



Hon. sponsor  
This is in order  
Kipngetich  
For: The clerk  
1/11/2022

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**COUNTY ASSEMBLY OF BOMET**

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**THIRD ASSEMBLY: FIRST SESSION**

**THE FOURTH REPORT OF THE COMMITTEE ON APPOINTMENTS ON  
THE VETTING OF THE NOMINEE FOR THE POSITION OF THE COUNTY  
EXECUTIVE COMMITTEE MEMBER IN CHARGE OF ADMINISTRATION,  
PUBLIC SERVICE, AND SPECIAL PROGRAMS**

**DR. KIRUI JOSEPH KIPNGETICH ELIAS**

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**NOVEMBER, 2022**

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## Preface

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### Establishment and Mandate of the Committee

The Committee on Appointments is established pursuant to Standing Order 197(1). The Standing Order 197(4) mandates the Committee on Appointments to consider, for approval by the County Assembly, the appointments of County Executive Committee Members under Article 179(2) of the Constitution.

### Committee Membership

The Committee on Appointments was constituted on 13<sup>th</sup> October 2022 and comprises the following members: -

No	NAME	POSITION
1.	Hon. Cosmas Korir	Chairperson
2.	Hon. Leonard Rotich	Member
3.	Hon. Paul Kipyegon Kirui	Member
4.	Hon. Stephen Changmorik	Member
5.	Hon. Kibet Ngetich	Member
6.	Hon. Rosaline Cheptoo	Member
7.	Hon. Eric Kirui	Member

### Committee Secretariat

The secretariat of the committee comprises of the following;

1. Isaac Kitur - Clerk of the Assembly
2. Oscar Sang - General Counsel
3. Rashid Tonui - Director Legislative Services
4. Veronica Waweru - Principal Clerk Asst
5. Kenneth Langat - Principal Clerk Asst

6. Timothy Korir - Ag. Assistant Director, Research and Library Services
7. Ronald sang - Deputy Director, Budget Office
8. Edwin Makiche - Public communications
9. Annebety Koros - Assistant Director, Committee Services
10. Josphat Koech - Hansard Reporter
11. Edward Rop - Serjeant at Arms
12. Janet Birech - Administrative Officer
13. Victor Mutai - Hansard Reporter

## Background

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### Notification of nomination

Pursuant to Article 179(2)(b) of the Constitution as read together with Sections 30(2)(d) and 35 of the County Governments Act, 2012 and Section 6(1) of Public Appointments (County Assemblies Approval) Act, 2017, H.E. the Governor, submitted to the County Assembly, the name of nominee **Dr. Kirui Kipngetich Joseph** vide a letter dated **12<sup>th</sup> October 2022** for vetting and approval by the County Assembly for appointment as the County Executive Committee Member for Administration, Public Service and Special Programs (**Annexure 1**). The notification contained the Curriculum Vitae and other testimonials.

### Notification to the Assembly and Referral to the Committee on Appointments

Pursuant to the provisions of Standing Order 42(1), the Speaker, vide a Communication dated Thursday, 13<sup>th</sup> October 2022, informed the Assembly of the Governor's message to the Assembly on the nomination of County Executive Committee Members, for approval by the County Assembly.

Pursuant to Section 7(1) of the Public Appointments (County Assemblies Approval) Act No 5 of 2017 and Standing Order 197(4), the names and curriculum vitae of the nominees were referred to the Committee on Appointments for approval hearings and reporting to the Assembly.

### Notification to the Public

The Constitution and the County Governments Act, 2012 obligate the County Assembly to facilitate public participation and involvement in the legislative business and other businesses of Assembly and its Committees.



Section 7(5) of the of the Public Appointments (County Assemblies Approval) Act No 5 2017 further provides that the Committee shall notify the public of the time and place for holding an approval hearing at least seven days prior to the hearings.

Further, section 7(10) of the Public Appointments (County Assemblies Approval) Act 2017 provides that "*any person may, prior to the approval hearings and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated*".

Pursuant to section 7(10) of Public Appointments (County Assemblies Approval) Act, 2017, the Clerk of the County Assembly placed an advertisement in the print media on 15<sup>th</sup> October, 2022 as listed in (Annexure 2) inviting the public to submit memoranda by way of a written statement on oath (affidavit) on the suitability or otherwise of the nominee for the position to which she was nominated to serve. The advertisement indicated that the said submissions from public were to be received by Friday, 21<sup>st</sup> October, 2022 at 5.00 pm.

