



## **UNIVERSITY OF NAIROBI**

### **GUIDELINES AND FRAMEWORK FOR PARDON ADVISORY COMMITTEE (PAC) (APPROVED BY SENATE ON SEPTEMBER 9, 2020)**

#### **1. PREAMBLE**

The constitutional and legislative foundations on the Power of Pardon can be drawn from Articles 2 (1), 3 (1), 10 (1) & (2) of the Constitution of Kenya 2010 as reads together with Chapter Four on the Bill of Rights. This is justified on the basis that national values and principles of governance and the Bill of Rights bind the University and all its staff in the enactment, application, and interpretation of the Constitution, any law, and policy decisions.

It is, therefore, the responsibility of the University and its governance organs to observe, respect, protect, promote and fulfill the Power of Pardon as part of its integral social, economic, and cultural policies on expelled students in the implementation of Articles 2 (1), 3 (1), 10 (1) & (2) of the Constitution of Kenya 2010 as reads together with Chapter Four on the Bill of Rights.

#### **2. ESTABLISHMENT OF PARDON COMMITTEE**

It is hereby established the University of Nairobi Pardon Advisory Committee in line with section 37 of the Universities Act, 2012.

### **3. COMMITTEES' AUTHORITY AND POWERS**

The Committee shall provide a pathway for students to appeal to the Chair of Senate to exercise the Power of Pardon after exhausting the appeals process (Section 38.1.4 of Appeals Disciplinary Committee, Student Code of Conduct).

On presentation of an appeal, the Committee shall recommend to the Chair of Senate to exercise a pardon by:

- i. Granting a free or conditional pardon to an expelled student;
- ii. Postponing the carrying out of a punishment, either for a specified or indefinite period;
- iii. Substituting a less severe form of punishment; or
- iv. Remitting all or part of a punishment.

### **4. COMPOSITION OF THE COMMITTEE**

The Pardon Advisory Committee shall comprise the following:

- 1 Senate Representative from the College of the applicant
- 2 Senators of distinguished service nominated by Senate

- a) The Chair of the committee shall be appointed by the Chair of Senate from one of the nominated Senators.

- b) The 3 senators shall be experienced members of the University of Nairobi
- c) The committee will be ad-hoc.
- d) The two thirds gender rule and ethnic balance shall apply in the appointment
- e) Senate members of the committee shall not have participated in the Halls, College or Appeals disciplinary committees of the affected student
- f) The committee shall submit its recommendations to the Chairman of Senate

#### **5. PURPOSE OF THE PARDON ADVISORY COMMITTEE**

The Purpose of the Pardon Advisory Committee shall include but not be limited to:

- i. Reviewing of all petitions and determination of a petitioner's worthiness for relief
- ii. Taking into account written views of the victims of the violation in respect of which it is considering making a pardon.

#### **6. POWERS OF THE COMMITTEE**

- i. The Committee shall have all powers necessary for the execution of its functions under the Universities Act, 2012, University of Nairobi Charter 2013, and any

other laws, regulations and statutes applicable to the University operations.

- ii. In the performance of its functions and the exercise of its powers, the Committee:
  - (a) may determine its own procedure
  - (b) shall, where appropriate, receive written or oral statements
  - (c) shall interview, where necessary, the individuals on whose behalf the petition is made.

## **7. PROCEDURE FOR FILING AN APPEAL FOR PARDON**

To be eligible to file a pardon petition, one must:

- i. demonstrate that they have exhausted all internal administrative relief
- ii. have exhausted all administrative and legal mechanisms in place at the University on violation of the Code of Conduct.
- iii. have been accused of an offence and the process of conviction already completed. .
- iv. state specific reasons for which pardon is sought and, attach any relevant documentary evidence that indicates how a pardon will help them accomplish student life.
- v. provide at least three primary character references to accompany the petition. Persons related to a petitioner by blood or marriage cannot be used as a primary character reference.

- vi. disclose the outcome of previous administrative disciplinary proceedings.
- vii. specify pardon relief(s) sought,
- viii. demonstrate ability to lead a responsible, productive and law-abiding student life

## **8. CONSIDERATION OF AN APPEAL**

- i. Upon receipt of the appeal for the exercise of the Power of Pardon, the Committee shall:
  - (a) determine the admissibility of the appeal;
  - (b) have all the necessary powers to determine the petition under this section, including:
    - (i) calling for evidence;
    - (ii) where appropriate, conducting interviews;
    - (iii) conducting investigations;
    - (iv) receiving and reviewing the necessary reports from appropriate persons; and
- ii. In determining the admissibility of the appeal under subsection (i)(a), the Committee may consider:
  - (a) whether the appellant has served at least one year of the expulsion;
  - (b) where an appellant who is expelled is remorseful and has demonstrated change or reform of character; or
  - (c) any other matter that it may deem necessary.

