



M.A.OCHANJI-OPONDO & CO. ADVOCATES

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Our REF: MAO/GEN/089/2024

DATE: 27th November, 2024

County ODM Elections Coordinating Committee,
Kisumu County.

Dear Sir/Madam,

**RE: DEMAND FOR THE IMMEDIATE DISQUALIFICATION OF ELIUD OKIRI FROM
CONTESTING IN THE ODM PARTY ELECTIONS.**

I write to you in my capacity as an advocate representing the interests of Mary Anyango, a resident of Seme Constituency and a member of Orange Democratic Movement (ODM) Party, specifically with regard to the candidacy of one Eliud Okiri, the Deputy Manager of office of the Member of Parliament (MP) Seme Constituency, for the party elections in Seme.

We hereby issue a **formal demand** for the immediate disqualification of **Eliud Okiri** from contesting in the party elections, based on clear violations of the Constitution of Kenya, party laws, and other applicable legal provisions. We set out below the grounds for this demand.

1. Violation of the Constitution of Kenya

The Constitution of Kenya, specifically Article 236, prohibits public servants, including employees of the office of the Member of Parliament (MP) from holding certain political positions or engaging in political campaigns while still in service unless they resign. The Constitution outlines clear parameters for public servants, particularly those who occupy sensitive government positions, to avoid conflicts of interest or using public office for personal political gain.

As per Article 236(2)(a) of the Constitution, a public officer is prohibited from engaging in political activity, and it is a requirement that any public servant desiring to engage in partisan political activities must first resign from their position. The candidate in question, being an employee of the office of the MP, falls under this category and is bound by these constitutional provisions. Therefore, it is unconstitutional for them to vie in the party

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elections without first resigning from their public office. Failure to comply with these constitutional requirements renders their candidacy void and unlawful.

2. Violation of ODM Party Laws

The Orange Democratic Movement (ODM) Party has in place clear party laws and regulations governing the eligibility of candidates for positions within the party. According to the ODM Party Constitution, particularly Article 7(4) and Article 10(1), a member who is an employee of the government or any public institution must first resign from their position before contesting for any party office or engaging in active party politics. This rule is designed to maintain the integrity of the party and avoid conflicts of interest, as well as to ensure that public servants do not misuse their office to gain political advantage.

By failing to comply with this party provision, Eliud Okiri is in violation of ODM's party regulations, and as such, they do not meet the necessary qualifications for vying in the elections. Their continued candidacy is in direct contravention of party law.

3. Public Service Regulations and Conflict of Interest

Further, under the **Public Officer Ethics Act, 2003**, public officers are required to adhere to a strict code of conduct which precludes them from engaging in activities that could be seen as a conflict of interest, including running for a political office while holding a public service position. The act is aimed at preventing abuse of public resources and ensuring that individuals in public service do not use their government positions to gain undue advantage in the political arena.

By continuing to engage in ODM party politics while still employed by the office of the MP, Mr. Eliud is in direct violation of the provisions of the Act, creating an ethical conflict and compromising the public trust. This action undermines the legal and ethical standards governing public servants and their political neutrality.

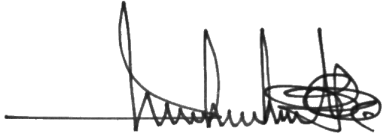
In light of the above, we demand the **immediate disqualification** of Mr. Eliud from participating in the elections to avert any further legal actions against the electoral process. We further demand that the ODM County Elections Coordinating Committee take appropriate and swift action to ensure that all candidates for party positions are in full compliance with the Constitution of Kenya, ODM Party Constitution, and all other relevant laws, including the Public Officer Ethics Act.

Failure to act in accordance with the law and party regulations would not only be a violation of the legal provisions set out above but may also result in legal action to protect the integrity of the party, the rule of law, and the constitutional rights of all citizens.

We trust that the ODM County Elections Coordinating Committee will give this matter the urgent attention it deserves and take the necessary steps to rectify this situation in line with the law.

Yours faithfully,

M.A.OCHANJI-OPONDO & CO. ADVOCATES



for: Margaret Opondo

Cc:

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ODM Election Coordinator, Seme Constituency

Eliud Okiri

My client

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