UNIVERSITIES' ACADEMIC STAFF UNION

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Ref: UASU/NA/2/2026

28th September,2026

The Clerk, National Assembly

National Assembly of Kenya

P.O. Box 41842 – 00100

NAIROBI

Dear Sir,

RE: SUBMISSION OF MEMORANDUM BY THE UNIVERSITIES ACADEMIC STAFF UNION (UASU) ON THE TERTIARY EDUCATION PLACEMENT AND FUNDING BILL, 2026

On behalf of the Universities Academic Staff Union (UASU), I hereby submit the Union's Memorandum on the **Tertiary Education Placement and Funding Bill, 2026** for consideration by the Departmental Committee on Education during its consideration of the Bill.

UASU is the duly recognized trade union representing academic staff in Kenya's public universities and has a direct interest in the legislative and policy framework governing the financing, administration and sustainability of university education. The proposed legislative framework has significant implications for the financing of public universities, the sustainability of academic programmes, the employment and remuneration of academic staff, and the quality, accessibility and long-term development of university education in Kenya.

The Union's Memorandum therefore provides substantive observations and specific proposals on various provisions of the Bill. Of particular concern to UASU is the proposed financing architecture and the potential implications of shifting or restructuring the funding of university education, including the extent to which funding for the salaries and remuneration of university academic staff may be channelled through the proposed tertiary education financing framework. The Union considers it important that the legislative framework clearly protects predictable and adequate financing for the human-resource component of university education and does not inadvertently undermine the financial and institutional sustainability of public universities.

The Memorandum sets out these and other concerns and proposes amendments intended to strengthen the Bill and ensure that the resulting framework promotes equitable access to tertiary

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education while safeguarding the quality, sustainability and constitutional and statutory obligations of public universities.

In addition to the written Memorandum, the Union respectfully requests an opportunity to make an oral presentation before the Committee. An oral presentation would enable UASU to elaborate on the technical, financial, labour-relations and institutional implications of the proposed provisions and to respond directly to any questions that the Committee may wish to raise. Given the potential implications of the Bill for university employees and the sustainability of public university education, the Union would greatly appreciate the opportunity to engage directly with the Committee during its consideration of the Bill.

UASU remains committed to constructive engagement with Parliament and other stakeholders in strengthening Kenya's tertiary education financing framework and ensuring that the final legislation advances accessible, quality, equitable and sustainable university education.

We look forward to the Committee's favourable consideration of the Memorandum and to an opportunity to make the oral presentation.

Yours faithfully,

DR. CONSTANTINE WASONGA, PhD
UNIVERSITIES' ACADEMIC STAFF UNION (UASU)

Encl: Memorandum by the Universities Academic Staff Union (UASU) on the Tertiary Education Placement and Funding Bill, 2026

UNIVERSITIES ACADEMIC STAFF UNION (UASU)

MEMORANDUM TO THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON EDUCATION

ON THE TERTIARY EDUCATION, PLACEMENT AND FUNDING BILL, 2026 (NATIONAL ASSEMBLY BILL NO. 49 OF 2026)

Submitted from the perspective of academic staff of public universities and in the public interest

22nd September 2026

1.0 INTRODUCTION

The Universities Academic Union (UASU), the organization which unites all the academic staff in Kenyan public universities, hereby submits its views on *The Tertiary Education, Placement and Funding Bill, 2026* (hereinafter "the Bill").

The Bill proposes to establish a new Tertiary Education Funding Authority (TEFA), consolidate the functions currently undertaken by the Higher Education Loans Board (HELB), Universities Fund and TVET Funding Board, and re-establish the Kenya Universities and Colleges Central Placement Service (KUCCPS) under one new statute.

The Bill proposes a major restructuring of university students financing mechanism in Kenya.

While UASU recognizes the legitimate policy objectives of widening access to tertiary education, improving coordination, reducing institutional duplication and establishing a

predictable framework for financing students; the Union is concerned that the Bill conflates, through a big omission, ***student*** financing and ***university*** financing.