## **9. ELIGIBILITY TO FILE AN APPEAL**

- i. Any person may appeal the Committee, to exercise the Power of Pardon and grant any relief specified in the guidelines.
- ii. Notwithstanding the generality of subsection (i), a petition shall not be permitted where the person for whose benefit it is made has a criminal case that is pending before a court of law.

## **10. PROCEDURE OF THE COMMITTEE**

- i. No hearing will be held on a pardon application, but a decision will be made based on documentation provided during the submission of the appeal
- ii. The verdict of the Committee is final. There will be no appeal against the Committee's decision.
- iii. An appellant who has been denied pardon may submit a fresh appeal for consideration two years from the date of denial of pardon.
- iv. Documents reflecting deliberations about the Committee's decision shall remain confidential but kept in safe custody of the University of Nairobi.

## **11. NOTIFICATION OF GRANT OR DENIAL OF PARDON**

- i. The Chair of Senate shall, within thirty days of receipt of the recommendations by the Committee, communicate the verdict to the petitioner.

- ii. The Chair of Senate shall cause the approved petitions to be reported to Senate quarterly.
- iii. The decision of the Committee, as implemented by the Chair of Senate, for each petition made under this section shall be final.

## **12. APPELLANT'S RE-APPEAL**

- i. Notwithstanding the above, a person may, after the rejection of a pardon appeal, re-appeal only once to the Committee.
- ii. The Committee shall:
  - (a) consider a request for a re-appeal referred to it.
  - (b) where it is satisfied that the request raises reasonable facts, inform the appellant of the outcome, and require the petitioner to file for pardon in the prescribed manner.
- iii. The procedure for an appeal shall apply to a re-appeal.


## **13. EFFECT OF PARDON**

- i. Where there has been relief sought and granted in an appeal, the exercise of the Power of Pardon is a pardon, under the relevant laws:

- (a) such pardon shall operate as conclusive proof that the Committee is satisfied that the appellant for the pardon is deserving of the relief
  - (b) the pardon shall not be construed to be an acquittal.
  - (c) the appellant shall not seek judicial intervention or redress during or after the process.
- ii. The Chair of the Committee may require any person having the custody or control of any documents or records in respect of which a pardon has been granted, to deliver such documents and or records to the custody of the Committee.

**14. PENALTY FOR FALSE STATEMENT**

Failure to fully and accurately complete the appeal may be construed as a falsification of a petition, which may provide a reason for denial of pardon

*Approved by Senate*  






**UNIVERSITY OF NAIROBI  
APPEAL FOR PARDON**

**To  
Chair of Senate,  
University of Nairobi**

**Required General Information**

<b>S.No</b>	<b>Description</b>	<b>Particulars</b>
1.	Full name and any other names used	
2.	Postal and Email Addresses	
3.	Home and cell phone numbers	
4.	Date and home/place of birth	
5.	Gender	
6.	Three (3) primary character referees	
7.	Grounds for the appeal	
8.	Whether you have appealed for pardon before, and the outcome of such appeal	
9.	Detailed information and supporting documents, about the conviction being appealed for a	

	pardon	
10.	A detailed account for which an appeal is being sought.	
11.	Provide the full address of every place you have lived since the conviction	
12.	Personal life history pertinent to your appeal	
13.	Reasons for seeking for pardon	
14.	Be specific about how a pardon will improve your life and education	
15.	Have you ever used any illegal drug or abused prescription drugs or alcohol?	
16.	Have you ever sought or participated in counseling, treatment, or a rehabilitation program for drug use or alcohol abuse?	
17.	Have you ever held any leadership position after your expulsion?	
18.	Do you have any judicial or administrative proceedings pending in court? If yes give details	
19.	Character affidavit on behalf of the petitioner from the three (3)	

	primary referees	
20.	The level of study at the time of the violation and at the time of making the appeal	
21.	Post-verdict conduct, character, and reputation of the appellant (testimonial from Chief, religious leader, etc.)	
22.	Any other relevant information to support the appeal	
23.	At the end of the appeal one must type this line: "I declare under penalty of perjury that all assertions made within this petition are complete, truthful, and accurate."	
24.	Signature	
25.	<b><u>Note</u></b> An appellant may engage the services of a duly registered professional in the preparation and filing of the petition	