

SPECIAL ISSUE

Kenya Gazette Supplement No. 115 (Senate Bills No. 26)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2018

NAIROBI, 4th September, 2018

CONTENT

Bill for Introduction into the Senate—	PAGE
The County Early Childhood Education Bill, 2018	449

**THE COUNTY EARLY CHILDHOOD EDUCATION
BILL, 2018**

ARRANGEMENT OF CLAUSES

Clause

PART I – PRELIMINARY

- 1—Short title.
- 2—Interpretation.
- 3—Objects and purposes.
- 4—Guiding principles.

**PART II – RIGHT TO EARLY CHILDHOOD
EDUCATION**

- 5—Right to early childhood education.
- 6—Obligations of the County in promoting the right to early childhood education.
- 7—Duty of parents or guardians.
- 8—Duty of head teacher.
- 9—Children with disabilities.

**PART III – ESTABLISHMENT AND
REGISTRATION OF EARLY CHILDHOOD
EDUCATION CENTRES**

- 10—Establishment of public education centres.
- 11—Register of education centres.
- 12—Requirement for registration of education centres.
- 13—Application for registration.
- 14—Registration of existing schools to offer early childhood education.
- 15—Provisional registration.
- 16—Review of registration.
- 17—Criteria for registration as a private education centre.

- 18—Registration.
- 19—Suitable premises.
- 20—Changes of premises.
- 21—Mobile schools.
- 22—Obligations of a private education centre
- 23—Action by the County Education Board where centre fails to comply with Act.
- 24—Suspension of registration where welfare of children is at risk.
- 25—Cancellation of registration.
- 26—Appeal from decision of the County Education Board.
- 27—Categories of education centres.
- 28—Sponsors.

PART IV — MANAGEMENT OF EARLY CHILDHOOD EDUCATION CENTRES

- 29—Management board of an early childhood education centre.
- 30—Composition of board of management.
- 31—Functions of the board of management.
- 32—Committees of the board of management.
- 33 —Parents teachers association.
- 34—Annual report on governance.
- 35—Record keeping requirements.
- 36—Teaching staff.

PART V – ADMINISTRATION OF THE EARLY CHILDHOOD EDUCATION SYSTEM

- 37—Management of early childhood education within a county.
- 38—Recruitment of early childhood teachers.
- 39—Free admission into public education centre.
- 40—Period of admission.

- 41—Age of admission.
- 42—Prohibition of administration of exams for purposes of admission.
- 43—Prohibition from holding back and expulsion.
- 44—Standards of education in a private education centre.
- 45—Framework of curriculum.
- 46—Free tuition.
- 47—Education centre programmes.
- 48—Prohibition of holiday tuition.
- 49—Teacher to child ratio.
- 50—Prohibition from offering boarding facilities.

PART VI — ACCREDITATION

- 51—Accreditation of education centres offering foreign curriculums.
- 52—Application for accreditation.
- 53—Consideration of application.
- 54—Evaluation of applicant for accreditation.
- 55—Interim accreditation.
- 56—Grant of accreditation.
- 57—Renewal of accreditation.
- 58—Adherence to conditions for accreditation.
- 59—Suspension of certificate of accreditation.
- 60—Revocation of accreditation.
- 61—Appeal against decision of the County Education Board to revoke accreditation.
- 62—Register of accredited education centres.

PART VII — QUALITY ASSURANCE

- 63—Quality assurance.

PART VIII — SAFETY AND PROTECTION OF CHILDREN IN AN EDUCATION CENTRE

- 64—Safety equipment.

65—Prohibition of corporal punishment.

PART IX — TRANSITIONAL PROVISIONS

66—Existing education centres.

PART X - MISCELLANEOUS PROVISIONS

67—Regulations.

68—General penalty.

69—Amendments to No. 14 of 2013.