Senior Government officials have been quoted as stating that the Bill encapsulates the principle of *"money follows the student"* or *"student - centred university funding model (SCFM)"* of funding universities. The same principle has been stated by the Salaries and Remuneration Commission (SRC) and the Vice-Chancellors of the Public Universities, through their letters of 18th and 23rd September 2026 respectively, as the reason of the refusal by the National Treasury to commit to funding the 2025-2029 CBAs of public universities. This is despite the fact that there is no law or statutory instrument declaring the "student - centred university funding model (SCFM)" as the lawful mechanism of funding public universities.

The central concern for UASU is therefore the risk that a statute designed principally to finance students, is through omission, already being used to facilitate a shift in the financing of public universities from Parliamentary allocations and the National Exchequer, to financing through student fees, loan proceeds, market borrowing, institutional commercial income or other uncertain revenue streams.

UASU submits that financing of university education must be approached comprehensively: *Student financing and institutional financing are complementary but distinct components of financing the higher education system.*

A key concern of the Union is therefore conceptual and legal: the Bill should distinguish *'student financing'* from *'institutional/university financing'*. Tuition and student support are not the total economic cost of university education.

The Kenyan constitution makes the distinction material. Article 260 defines public office by reference, to remuneration and benefits payable directly from the Consolidated Fund or directly out of money provided by Parliament.

Courts have expressly found that lecturers in public universities are public officers because lecturers are primarily remunerated out of money provided by Parliament. Such judicial findings provide important legal benchmarks for Parliament when designing any new tertiary education financing architecture.

A framework that provides financial assistance to students without guaranteeing adequate and predictable financing of Universities risks creating institutions that are unable to provide the quality teaching, research, innovation, infrastructure and human resources required to deliver tertiary education.

The Union accordingly recommends that Parliament substantially amend the Bill rather than make only technical changes.

UASU recommends that the Bill be amended to ensure that the proposed reforms simultaneously address:

i. Clear separation between student financing and institutional/university financing.
ii. Include a statutory pillar for public university institutional financing, with an express Exchequer guarantee for staff remuneration and financing collective bargaining obligations.
iii. Sustainable financing of public Universities; and
iv. Adequate and predictable funding for staff and research, community services including clinical services to public healthcare facilities, among other university obligations such as university infrastructure maintenance and pensions.

2 SUMMARY OF UASU'S POSITION

(i) Preserve the constitutional character of public university staff as public officers where the constitutional criteria of Exchequer funding and appropriation of funds by Parliament are met, and do not use the financing architecture to alter public officer status indirectly.
(ii) Prohibit the transfer of institutional salary liabilities to individual universities merely because TEFA finances students.
(iii) Insert an express provision that salaries, allowances, pensions, gratuities and CBA obligations of academic staff in public universities ***shall not be financed*** from student fees, student loan repayments, TEFA commercial borrowing, private capital or other market-based sources.
(iv) Create a distinct statutory stream for institutional financing of public universities, including recurrent personnel costs, teaching, research, clinical training and services, infrastructure maintenance and other public service obligations.
(v) Require Parliamentary appropriation and Exchequer disbursement for the recurrent remuneration of academic staff, CBAs and pensions.
(vi) Strengthen transition provisions so that existing students, existing loans, scholarships, university obligations and staff rights are not prejudiced by institutional succession.
(vii) Subject any material changes to funding criteria to transparent consultation, publication, regulatory safeguards and parliamentary oversight.
(viii) Require a full fiscal and institutional impact assessment before commencement, including the projected cost of student financing and the recurrent cost of public universities.

The Union recommends that the Bill should not be enacted in its current form without substantive amendments addressing the financing and sustainability of public Universities.

The Union's central concern is that the proposed framework appears substantially oriented towards financing students, while insufficiently addressing the financing of the institutions that employ academic staff and provide tertiary education services.