### **Notification to the Nominee**

On Friday, 14<sup>th</sup> October, 2022, the Clerk of the County Assembly invited the nominee, in writing, for the approval hearings in accordance with Section 7(4) of the Public Appointments (County Assemblies Approval) Act, 2017(**Annex 3**). The nominee was required to appear before the committee on appointments on Monday, 24<sup>th</sup> October, 2022 at 2.30pm.

## **Clearance and Compliance Requirements**

On Friday, 14th October 2022, the Clerk of the County Assembly wrote to the Ethics and Anti-Corruption Commission requesting reports with respect to the nominee on ethics and integrity.

Further, the Clerk, in his notification to the nominee required him in writing to bring letters or certificates of compliance and clearance during the vetting exercise from:

1. Ethics and Anti-Corruption Commission (EACC),
2. Kenya Revenue Authority (KRA),
3. Directorate of Criminal Investigations (DCI),
4. The Higher Education Loans Board (HELB)
5. Any of the credit Reference Bureaus

## **Committee meetings**

The committee held a total of seven meetings, and during one of the meetings on 24<sup>th</sup> October 2022, the said nominee appeared before the committee on Appointments and was vetted in accordance with the Public Appointments (County Assemblies Approval) Act No 5 of 2017 for appointment as the County Executive Committee Member in charge of Administration, Public Service and Special Programs.

In a meeting held on 13<sup>th</sup> October 2022, the Committee resolved to invite the nominee for approval hearing at the County Assembly Mini Chamber on Monday 24<sup>th</sup> October 2022. In conducting the vetting exercise, the Committee made reference to the Constitution, the County Governments Act, 2012, the Leadership and Integrity Act, the Public Appointments (County Assemblies Approval) Act No 5 of 2017, and the Standing Orders.



The Committee complied with the Constitutional and legal requirements in its procedure for vetting. It ensured that there was public participation, transparency, and openness in carrying out the vetting exercise.

Notifications and invitations of the general public to submit memoranda were placed in the mainstream print media on Saturday 15<sup>th</sup> October 2022 in line with the provision of sections 91 and 95 of the County Governments Act 2012. By the close of business on Friday, 21<sup>st</sup> October 2022 no written memorandum had been submitted to the office of the Clerk of the County Assembly.

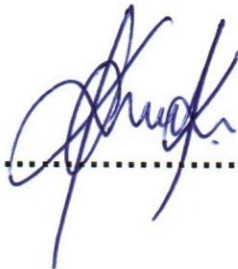
## Acknowledgment

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The Committee on Appointments wishes to thank the Office of the Speaker, the Office of the Clerk, and the staff of the County Assembly for the logistical support accorded to it during the vetting exercise and execution of the committee's mandate. The Committee thanks all its members for their patience, sacrifice, endurance, and commitment to serving the public under tight schedules which enabled it to complete the task within the stipulated period.

The Committee made several findings on the nominee during the vetting exercise. These findings guided the Committee in making its final recommendation. The Committee's final recommendations were based on the Constitution of Kenya, 2010, the County Governments Act 2012, the Leadership and Integrity Act 2012, the Public Appointments (County Assemblies Approval) Act, 2017 and the information supplied by the nominee during the proceedings of the Committee and the public hearing. The Committee report was adopted by members on Monday, 31<sup>st</sup> October 2022.

SIGNED.....



DATE: .....

1<sup>st</sup> NOVEMBER, 2022

**HON. COSMAS KORIR**  
**SPEAKER AND THE CHAIRPERSON**  
**COMMITTEE ON APPOINTMENT**

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## Ownership of the Report

We, the members of Committee on Appointments, do append our signatures against our names in this report to affirm the correctness of the contents and support for the report

No	NAME	POSITION	SIGN
1.	Hon. Cosmas Korir	Chairperson	
2.	Hon. Leonard Rotich	Member	
3.	Hon. Paul Kipyegon Kirui	Member	
4.	Hon. Stephen Changmorik	Member	
5.	Hon. Kibet Ngetich	Member	
6.	Hon. Rosaline Cheptoo	Member	
7.	Hon. Eric Kirui	Member	