**FIRST SCHEDULE—CRITERIA FOR
DETERMINING
THE SUITABILITY
OF PREMISES FOR
THE CONDUCT OF
EARLY
CHILDHOOD
EDUCATION**

**SECOND SCHEDULE—CONDUCT OF
AFFAIRS OF
BOARD OF
MANAGEMENT
OF EARLY
CHILDHOOD
EDUCATION
CENTRE**

**THE COUNTY EARLY CHILDHOOD EDUCATION
BILL, 2018**

A Bill for

AN ACT of Parliament to provide a framework for the establishment of systems for the administration of early childhood education within a County, and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the County Early Childhood Education Act, 2018.

Short title.

2. In this Act, unless the context otherwise requires –

Interpretation.

“board of management” means the board of management of an education centre;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to early childhood education;

“child” has the meaning assigned to it under the Children Act;

“children with disabilities” means children whose mental characteristic, sensory abilities, physical characteristics, emotional and social adjustment or communication abilities are underdeveloped and include children who suffer from long-term disabilities that affect the body or emotions to the extent that learning growth and development are affected;

No.8 of 2001

“County Education Board” means the County Education Board established under section 17 of the Basic Education Act in each county;

“county executive committee member” means the county executive committee member responsible for matters relating to education within each county;

“curriculum” means all approved subjects taught or programmes offered in an education centre which are approved by the Kenya Institute of Curriculum Development;

“department” means the department of education headed by the county executive committee member responsible for education at the county level of government;

No. 14 of 2013.

“Education Appeals Tribunal” means the Appeals Tribunal established under section 92 of the Basic Education Act;

“education centre” means a public or private early childhood education centre or facility used for conducting early childhood education and training;

“early childhood education” means the pre-primary educational programmes imparted to a child in an education centre;

“Education Standards and Quality Assurance Council” means the Education Standards and Quality Assurance Council established under section 64 of the Basic Education Act;

“head teacher” means the lead educator or administrator in an education centre who is responsible for the implementation of policy guidelines and professional practice in the education centre;

“Kenya Institute of Curriculum Development” means the Kenya Institute of Curriculum Development established under section 3 of the Kenya Institute of Curriculum Development Act; and

“mobile school” has the meaning assigned to it under the Basic Education Act;

No. 14 of 2013.

“public education centre” includes a sponsored public education centre”;

“pupil” means a person who meets criteria for admission to an early childhood centre as the Cabinet Secretary may, in consultation with the County Education Board, prescribe;

No. 14 of 2013.

“sponsor” has the meaning assigned to it under the Basic Education Act;

No. 4 of 2013.

“teacher” has the meaning assigned to it under the Teachers Service Commission Act; and

“Teachers Service Commission” means the Teachers Service Commission established under Article 237(1) of the Constitution.

No. 14 of 2013.

No. 20 of 2012

3. The objects and purposes of this Act are to-

Objects and purposes.

- (a) provide a framework for the establishment of a comprehensive early childhood development and education system by the county governments;

- (b) provide a framework for the establishment of the infrastructure necessary to support the provision of quality education in the early childhood education system within a county;
- (c) promote the delivery of quality early childhood education and provide a framework that enhances the quality and efficiency of early childhood education in the counties; and
- (d) provide a framework for the establishment of –
 - (i) a developmentally, culturally and linguistically appropriate early childhood care and education system including the implementation of program models, standards and curriculum based on research and best practices; and
 - (ii) a partnership between the National government, the county governments, private persons and other relevant stakeholders with an interest or expertise in early childhood care and education.

4. All entities in this Act shall, in performing their functions under this Act, be guided by the following principles –

Guiding principles.

