



REPUBLIC OF KENYA

PARLIAMENT

NATIONAL ASSEMBLY BILLS
(Bill No. 35 of 2014)

THE BASIC EDUCATION (AMENDMENT) BILL, 2014

(A Bill published in the Kenya Gazette Supplement No. 131 of 2014 and passed by the National Assembly, with amendments, on February 25, 2016)

N.A. /B/No. 35 /2014

**THE BASIC EDUCATION (AMENDMENT)
BILL, 2014**

**AN ACT of Parliament to amend the Basic Education
Act**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Basic Education (Amendment) Bill, 2014. Short title.

2. The Basic Education Act, (in this Act referred to as “the principal Act”), is amended in section 2— Amendment of section 2 of No. 14 of 2013.

(a) by deleting the definition of “curriculum” and substituting therefor the following new definition—

“curriculum” has the meaning assigned to it under the Kenya Institute of Curriculum Development Act. No. 4 of 2013.

(b) by deleting the definition of “manager” and substituting therefor the following new definition—

“manager” means a person who—

- (a) is the proprietor or is nominated by the proprietor of a private institution of basic education and training;
- (b) is registered by the County Education Board as provided for under section 78 of this Act;
- (c) oversees and implements the education programs, policies and guidelines issued from time to time; and
- (d) may perform any other delegated teacher management functions;

3.Section 18 of the principal Act is amended by deleting subsection (1) and substituting therefor the following subsection—

Amendment of
section 18 of No. 14
of 2013.

(1) The functions of the County Education Board shall be to—

- (a) facilitate the full realization of the right of all children to access quality basic education;
- (b) ensure that all children and youth of school going age attend and complete basic education and training;
- (c) ensure all institutions of basic education and training have a conducive learning environment and are provided with appropriate and adequate infrastructure;
- (d) collaborate with the national and county governments, the Teachers Service Commission, parents, the civil societies, international and local organizations in planning, promotion, development and coordination of innovations, research, and in the provision of educational infrastructure and instructional materials for basic education;
- (e) oversee the establishment, operations, management of public and private youth polytechnics, home craft centers, pre-primary, primary, secondary schools, any other institution of basic education and training operating in the county, and the implementation of projects and programs in collaboration with the county government and other stakeholders;
- (f) establish and maintain a disaggregated data bank on learners, teachers and all service providers in institutions of basic education and training in the County;
- (g) vet nominees for board of management members and managers for private institutions;
- (h) compile a priority list of schools infrastructural development annually within the county and send to the National Education Board;
- (i) transfer and discipline learners and non-teaching staff employed by Board of management;

- (j) monitor and evaluate—
 - (i) general performance of institutions of basic education and training, ongoing programs and projects in public institutions, and achievement of learners;
 - (ii) conduct of national exams and institutional based assessments;
- (k) coordinate adult and continuing education programs in the County;
- (l) maintain a data bank of all students who are ranked in the first quartile in the constituency in the national examination at the primary level and who due to inability to pay school fees fail to gain entry into or complete education in a public secondary school; and
- (m) perform such other functions as may be necessary for the promotion of basic education under this Act or any other written law.”

4. The principal Act is amended by deleting section 20 and replacing it with the following new section—

Amendment of section 20 of No 14 of 2013.

Composition of the County Education Boards

(1) Every County Education Board shall consist of a Chairperson and seventeen other persons appointed by the Cabinet Secretary as follows—

- (a) an educationist of at least five years standing;
- (b) the County Director of Education who shall be the secretary to the County Education Board;
- (c) County Executive in charge of education;
- (d) the county commissioner
- (e) a representative of the Teachers Service Commission;
- (f) where applicable, one person each

representing—

- (i) jointly, the National Council of Churches of Kenya and the Evangelical Fellowship of Kenya;
 - (ii) the Kenya Conference of Catholic Bishops; and
 - (iii) the Muslims Education Council;
- (g) a representative of the association of private schools;
 - (h) two representatives of a trade union representing the interest of teachers;
 - (i) two representatives of parents teachers association;
 - (j) a representative of persons with disability;
 - (k) two members nominated by the following bodies—
 - (i) the Primary School Head Teachers' Association; and
 - (ii) the Secondary School Principals Association.
 - (l) a representative of a child rights organization.

(2) In appointing persons as Chairpersons and members of the County Education Board, the Cabinet Secretary shall observe the principle of gender equity, regional, ethnic and religious balance, transparency, openness and competitiveness and shall have due regard to the principle of equal opportunities for persons with disabilities.

(3) All members of the County Education Board shall have a minimum qualification of secondary education

certificate.

(4) A Member of Parliament from the respective County may attend the meetings of the County Education Board but shall have no right to vote.

5. The principal Act is amended by inserting the following new sections immediately after section 25-

Amendment of
section 25 of No 14
of 2013.

Sub County
Education Board.

25A. (1) There is established a Sub-county Education Board.

(2) Every Sub-County Education Board shall consist of a chairperson and twelve other persons appointed by the Cabinet Secretary and shall include—

- (a) the Sub-County Education Officer who shall be the secretary to the Sub-County Education Board;
- (b) a representative of the County Executive in charge of Education;
- (c) a representative of the Teachers Service Commission;
- (d) a representative of the association of private schools;
- (e) two representatives of a trade union representing the interest of teachers;
- (f) where applicable one person each representing—
 - (i) jointly the National Council of Churches

- of Kenya and the Evangelical Fellowship of Kenya;
- (ii) the Kenya Conference of Catholic Bishops; and
- (iii) the Muslim Education Council.
- (g) one representative of persons with disability;
- (h) two members nominated by the Primary School Head Teachers Association and the Secondary Schools Principals Association;
- (i) the deputy County Commissioner.