Dated this Monday, 31<sup>st</sup> day of October 2022

## Approval Hearing of the Nominee

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### Issues for Consideration

The Committee held a sitting on Monday, 24<sup>th</sup> October 2022 to deliberate on the approval hearings and noted the following –

- (1) That, the nominee had not notified the Clerk of the County Assembly of his withdrawal from the approval process as outlined under section 7(12) of the Public Appointments (County Assemblies Approval) Act, 2017.
- (2) That, Article 179(2) of the Constitution requires H.E. the Governor to nominate and with the approval of the County Assembly, appoint members of the County Executive Committee
- (3) That, Article 179(3) of the Constitution provides that the County Executive Committee Members appointed under clause (2) (b) shall not exceed-- one-third of the number of members of the County Assembly if the Assembly has less than thirty members; or ten if the Assembly has thirty or more members.

In this regard, it was notable that in compliance with the provisions of Article 179(3) of the Constitution, the Governor had nominated seven County Executive Committee Members.

- (4) Further, the committee required the nominee to submit the following documents; (Annex 4)
  - i. Questionnaire for vetting/approval of the Nominee for the CECM position
  - ii. Curriculum Vitae, Personal Credentials, and Academic Certificates
  - iii. Clearance Certificate from Higher Education Loans Board (HELB)



- iv. Certificate of Good Conduct from the Criminal Investigation Department (CID)
  - v. Compliance Certificate from Kenya Revenue Authority (KRA)
  - vi. Sworn self- declaration form submitted to the Ethics and Anti-Corruption Commission (EACC)
  - vii. Clearance Certificate from Credit Reference Bureau
- (5) That, the Committee would therefore proceed with the approval hearings on Monday, 24<sup>th</sup> October 2022; and
- (6) That, the Committee would examine the nominees against the criteria set out in sections 7 and 8 of the Public Appointments (County Assemblies Approval) Act, 2017.

### **Submission of memoranda**

By the close of business on 21<sup>st</sup> October 2022, the Committee had not received any memoranda from the public.

### **Issues for consideration**

In conducting the approval hearing, the Committee was guided by Article 73 (2) (a)(b)(c) and (e) of the Constitution, Section 35 of the County Governments Act and the provisions of the Public Appointments (County Assemblies Approval) Act 2017.

**Article 73(2) of the Constitution** on leadership and Integrity provides as follows:

That the guiding principles of leadership and integrity include;

- a. Selection based on personal integrity, competence, and suitability in free and fair elections;
- b. Objectivity and impartiality in decision making and in ensuring that decisions are not influenced by nepotism, favoritism, other improper motives, or corrupt practices.
- c. Selfless services based solely on the public interest, demonstrated by:
  - i. Honesty in the execution of public duties
  - ii. The declaration of any personal interest that may conflict with public duties.
  - iii. Accountability to the public for decisions and actions; and
  - iv. Discipline and commitment to service to the people.

In conducting the vetting process, the Committee on Appointments examined the nominee against the following criteria, in accordance with the Public Appointments (County Assemblies Approval) Act 2017.

- i. Academic Qualification
- ii. Employment Record
- iii. Knowledge of the relevant subject/ role of CECM Administration, Public Service, and Special Programs
- iv. Appreciation of the Constitution of Kenya 2010, Acts of Parliament, and Devolution
- v. Overall suitability for the Position
- vi. Compliance and Integrity



The Committee considered the provisions of section 35(2) of the **County Governments Act, 2012** which states as follows: -

*“The County Assembly shall not approve nominations that do not take into account*

- a. Not more than two thirds of either gender;*
- b. Representation of minorities, marginalized groups, and communities; and*
- c. Community and cultural diversity within the county.*

*(3) A person may be appointed as a member of the executive committee if that person-*

1. Is a Kenyan citizen;
2. Is a holder of at least a first degree from a university recognized in Kenya;
3. Satisfies the requirement of chapter six of the Constitution; and
4. Has knowledge, experience, and a distinguished career of not less than five years in the field relevant to the portfolio of the department to which the person is being appointed.