- (a) the right to free and compulsory basic education enshrined under Article 53 of the Constitution;
- (b) coordinated public participation in the implementation, monitoring and evaluation of policies and plans related to the implementation of early childhood development and education in the county;
- (c) a holistic approach towards meeting the education and other development needs of the child to ensure that their full potential is realised;
- (d) empowerment and capacity building as a means of facilitating the right to early childhood education;
- (e) recognition of the parents and family of the child as the primary care givers and the role of the community in providing an alternative support system to the parents and an environment that ensures the realization of the right to early childhood education and development;

- (f) equality, equity and non-discrimination in the provision of early childhood education and the recognition of children with disabilities;
- (g) transparency in the implementation of programmes and activities relating to early childhood education and the allocation and utilization of public and private resources;
- (h) ensuring that interventions are based on objective information and methods and that monitoring mechanisms and regular evaluations are established, thus ensuring transparency in the public management, social audit and taking into account the needs of the population;
- (i) accountability through developmentally appropriate methods of measuring, reporting and tracking the growth and development of a child and the improvement of the early childhood education systems and programs;
- (j) collaboration and co-operation with the National government and relevant stakeholders in the implementation of activities necessary for ensuring the actualization of the right to early childhood education; and
- (k) the identification and prioritization of communities most at risk while striving to make the system universally available to all those who wish to participate.

PART II—RIGHT TO EARLY CHILDHOOD EDUCATION

5. (1) Every child has the right to free and compulsory early childhood education in a public education centre.

Right to early childhood education.

(2) The right to early childhood education shall be enjoyed without discrimination, exclusion or restriction on the basis of sex, race, colour ethnic origin, tribe, birth, creed or religion, social or economic standing, political or other opinion, property, disability or other status.

(3) For the enjoyment of the right to early childhood education, the county government shall –

-
- (a) respect, protect, promote, monitor, supervise and evaluate the right to early childhood education and guarantee mechanisms for its enforcement;
 - (b) refrain from actions that undermine access to early childhood education;
 - (c) ensure the availability and accessibility of early childhood education by all children within the county irrespective of their economic, social or religious background by making provision for sufficient access to resources, funding and support and maintaining an enabling environment in which children can attain early childhood education;
 - (d) provide an opportunity for the public to develop their understanding on the need to support the implementation of early childhood education and for public participation in the formulation and implementation of any service or programme interventions towards early childhood education;
 - (e) ensure the development of skills and capacity building necessary for achieving an equitable and effective early childhood education system in the county; and
 - (f) provide and maintain a sustainable early childhood education system and protect the right to early childhood education from encroachment by any public authority or any person.
6. Each county government shall, in promoting the right to early childhood education, –
- (a) provide free and compulsory early childhood education in public education centres within the county;
 - (b) establish such public education centres as may be necessary for the provision of free and compulsory early childhood education within the county;
 - (c) formulate programmes and plans and implement policies for the realisation of the right to early childhood education;
 - (d) implement, in consultation with the relevant stakeholders, curriculum programs that are secular
- Obligations of the County in promoting the right to early childhood education.

in nature and that promote culture and the holistic development of the child;

- (e) provide the necessary infrastructure and funds necessary for the development of education centres and for the administration of early childhood education within the county;
- (f) identify and undertake an assessment of children with disabilities in the county and put in place special programmes targeting such children in the provision of early childhood education;
- (g) ensure that children belonging to marginalized, vulnerable or disadvantaged groups within the county are not discriminated against and prevented from pursuing and completing early childhood education;
- (h) carry out public awareness and advocacy programmes in relation to early childhood development and education;
- (i) ensure the provision of, and support investment in human resource, infrastructural facilities and learning resources to facilitate the provision of early childhood education;
- (j) establish and maintain relationships with international, national and local institutions within the county involved in the provision of early childhood education;
- (k) promote the circulation of and access to up-to-date and timely information on early childhood education and development; and
- (l) develop a best classroom model for early childhood education centres within the respective county in accordance with the specifications set out in the First Schedule.

7. (1) Every parent or guardian shall cause to be presented for admission or cause to be admitted his or her child, as the case may be, to an education centre.

Duty of parents or guardians.

(2) Where a parent or guardian fails to comply with subsection (1) such person commits an offence and shall be liable, on conviction, to a fine not exceeding ten thousand shillings.

