates directly or indirectly in any public fundraising within eight months preceding a general election or during an election period. This disqualification excludes fundraising for a person who is contesting an election or to a fundraising for a political party
- Fails to enlist the required number of supporters as required in the Constitution and the Elections Act in of an independent candidate.

## D. Qualification and Disqualification for election as Governor

Elective Position	Qualifications
<b>Governor</b>	<ol style="list-style-type: none"> <li>1. Must have been Kenyan citizens for at least 10 years; before the election;</li> <li>2. Must not owe allegiance to a foreign state;</li> <li>3. Must be eligible for election as a member of the county assembly;</li> <li>4. Must be a registered voter;</li> <li>5. Is a holder of a degree from a University recognized in Kenya;</li> <li>6. Is nominated by a Political Party or is an independent candidate;</li> <li>7. Must meet the statutory moral and ethical requirements under the Leadership and Integrity Act;</li> <li>8. Must not be a public officer or acting in any State of public office other than a member of the County Assembly;</li> <li>9. Must not hold dual citizenship unless citizenship of the other country has been obtained by operation of law without capacity to opt out;</li> <li>10. Must not be an undischarged bankrupt;</li> <li>11. Must not be a person of unsound mind;</li> <li>12. Must not be subject to a sentence of imprisonment of at least six months from the date of registration of candidates or date of elections;</li> </ol>

	<p>13. Must not have been found to have abused or misused state or public office or contravened Chapter Six of the Constitution; and</p> <p>14. Must not have been dismissed or removed from public office for contravening the provisions of Articles 75, 76, 77 and 78 of the Constitution.</p> <p>(All requirement for County Governor apply to the Deputy Governor)</p>
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### **Disqualification for a candidate for Governor Election**

	<ul style="list-style-type: none"> <li>is a State officer or other public officer, other than a Member of County Assembly;</li> </ul>
	<ul style="list-style-type: none"> <li>has, at any time within the five years immediately before the date of election, held office as a member of the Independent Electoral and Boundaries Commission;</li> </ul>
	<ul style="list-style-type: none"> <li>has not been a citizen of Kenya for at least the ten years immediately preceding the date of election;</li> </ul>
	<ul style="list-style-type: none"> <li>is serving a sentence of imprisonment of at least six months; or;</li> </ul>
	<ul style="list-style-type: none"> <li>has been found, in accordance with any law, to have misused or abused a State office or public office or to have contravened Chapter Six of the Constitution ;</li> </ul>
	<ul style="list-style-type: none"> <li>Participates directly or indirectly in any public fundraising or 'harambee', within eight months preceding a general election or during an election period. This disqualification excludes fundraising for a person who is contesting an election or to a fundraising for a political party;</li> </ul>
	<ul style="list-style-type: none"> <li>Has held an office of the Governor for two terms;</li> </ul>

*Figure 7: Reasons for disqualification in County Governor election.*

## E. Candidate for County Assembly Ward election

Elective Position	Qualification
<b>Member of County Assembly</b>	<ol style="list-style-type: none"> <li>1. Must have been a Kenyan citizen for at least 10 years before the election;</li> <li>2. Must be a registered voter;</li> <li>3. Must not owe allegiance to a foreign state;</li> <li>4. Is nominated by a Political Party or is an independent candidate;</li> <li>5. Must meet the statutory moral and ethical requirements under the Leadership and Integrity Act;</li> <li>6. Must not be a public officer or acting in any State of public office other than a Member of the County Assembly;</li> <li>7. Must not hold dual citizenship unless citizenship of the other country has been obtained by operation of law without capacity to opt out;</li> <li>8. Must not be an undischarged bankrupt;</li> <li>9. Must not be a person of unsound mind;</li> <li>10. Must not be subject to a sentence of imprisonment of at least six months from the date of registration of candidates or date of elections;</li> <li>11. Must not have been found to have abused or misused state or public office or contravened Chapter Six of the Constitution; and</li> <li>12. Must not have been dismissed or removed from public office for contravening the provisions of Articles 75, 76, 77 and 78 of the Constitution</li> </ol>
	<b>Disqualification</b>
	<ul style="list-style-type: none"> <li>• is a State officer or other public officer, other than a Member of County Assembly;</li> <li>• has, at any time within the five years immediately before the date of election, held office as a member of the Independent Electoral and Boundaries Commission;</li> <li>• has not been a citizen of Kenya for at least the ten years immediately preceding the date of election;</li> <li>• is of unsound mind</li> <li>• is undischarged bankrupt</li> <li>• is serving a sentence of imprisonment of at least six months; or;</li> <li>• has been found, in accordance with any law, to have</li> </ul>