*(4) A member of the County Executive Committee shall not hold any other State or Public office.*

## Submission

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### **Oral Submission from Dr. Kirui Joseph Kipngetich Elias**

During its sitting on Monday 24<sup>th</sup> October 2022 at County Assembly Mini Chamber, the Committee orally interviewed the nominee. The minutes of the proceedings are annexed to this report.

Dr. Kirui Joseph Kipngetich Elias the nominee of the Office of the County Executive Committee Member for Administration, Public Service, and Special programs appeared on Monday 24<sup>th</sup> October 2022, and was vetted under oath pursuant to Article 179(2)(b) of the Constitution, the Public Appointments (County Assemblies approval) Act, 2017 and the Standing Orders of the County Assembly. The committee noted the following;

### **Date, birthplace, residence, and Education background**

1. The nominee is a male Kenyan born in 1974 in Bomet County, Kerundut Village, Nyangores Ward. The nominee confirmed that he is a Kenyan citizen and did not hold any other citizenship. The nominee confirmed to the committee that he had all the original clearance documents and certificates as required by Chapter Six of the Constitution of Kenya.
2. He studied at Kapkesosio primary school and Simotwet Primary School and sat for his KCPE in 1987. He joined Maseno School for his high school and later joined Moi university for his bachelor's degree in arts which he completed in 1998. He joined Moi University for his Master's and Ph.D. He completed his Ph.D. in the year 2011.



### **Employment record**

3. He began his career as a secondary school teacher from 2001 until 2011. He joined Moi University in 2012 as a lecturer, a position he is serving to date as a senior lecturer. He previously served as an acting registrar, deputy principal, and assistant campus coordinator at Bomet University College.
4. He is also currently serving as a County Education Board (CEB) Chair in Bomet County.

### **Income and net worth**

5. The nominee estimated his net worth to be KES. 20Million with the sources of income being family land, plots in Narok, Bomet, and Kericho, and land in Mau.

### **Relevance and Experience to the portfolio nominated to serve**

6. He stated that he has been in academia for the better part of his career and he possesses rich experience in the field of management and administration that he believes are very relevant to the position he has been nominated to serve.
7. He has been a head of a department, principal and deputy principal of a college, coordinator of a campus, and registrar of a university college and therefore this puts him in a good state to be in charge of the docket he has been nominated to serve.

## **Relationship with H.E the Governor**

8. That the claim that he campaigned with the governor is not exclusively true. He further affirmed to the committee that he is not an employee of the County Government of Bomet but he is an employee of Moi University serving as a senior lecturer.
9. That he has not absconded his duties as a lecturer but only created time out of his busy schedule to associate with the governor during campaign trails. He further informed the committee that internet and e-learning capabilities have enabled him to undertake his work in the comfort of his location.
10. That he has not earned any income from the County Government of Bomet. He further averred that his relationship with the Governor will not affect his conduct as a state officer since the government is governed by policies, laws, and regulations and demonstrated to the committee that government is a straight jacket that one has to fit into.
11. He also committed to the committee that friendship of any nature will not affect his discharge of duties as a CECM.

## **Litigations/ Court Cases**

12. He could not remember the specific court case number for the litigations in which he was listed as a respondent. He only informed the committee of a civil case pending at Bomet Law Courts between Garden Hardware and Bomet University, Moi University, and himself, and that he is enjoined in the case because he was an accounting officer of Bomet University



when the complainant went to court. He finally stated that the matter is between the supplier and Bomet University.

**Case No. ELRC/46/2019 Dr. Kipngetich Kirui vs Principal Bomet University and Bomet University College**

13. He mentioned that case no. ELRC/46/2019 is a closed case that involved him and Bomet university where he was a complainant after his salary was stopped by the principal of Bomet university for three (3) months without any reason or communication. He finally averred that the Nakuru court ruled in his favor and the issue was partly resolved and adjourned. He committed to furnish the committee with exact details of the case including the case conclusion certificate.

**Functions of CECM in charge of Administration, Public Service, and Special programs**

14. He averred that if approved he will derive his functions from the Constitution of Kenya, 2010. He summarized some of the functions as the implementation of county government policies, coordination of programs, developing draft legislations, implementation of national policies, and any other duty assigned to him by the governor.
15. He admitted that he is not fully aware of what special programs entail but indicated that the Chebunyo milk processing plant is an example of a project that could be regarded as special.
16. He stated that he will develop policies and regulations to guide on coordination of activities as stipulated by the governor's executive order.

