



**RIARA LAW SCHOOL**

**UNIVERSITY EXAMINATION FOR BACHELOR OF LAWS (LLB) DEGREE**

**AND**

**PRE-KENYA SCHOOL OF LAW CORE COURSES COMPLIANCE PROGRAMME**

**JANUARY-APRIL 2024**

**RLB 205: ADMINISTRATIVE 1**

**INSTRUCTOR: MS. KENDI MUTUNGI**

**INSTRUCTIONS**

1. This is the final examination in Administrative Law 1. You will earn 70% of your final grade from this final examination and 30% from Continuous Assessment Assignments.
2. This examination has **THREE** questions. Please answer **ANSWER QUESTION ONE AND ANY OTHER TWO QUESTIONS**
3. This examination has 3 pages, including this one.
4. Time allocated for this examination is **TWO** (2) hours. You must stop writing when time is called.
5. Please sign the roll sheet when you turn in your answer sheet. If you fail to sign the roll sheet, we shall have no way of establishing that you sat for this examination and your marks will not be reported.
6. This is a **CLOSED BOOK** examination. This means you are not permitted to bring ANY hard or soft materials to the examination room, save for clear copies of the Constitution of Kenya, which shall be supplied for the exam. You are also not allowed to access materials stored in computers, electronic gadgets or the internet. You should not bring to the examination room any of the following: cell phones, tablets, computers, statutes, notes, outlines, or books. Neither should you bring to the examination room books or materials unrelated to this course. If you need to have medicine or food items with you, please let the invigilator know before the examination begins.
7. This examination is governed by **Riara University Academic Honesty Regulations**. Students who violate those regulations will be penalized. Students have an obligation to report to the invigilator any incidences of academic dishonesty compromising the integrity of this examination.

### **QUESTION ONE. (30 marks)**

The student was caught red-handed in the act. Giving him an opportunity to appear before the disciplinary committee would have been a waste of time. His testimony would not have changed our confidence in the testimony of the witnesses who appeared before us. We are convinced beyond doubt that the accused person committed the alleged offences and hereby dismiss him summarily from the University.

The foregoing is an excerpt from a report developed by the disciplinary committee of Kitajulikana University on its investigation into violence that occurred at the University on 18<sup>th</sup> January 2024. This part of the report relates to findings on the conduct of one of the students accused of leading the riots at the University. As stated in the report, the committee did not interview the accused student and did not call him to testify before it on the allegations made against him ostensibly because such testimony would have been in vain and would not have changed its members conviction based on the testimony of the witnesses who appeared before it.

This perception had actively taken part in the investigations (did not interview the accused student at their stage too.) and as such the committee's proceedings were just an opportunity for them to collect further evidence and hear further testimony on the case.

The student has come to you after dismissal from the school. Advise him on his legal position including ways in which he could challenge the decision on the proceedings of the committee.

### **QUESTION TWO (20 marks)**

The maxim *delegatus non potest delegare* is sometimes invoked as if it is embodying some general principle that made it legally impossible for statutory authority to be delegated" (Wade and Forsyth, Administrative Law (10<sup>th</sup> Ed, Oxford University Press)

With reference to relevant case law, discuss the scope of administrative delegation regulation and the manner in which it is controlled.

### **QUESTION THREE**

Discuss any two of the following:

- a) Principle of proportionality
- b) Control measures of state corporaton
- c) Doctrine of *Ultra Vires*
- d) Unreasonableness

**(20 marks)**

**QUESTION FOUR****(20 marks)**

Mr. Cyril C. Clark, a former ombudsman of Barbados, also succinctly pointed out in one of his Annual Reports that a classical ombudsman “*has the power of . . . exposing any act of government which may amount to, not necessarily, a constitutional or legal infringement of the rights of the individual citizen, but what might amount to, in some ways, an injustice, or an act, which can be considered unfair although not necessarily illegal.*” **Clark, C. C. (Ombudsman of Barbados). (2006). Annual report. Barbados: Ombudsman Office (p. 9)**

What steps have been taken in Kenya for Establishing this institution? How independent is the Ombudsman in Kenya?

**QUESTION FIVE****(20 marks)**

Nairobi County by-laws prohibited the selling of any food in its parks without consent. Joshua has for the past one year been selling cakes and soft drinks at Uhuru Park with consent of Nairobi County Authority. Last month, Nairobi County Authority passed a resolution and revoked all earlier consent stating that no permission would be granted in future for the sale of food stuffs. Joshua is aggrieved that his one-year license has been revoked before the end of its term and seeks your legal advice.

Explain the legal principle applicable. Advise Joshua on his legal rights.