The Union underscores that the distinction is fundamental because funding the student is not equivalent to funding the University.

A university financing model must be accompanied by a framework capable of supporting:

i. Salaries and other employee emoluments funded from the Exchequer;
ii. Collectively negotiated terms and conditions of service funded from the Exchequer;
iii. Statutory obligations;
iv. Pension obligations;
v. Teaching and learning;
vi. Research and innovation; and
vii. Institutional development.

3 UASU ANALYSIS OF THE BILL

1. The Bill's principal architecture

The Bill establishes two central institutional functions: placement and student financing. It proposes a Kenya Universities and Colleges Central Placement Service and TEFA. TEFA will assume functions now distributed among HELB, the Universities Fund and TVET Funding Board. Student funding is connected to placement, and the Bill provides that funding under the proposed framework is for students placed by the Placement Service.

UASU asserts that placement should not become a mechanism through which the State controls institutional revenue without simultaneously guaranteeing institutional funding, personnel emoluments, pension, students accommodation for universities that already have subsidized student accommodation and catering services.

2. Student funding is not the same as university funding

The Bill is principally a student financing statute. It should not be interpreted as a complete law on the financing of public universities. Parliament should make this boundary explicit. Otherwise, a financing authority may become the de facto financier of

the entire university system without a sufficiently defined statutory duty to finance the institutional cost base.

3. Academic staff remuneration and Article 260 of Kenya's Constitution

Article 260 defines public office by reference to an office in national or county government or the public service where remuneration and benefits are payable directly from the Consolidated Fund or directly out of money provided by Parliament.

UASU therefore recommends a legislative safeguard maintaining Parliamentary or Exchequer funding of public university academic staff remuneration. The proposed amendment should not rely solely on constitutional interpretation after a dispute arises; the statute should make the funding architecture unambiguous.

4. Risk of shift from Exchequer to TEFA and market financing

The Bill's broad resource mobilisation powers are useful for expanding student financing but create a potential policy risk if the boundary between student funding and institutional funding is left unstated.

If universities are subsequently expected to meet salary obligations from student fees or commercially raised funds, academic remuneration could become contingent on enrolment, fee collection, loan recovery or capital market conditions.

That would expose the continuity of teaching and research to risks unrelated to the employment relationship and will break the constitutional basis on which public university lecturers have been treated as public officers.

5. Collective bargaining and CBA funding

The legislation should expressly recognise that national collective bargaining obligations affecting public university academic staff are not student costs. Otherwise every collective bargaining cycle will be directly linked to proposed student fee increments.

A CBA creates employment obligations between public universities and their academic staff. Once lawfully negotiated and implemented within the applicable constitutional and statutory framework, its financing should be provided through the public finance framework applicable to the State's obligations, not by requiring students to generate the revenue needed to honour the agreement.

Parliament should require recurrent personnel cost appropriation vote or equivalent ring-fenced mechanism for public university academic staff remuneration.

6. Institutional funding should be separately legislated

A coherent tertiary-financing system should contain two complementary streams:

(a) student financing, which may be administered through TEFA; and

(b) institutional financing, for public universities, administered through the national government budgetary framework. Institutional funding should include personnel costs, teaching and learning infrastructure, research, clinical training, libraries, laboratories, ICT, utilities, maintenance and other public-service functions.

TEFA may finance students without becoming the employer or salary financier of public university staff.

7. Funding criteria and delegated power

The Bill gives the Authority a role in establishing funding criteria in consultation with the Cabinet Secretary. This could permit significant changes through administrative criteria. UASU recommends that the Act establish the core eligibility and funding principles, including universal access, continuity of funding, protection of vulnerable students, transparency and non-discrimination. Regulations should elaborate rather than replace the statutory framework.

8. Loan repayment and employment implications

The proposed repayment framework, including commencement within one year after completion and payroll deductions capped at 25 per cent of emoluments, should be reviewed. The Bill should distinguish completion of studies from commencement of gainful employment, provide a grace period for unemployment and underemployment, and protect minimum subsistence. Employers should not be exposed to disproportionate compliance burdens or penalties for matters outside their control. The system should also protect privacy and due process when TEFA accesses employment and financial information.