	<p>misused or abused a State office or public office or to have contravened Chapter Six of the Constitution ;</p> <ul style="list-style-type: none"> <li>• Participates directly or indirectly in any public fundraising or '<i>harambee</i>', within eight months preceding a general election or during an election period. This disqualification excludes fundraising for a person who is contesting an election or to a fundraising for a Political Party</li> <li>• Has had all possibility of appeal or review of a relevant sentence or decision regarding his disqualification fully exhausted.</li> <li>• Fails to enlist the required number of supporters as required in the Constitution and the Elections Act in case of an independent candidate.</li> </ul>

## F. Qualifications for nominees of party lists

Qualifications for nominees of party lists under articles 97(1) (c) and 98 (1) (b), (c) and (d), and for the members of county assemblies under article 177 (1) (b) and (c) The following

- (a) Nominees to the National Assembly -
- (b) Nominees to the Senate
- (c) Youth Nominees to the Senate
- (d) Persons with Disability Nominees to the Senate
- (e) Marginalized Group Nominees to the County Assembly
- (f) Gender Special Seats Nominees to the County Assembly (For Gender Top Up)

### Qualifications :

Nominees of party lists	
	<ol style="list-style-type: none"><li>1. Must have been a Kenyan citizen for at least 10 years before the election;</li><li>2. Must be a registered voter;</li><li>3. Must not owe allegiance to a foreign state;</li><li>4. Certification of Disability from the relevant institution as prescribed by the Commission;</li><li>5. Must meet the statutory moral and ethical requirements under the Leadership and Integrity Act;</li><li>6. Must not be a public officer or acting in any State of public office other than a Member of the County Assembly or National Assembly as the case may be.</li><li>7. Must not hold dual citizenship unless citizenship of the other country has been obtained by operation of law without capacity to opt out;</li><li>8. Must not be an undischarged bankrupt;</li><li>9. Must not be a person of unsound mind;</li><li>10. Must not be subject to a sentence of imprisonment of at least six months from the date of registration of candidates or date of elections;</li></ol>

	<p>11. Must not have been found to have abused or misused state or public office or contravened Chapter Six of the Constitution; and</p> <p>12. Must not have been dismissed or removed from public office for contravening the provisions of Articles 75, 76, 77 and 78 of the Constitution</p>
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## G. General requirements for independent candidate

### Qualifications

Independent Candidate	Qualifications
	<ol style="list-style-type: none"><li>1. A citizen of Kenya (for the presidential position, one must be a citizen by birth)</li><li>2. Above 18 years of age</li><li>3. Qualified to be elected to the office</li><li>4. Endorsed by a number of voters required by law for the position one is vying for</li><li>5. Not be a registered member of any political party for at least three months immediately preceding an election</li><li>6. Registered as a voter</li><li>7. Satisfy educational, moral and ethical requirements</li><li>8. Of sound mind</li><li>9. In possession of required documents</li></ol>

A nomination paper submitted by an Independent Candidates to the Commission shall;

- a) Contain the candidate's name as it appears in the Register of Voters.
- b) Be signed by the candidate, proposer and seconded who shall be voters registered in the respective electoral area.
- c) The Proposer and Seconder shall not be members of any political party
- d) Show the respective electoral area for the proposer and Seconder.

Be delivered to the returning officer personally by the candidates himself or herself or by a person authorized by the candidates on the date set for nominations for that election

## ANNEX 1

### TECHNICAL TEAM ON THE REVIEW OF HANDBOOK ON ELECTIVE POSITIONS IN KENYA

S/NO	NAME	DESIGNATION	ORGANIZATION
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