He also mentioned that he will undertake a budget review of all key projects to ensure successful coordination of projects. He committed that if approved, he will look into the issues surrounding the IAAF flagship project and find appropriate solutions.

### **Huge Wage Bill in the County**

17. He mentioned that there is a need to undertake staff rationalization to address the persistent increase of wage bills in the county. He also stated that departmental heads need to justify their staff requirements and he will only recommend for employment of staff in critical units that seriously require additional staff. Finally, he mentioned that to cap the issue of rising wage bills for temporary employees, he promised that he will recommend for engagement of temporary employees in critical sectors that require them.

### **Termination of contract for contractual employees**

18. He stated that a contract is a legal way of engaging an employee and not a crime and is based on the duration of the skill required. He promised that all contracts will be relooked on individual merit. He undertook that he will be fair to employees on contract to ensure that they feel part and parcel of county public service.
19. That he is not competent to respond to concerns of employees terminated because of political affiliations. However, he stated that he empathizes with employees who have been affected by the termination of contracts and further committed to look into the issue if approved.



### **Responses to questions posted via Facebook**

20. That under his guidance, he will ensure that all administrators within his department perform their duties without favor or intimidation.
21. He will initiate several programs in his department and ensure that the youth are given priority in the implementation of the said programs. He also stated that youth will be involved in public participation and research whenever there is a need.

### **Salary payment criteria-Manual Schedule and IPPD**

22. He stated that the magic bullet is to ensure that all employees in the county public service are placed on IPPD. He also committed that he will involve the public service board to ensure that staff on manual schedules are dully identified and placed on IPPD if their contractual terms are legitimate.

### **Public Participation**

23. He pointed out that public participation is an important aspect of public governance since it ensures equitable distribution of public resources across the county. He affirmed that he will ensure effective public participation by making it possible for the dissemination of information from the county headquarters to the smallest unit possible within the county.
24. He also undertook to activate project management committees for every project to ensure accountability in project implementation.

## **Ward Offices**

25. He acknowledged that most ward offices are in a very deplorable state despite the county having spent over KES 200M. He affirmed that once in office if approved, the first assignment is that he will demand reports for all pending projects, and undertake a completion rate survey and usability status for those completed. He mentioned that this will enable him to get to the gist of the matter and develop specific solutions for every project.
26. He also informed the committee that he will request a budget line for the completion of the uncompleted ward offices and he will fast-track the completion of the said projects.

## **Lumping of PE in the Administration Department**

27. He informed the committee that the best practice is to domicile the personnel emoluments in hosting departments. He further promised the committee that if approved, he will implement all the recommendations of the County Assembly requiring that personnel emoluments should be domiciled in the individual departments.

## **Enforcement and compliance officers**

28. He acknowledged the position of the committee that enforcement officers are not revenue officers. He then stated that to avert the 'misuse' of enforcement officers, he will establish a proper chain of command within the inspectorate unit and review the terms of service or scheme of service to understand whether there is a need for review. He also affirmed



that he will ensure that the enforcement officers undertake their duties as per their terms of reference.

29. He stated he will ensure that the enforcement officers are provided with all their entitlements.

### **Public Private Partnership (PPP)**

30. He averred that PPP is a program where private institutions with interest and huge disposable income participate in the development of projects and programs in the public sector. He stated that the Islamic Republic of Iran is a country that has shown interest as far as PPP is concerned and the county can take advantage of the pact to market products like tea, avocado, and milk. He further stated that the Greek consulate has been to the county recently and indicated that they are interested in the conservation of Chepalungu forest by planting more trees. He promised to submit to the assembly county legislation on PPE four months after his appointment if approved.

### **Professional Public Service**

31. He committed that if approved he will make sure that all employees are professional and no employee engages in partisan politics.

### **Alcohol regulation**

32. He mentioned that there is a need to activate the sub-county committees that deal with alcohol and generally operationalize the county alcohol regulation law. He further stated that he will work very closely with the

national government administrative agencies on issues to do with alcohol and substance abuse.

### **Promotions and deductions**

33. He promised to implement the HR manual and relevant statutes to ensure that the issue of promotions is implemented without any favors. Finally, he committed to look into the issues of skewed and non-remittance of deductions from employees' pay if approved.