9. Public universities and private institutions

The Bill appears to broaden eligibility for financing to students admitted to recognised public and private tertiary institutions. Parliament should ensure that this does not result in the diversion of public resources away from public institutions to private universities.

Public universities carry statutory public service functions, including research and national capacity development, that are not reducible to tuition bearing student numbers.

What will happen to research centres and institutes which do not necessarily have students enrolled, or only house students and academic research performing research?

10. Research and academic quality

The legislation should explicitly recognise that sustainable tertiary education requires financing of research and academic capacity. If institutional financing is insufficient, universities may respond by increasing workloads, relying on part-time staff, deferring

laboratory and library expenditure, reducing research support and commercialising programmes. These outcomes will adversely affect quality assurance and Kenya's scientific and research capacity.

11. Governance and representation (Section 9 - Placement Service and Section 32 - TEFA)

The governance framework should contain university sector expertise and university management representatives in all the Boards. The precursor to KUCCPS was JAB, which had representation of Vice Chancellors of public universities.

If the Board of KUCCPS is be constituted as indicated, universities will lose autonomy in having a say on the qualifications of the students admitted to various academic programmes, and KUCCPS will be de facto and de jure admissions body without universities representation.

Additionally, TEFA should also have representation of top academic managers from universities.

The qualifications of the CEOs of KUCCPS and TEFA should include distinguished service in academia.

UASU additionally recommends that it should have representation on the Boards of KUCCPS and TEFA, or the alternative, a statutory consultation mechanism for recognised academic staff unions on matters that may impact on academic staff under the Act. Representatives of Vice Chancellors should also sit on the Boards.

12. Transitional provisions

The transition from HELB, Universities Fund and TVET Funding Board to TEFA must protect existing contracts, loans, scholarships, students, employees, records, assets and liabilities. The Bill should also specify the treatment of existing university funding commitments and arrears.

13. Public finance and accountability

The Bill should be harmonised with the Constitution and Public Finance Management Act. Funds appropriated by Parliament should be transparently appropriated, accounted for and audited. **Where TEFA borrows or mobilises private capital, Parliament should require debt and contingent liability controls so that future generations of students and taxpayers are not burdened by financing commitments that have not been transparently approved.**

4 SPECIFIC PROPOSED AMENDMENTS

1. New clause — Protection of academic staff remuneration
INSERT the following new clause immediately after the clause dealing with the objects/principles of the Act (Section 3):

"Protection of remuneration of staff of public universities
(1) Nothing in this Act shall transfer to the Authority responsibility for financing the salaries, allowances, pensions, gratuities or other employment emoluments of academic staff employed by public universities.
(2) The remuneration and employment emoluments of staff of public universities, including obligations arising from duly negotiated and applicable collective bargaining agreements, shall be financed from monies appropriated by Parliament through the National Exchequer and shall not be made contingent upon student fees, student loan repayments, investment income, commercial borrowing, private capital or other market-based sources.

(3) The Cabinet Secretary responsible for education and the Cabinet Secretary responsible for the National Treasury shall ensure that adequate and timely budgetary provision is made for the remuneration and employment benefits referred to in subsection (2).
(4) Nothing in this section shall prevent a public university from receiving funding from other sources."

2. New clause — Institutional financing of public universities
INSERT a separate institutional financing provision (*After Section 3*):

"Institutional financing of public universities
(1) The Government shall provide predictable, adequate and timely financing for the recurrent and development functions of public universities.
(2) Such financing shall include personnel emoluments costs, teaching and learning, research, clinical services, clinical and practical training, libraries, laboratories, ICT, maintenance and other functions prescribed by law.
(3) The financing of students under this Act shall not constitute a substitute for institutional financing of public universities."