(3) In appointing persons as Chairpersons and members of the Sub-County Education Board, the Cabinet Secretary shall observe the principle of gender equity, regional, ethnic and religious balance, transparency, openness and competitiveness and shall have due regard to the principle of equal opportunities for persons with disabilities.

(4) All members of the Sub-County Education Board shall have a minimum qualification of secondary education certificate.

(5) A Member of Parliament from the respective Sub-County may attend the meetings of the Sub-County Education Board but shall have no right to vote.

Functions of the Sub-County Education Boards.

25B. The functions of the Sub-county Education Board shall be to put in place measures to—

- (a) facilitate the full realization of the right of all children to access quality basic education;

- (b) ensure that all children and youth of school going age attend and complete basic education and training;
- (c) ensure all institutions of basic education and training have a conducive learning environment and are provided with appropriate and adequate infrastructure;
- (d) initiate policy reform proposals for the County Education Board;
- (e) establish and maintain a register of all public and private youth (Village) polytechnics, home craft centres, pre-primary schools, child care centres and any other institution of basic education and training operating in the county;
- (f) generate and maintain statistics in all education matters including all students who are ranked in the first quartile by the constituency in the national examinations at primary level, and submit the report to the County Education Board;
- (g) generate and a priority list of public schools with infrastructural challenges within the sub-county;
- (h) nominate board of management members and managers for private institutions;
- (i) coordinate adult and continuing education programs in the sub-county; and
- (j) perform such other functions as may be necessary for the promotion of basic education under this Act or any other written law

Tenure

25C. (1) The Chairperson shall serve for a term of four years renewable once.

(2) The members shall serve for a renewable term of three years.

(3) The Cabinet Secretary shall by regulation, provide for the staggering of the terms of the inaugural Board members.

Remuneration of the
Sub-county
Education Boards.

25D. The members of the Sub-county Education Boards shall be paid such allowances and disbursements for expenses as may be approved by the Cabinet Secretary in consultation with the Salaries and Remuneration Commission.

6. Section 26 of the principal Act is amended by inserting the following new subsection immediately after subsection (3)—

Amendment of
section 26 of No. 14
of 2013.

“(4) Pursuant to Articles 235 and 237 of the Constitution, the Teachers Service Commission shall assign teachers to the public institutions of basic education and training used for conducting pre-primary education, childcare facilities, home craft centers and village polytechnics”.

7. Section 27 of the principal Act is amended by—

Amendment of
section 27 of No. 14
of 2013.

(a) deleting paragraph (a) and substituting therefor the following paragraph—

“to participate and offer proposals on matters regarding syllabus, textbooks, digital content and other instructional materials and teaching aids during curriculum review;”

(b) deleting paragraph (e) and substituting therefor the following new paragraph—

“(e) to offer material and financial support to institutions in regards to infrastructure improvement or any other project to support academic programs.”

(c) inserting the following new paragraph immediately after paragraph (e)–

“(f) to participate in the process that may lead to change of status of a public sponsored institution of basic education and training.”

8. The principal Act is amended in section 32 by deleting the words “or a basic education institution” appearing immediately after the words “public school”.

Amendment of section 32 of No. 14 of 2013.

9. Section 34 of the principal Act is amended by inserting the words “as long as the child meets the criteria prescribed by the Cabinet Secretary for admission to the public school.” at the end of sub-section (5).

Amendment of section 34 of No. 14 of 2013.

10. “Section 35 of the Principal Act is amended in sub-section (2) by inserting the words “except with the concurrence of the parents or guardians” immediately after the word “class”.

Amendment of section 35 of No. 14 of 2013.

11. Section 39 of the principal Act is amended by inserting the following new paragraphs immediately after paragraph (h)–

Amendment of section 39 of No. 14 of 2013.

“(ha) put in place measures to ensure that children who meet the criteria for admission to a public secondary school but fail to gain entry into or are likely to drop out on account of inability to pay school levies are supported to complete

secondary education”;

“(hb) in consultation and cooperation with the County Education Board, Sub-County Education Board, the County government and other stakeholders mobilize resources for the provision of bursaries to deserving but needy students”;

12. Section 40 of the principal Act is amended by inserting the following new subsections immediately after subsection (4)–

Amendment of
section 40 of No. 14
of 2013.

(5) “Every head of a public institution of basic education and training shall, not later than 28th February of each year develop and submit to Sub-County Education Board and a copy to the County Education Board, a list profiling the performance and conduct of learners in their institution in the preceding year whose parents or guardians are unable to pay school levies and therefore more likely to drop out.”

(6) “The Sub-County Education Board in collaboration with the Parents Associations and other stakeholders shall vet all the learners submitted under subsection 40(5) to ensure that only needy and deserving learners are supported to complete their studies.”

13. Section 56(1) of the principal Act is amended by deleting –

Amendment of
section 56 of No. 14
of 2013.

(a) paragraph (a) and substituting therefor the following paragraph–

“(a) four persons elected to represent parents of the pupils in the school or from the local community;”

(b) paragraph (c) and substituting therefor the following paragraph—

“(c) head of the institution who shall be the secretary of the Board;”

(c) paragraph (d) and substituting therefor the following paragraph—

“(d) two representatives of the sponsors of the school;”

14. Section 95 of the principal Act is amended in subsection (2) by inserting the words “in consultation with the relevant sponsors immediately after “appropriate” appearing in (e).

Amendment of
section 95 of No. 14
of 2013

The Basic Education (Amendment) Bill, 2014

I certify that this printed impression is a true copy of the Bill passed by the National Assembly on the 25th February, 2016

Clerk of the National Assembly

Endorsed for presentation to the Senate in accordance with the provisions of Standing Order 142 of the National Assembly Standing Orders.

Speaker of the National Assembly