## Committee's Observations

After the vetting exercise, the committee made the following observations concerning Dr. Kirui Joseph Kipngetich Elias

### Integrity

The Committee noted the following about documents submitted by the nominee

NO	Documents	Remarks
1.	National Identification Card/passport	The nominee submitted his National ID card Number <b>11718841</b> confirming that he is a Kenyan citizen.
2.	KRA compliance	The nominee submitted a valid <b>KRA tax compliance certificate.</b>
3.	Higher Education Loans Board (HELB)	The nominee submitted a valid <b>HELB compliance certificate.</b>
4.	Clearance from EACC	The nominee submitted a sworn self-declaration form from EACC as required under the Leadership and Integrity Act.
5.	Clearance from The Criminal Investigation Department (C24A)	The nominee submitted a valid <b>police clearance certificate</b>

6.	Clearance from professional bodies	The nominee is not a member of any professional body
7.	Clearance from Credit Reference Bureau	The nominee submitted a valid <b>CRB clearance certificate</b>
8.	County Assembly vetting questionnaire	The nominee submitted a dully filled questionnaire indicating that he is Kenyan and his place of permanent and current residence is Bomet County.

### General observations

NO	KEY AREAS VETTED	COMMITTEE OBSERVATIONS
1.	Academic Qualification	The nominee holds a Bachelor's degree in Education Arts from Moi University having graduated in 4 <sup>th</sup> December 1998. He also holds a Master's degree in philosophy in curriculum development and a doctor of philosophy in curriculum development. He has specialty in curriculum development and he has authored several journals on curriculum and education training and development.



		The nominee therefore, fulfilled Section 35(3)(b) of the County Governments Act, 2012.
2.	Communication and presentation	The nominee has an understanding of the administration and public service sector and he communicated and articulated issues.
3.	Education and Training (Relevant to the portfolio)	The nominee attempted to justify to the committee that his education and training is relevant to the portfolio, however, his education and training is not relevant to the portfolio.
4.	Work Experience as it relates to the position	The nominee has more than 12 years experience. He has served as an acting registrar, deputy principal and assistant campus coordinator at then Bomet University College. The committee particularly observed that the nominee has <b>four</b> years experience in senior position.
5.	Professional skills and technical skills	The nominee possess administrative skills having served at a senior position in a public institution.

6.	Additional skills as per the position applied for	The nominee demonstrated that he is a good communicator and he is conversant with his field in curriculum studies and development.
7.	Vast knowledge on the laws of Kenya and other guiding principles e.g. The Constitution of Kenya, 2010, The devolution laws, vision 2030, etc.	The nominee is conversant with the operations of the county government, the statutes governing county government and public service, and other guiding principles and regulations in relation to the portfolio.
8.	Leadership and Integrity as per Chapter Six of the Constitution of Kenya, 2010.	The nominee submitted the original documents as required by the Constitution of Kenya, 2010. He therefore, satisfied the requirements as per Section 35(3)(c) of the County Governments Act, 2012.
9.	Decision making and problem-solving skills	The nominee was able to provide practical solutions to the challenges in Administration department and county public service.



## Committee's findings

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The Committee having observed the oral submissions by the nominee and the documents submitted to it, made the following findings:

1. THAT, the nominee meets the requirements of Chapter 6 of the Constitution on leadership and integrity having obtained clearance from the following statutory bodies; the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), and the Higher Education Loan Board (HELB).
2. THAT his academic credentials, professional training and experience comply with section 7(8) of the Public Appointments (County Assemblies Approval) Act, No. 5 of 2022.
3. THAT Pursuant to Section 35 of the County Government Act, 2012; the Committee found the **nominee suitable** for appointment as the County Executive Committee Member in charge of Administration, Public Service, and Special Programs.

## Committee's Recommendation

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At the end of the vetting process, the Committee made the following recommendation:

That; having considered the suitability, capacity, and integrity of the nominee, and according to **Section 9 (2) of Public Appointments (County Assemblies Approval) Act No. 5 of 2017**, the Committee recommends that the County Assembly approve the nomination and subsequent appointment of **Dr. Kirui Joseph Kipngetich Elias** for the position of County Executive Committee Member in charge of **Administration, Public Service and Special Programs**.