3. Amendment — Tertiary Education Fund limitation (Section 29)
AMEND the clause establishing the Tertiary Education Fund to make clear that the Fund is principally a student financing mechanism and shall not be used to assume the recurrent salary liabilities of public universities unless Parliament expressly appropriates funds for a specific and legally defined institutional purpose.

4. Amendment — Funding criteria (Section 29 (b))
AMEND the provision empowering TEFA to establish funding criteria so that the Act itself sets minimum statutory criteria, including equal access, non-discrimination, continuity of funding, protection of vulnerable learners, transparent appeals and timely disbursement. Regulations should not be used to create a funding regime fundamentally different from that approved by Parliament.

5. Amendment — CBA protection (Sec 29)
INSERT an explicit reference to collective bargaining agreements applicable to academic staff of public universities in the public-finance provisions, clarifying that such obligations shall be provided for through Parliamentary appropriations and shall not be devolved to students or individual universities as unfunded liabilities.

6. Amendment — Employment status
INSERT a savings clause providing that nothing in the Act shall alter the employment status, public-officer status, pension status, labour rights or collective bargaining rights of academic staff employed by public universities.

7. Amendment — Union participation
INSERT a mandatory consultation provision requiring TEFA, the Cabinet Secretary and relevant ministries to consult recognised trade unions representing academic staff before making regulations or policy instruments that materially affect staffing, employment conditions or institutional funding.

8. Amendment — Fiscal impact statement
INSERT a requirement that, before commencement, the Cabinet Secretary table before Parliament a five-year fiscal and institutional impact statement covering projected student financing requirements, institutional financing requirements, personnel costs, existing liabilities, transition costs, loan recovery assumptions and contingent liabilities from borrowing.

9. Amendment — Transitional protection
Strengthen transitional provisions to protect all existing students, existing loan and scholarship commitments, accrued institutional funding obligations, employee rights, and existing contracts. Include a clear statement that repeal or transfer of functions does not extinguish accrued liabilities.

10. Amendment — Parliamentary oversight of borrowing
Require Parliamentary approval or a clearly defined statutory ceiling for material borrowing by TEFA, together with disclosure of borrowing costs, guarantees, repayment schedules and contingent liabilities. The Authority should not be able to create open ended public obligations through commercial financing instruments.

11. Amendment — Composition of KUCCPS and TEFA
The Boards should have representatives of public universities management or Vice Chancellors – and mandatorily so for KUCCPS.

UASU should be represented in the Boards of KUCCPS and TEFA.

12. Amendment — Qualifications of CEOs of KUCCPS and TEFA
Require them to have records of distinguished academic service in public universities with management and leadership experience in public universities (not private institutions).

5 SPECIFIC RECOMMENDATIONS IN CASE THE BILL SHOULD INCLUDE UNIVERSITY FINANCING FRAMEWORK

Where Parliament elects to include in the Bill, an Institutional Financing Framework, the following proposals should apply:

5.1 Objects and principles of the Bill

The Bill should expressly recognize adequate institutional financing of public Universities as one of the objects and principles of tertiary education financing.

UASU recommends that the Bill expressly provide that:

The Government shall ensure adequate, predictable, equitable and timely financing of public Universities to enable them to discharge their teaching, research, innovation, community service and other statutory mandates.

This provision should be accompanied by an obligation on the national Government to provide institutional funding in addition to student-based financing.

5.2 Staff remuneration and terms and conditions of service

The Bill should explicitly recognize that sustainable tertiary education requires a well remunerated and adequately supported workforce.

UASU is particularly concerned that the financing model should not create a situation in which the ability of a public university to honour salaries, pensions, statutory obligations or collectively negotiated terms becomes dependent upon the timing or volume of student financing.

UASU recommends that the Bill provide that:

Financing of remuneration and employment-related obligations of staff of public Universities shall be provided for through an adequate and predictable institutional financing framework.

The legislation should further clarify that:

i. Student funding shall not be construed as a substitute for institutional funding;
ii. Student financing arrangements shall not vary or diminish employees' lawful terms and conditions of service;
iii. The government shall provide mechanisms for financing statutory and contractual obligations of public Universities.

5.3 Collective bargaining and registered CBAs

UASU emphasizes that collective bargaining is constitutionally and statutorily recognized.

The financing framework established by the Bill should therefore not undermine registered collective bargaining agreements between Universities and recognized trade unions.

UASU recommends the insertion of a safeguard providing that:

i. *Nothing in this Act shall be construed as varying, suspending, extinguishing or otherwise affecting a registered collective bargaining agreement, contract of employment, pension entitlement or other lawful terms and conditions of service of employees of a tertiary institution.*
ii. *Any change affecting employees' terms and conditions of service should remain subject to the applicable labour laws and collective bargaining framework.*

5.4 Institutional funding of public Universities

The Bill should establish a clear statutory framework for institutional financing of public Universities.

The proposed funding model should not result in public Universities depending exclusively or disproportionately on tuition-related student financing for their recurrent expenditure.

Public Universities undertake functions that cannot be adequately financed through student fees alone.

These include: Research; Innovation; Postgraduate education; Community outreach; Specialized laboratories; and Infrastructure; Training in low-enrolment but nationally important disciplines; and Employment of highly qualified academic and professional staff.

UASU recommends:

The Bill should establish a dedicated mechanism for Government institutional grants to public Universities, separate from student financing.

Such grants should take into account: Student population; Programme mix; Programme cost; Research intensity; Infrastructure requirements; Postgraduate enrolment; National strategic priorities; Geographical considerations; and Other objectively verifiable institutional factors.

5.5 Financial sustainability of public Universities

The Bill should recognize that university financing is a long-term public investment.

A financing model based predominantly on student numbers may expose Universities to financial instability where: Enrolment declines; Students defer studies; Funding applications are delayed; Loans are not approved; Disbursements are delayed; Programmes have high delivery costs; or National demographic patterns change.

6.0 UASU'S PROPOSED FUNDING ARCHITECTURE

UASU proposes that Kenya's tertiary education financing system be structured around four complementary pillars:

PILLAR I — STUDENT FINANCING

TEFA: Scholarships; Loans; Bursaries; Targeted financial assistance.

PILLAR II — INSTITUTIONAL FINANCING

National Exchequer/ Parliament appropriations: Recurrent grants; Staff costs; Institutional operations; Statutory obligations.

PILLAR III — CAPITAL DEVELOPMENT

Government and development partners: Laboratories; Lecture facilities; Libraries; Ict infrastructure; Research infrastructure; Student accommodation; Specialised facilities.

This four-pillar approach would provide a more sustainable foundation for Kenya's tertiary education system than relying primarily on student financing.

7.0 CONCLUSION

The UASU position is that while Kenya needs a sustainable tertiary education financing system, sustainability cannot be achieved by transferring the financial risk of funding public university education to students in the public universities.

The proposed TEFA architecture should be improved, by Parliament making an explicit legal distinction between student finance and universities institutional finance.

The remuneration of public university academic staff is a recurrent public obligation and should be secured through Parliamentary appropriation and the National Exchequer. This safeguard is essential in the Bill to ensure continuity of university teaching and research, lawful collective bargaining, protection of academic staff, institutional stability and the quality of tertiary education.

UASU respectfully requests the Departmental Committee on Education to incorporate the proposed amendments in its report to the National Assembly and to recommend that no provision of the Bill be interpreted or implemented as authorising the financing of academic staff remuneration in public universities from student fees, student loan recoveries or market-based funding.

It is UASU's position that the success of the proposed reforms will ultimately depend on whether the new system adequately finances both the student and the institution.

Accordingly, UASU recommends that the Bill be substantially strengthened through the proposed amendments before enactment.

SUBMITTED BY:

DR. CONSTANTINE WASONGA, PhD

UNIVERSITIES' ACADEMIC STAFF UNION (UASU)