(3) Where a person convicted of an offence under subsection (2) is unable to pay the fine, such person shall be liable to imprisonment for a term not exceeding one year or to such penalty including community service as the Court shall consider fit to impose.

8. (1) Where a pupil admitted in an education centre fails to attend the education centre, the head teacher shall, in collaboration with the village administrator, cause an investigation of the circumstances of the pupil's absence from school.

Duty of head teacher.

(2) Where the head teacher finds there are no reasonable grounds for the pupil's failure to attend school, the head teacher shall-

- (a) issue a written notice to the parent of the pupil requiring that parent to comply with the provisions of this Act; and
- (b) submit a report on the pupil to the County Education Board.

(3) Any parent who without a reasonable cause and after a written notice from the head teacher, fails to comply with such notice commits an offence and shall be liable, on conviction, to a fine not exceeding ten thousand shillings or to imprisonment for a period not exceeding two years or to both.

9. (1) The county executive committee member shall put in place such infrastructure as may be necessary to ensure that children with disabilities have access to, and are provided with early childhood education.

Children with disabilities.

(2) In performing the functions under subsection (1), the county executive committee member shall-

- (a) ensure that there are adequate learning institutions and facilities for children with disabilities; and
- (b) put in place necessary facilities to assist children with disabilities to access affordable assistive aids and devices.

**PART III—ESTABLISHMENT AND
REGISTRATION OF EARLY CHILDHOOD
EDUCATION CENTRES**

10. Subject to the Constitution and the provisions of this Act, the county governments shall establish and

Establishment of public education

maintain such early childhood education centres as they may consider necessary to meet the obligation set out under Article 53 of the Constitution.

centres.

11. (1) The County Education Board shall keep and maintain a register of —

Register of education centres.

- (a) all education centres registered to provide early childhood education services within the respective county;
- (b) all education centres whose registration has been cancelled; and
- (c) such other particulars as the County Education Board may from time to time determine to be necessary.

(2) Any person may inspect the register and obtain a copy of, or an extract of the register from the Registrar.

12. (1) A person shall not offer early childhood education services or establish or maintain an education centre unless such person is registered in accordance with this Act.

Requirement for registration of education centres.

(2) A person who fails to comply with subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or to both.

13. (1) A person who intends to offer early childhood education and development services shall submit an application for registration to the County Education Board in the prescribed form.

Application for registration.

(2) An applicant under subsection (1) shall submit together with the application, -

- (a) a certificate of registration or in the case of a company, a copy of the memorandum and articles of association of the company;
- (b) duly completed and signed application forms for the management of the education centre in the prescribed form;
- (c) duly completed and signed application forms for the head teacher of the education centre in the prescribed form;

- (d) an education centre inspection report by the Sub-County Education office;
- (e) a public health or sanitary inspection report;
- (f) the Title Deed, allotment letter or a valid lease agreement covering a period not less than five years;
- (g) certified copies of professional and academic certificates of all teachers and the head teacher;
- (h) certified copies of registration certificates issued to the teachers in the education centre by the Teachers Service Commission;
- (i) supporting records signed by the relevant authorities showing existing facilities and future development or extension plans where applicable; and
- (j) the prescribed fees.

14. Where a person who or an entity which is registered to offer basic education under the Basic Education Act intends to offer early childhood education, such person or entity shall apply, subject to section 66, for registration to offer early childhood education in the prescribed manner.

Registration of existing schools to offer early childhood education.
No. 14 of 2013.

15. (1) The County Education Board shall, where an applicant under section 13 and 14 meets the criteria for registration, provisionally register the applicant if it is satisfied that the education centre or proposed education centre meets or is likely to meet the criteria for registration as an education centre.

Provisional registration.

(2) Provisional registration of an education centre or proposed education centre shall be for a period of twelve months, unless earlier revoked or such other period as the County Education Board may specify.

(3) The County Education Board may renew the provisional registration of an education centre only once, for such period as it may specify, if it is satisfied that—

- (a) exceptional circumstances exist in relation to the education centre; and
- (b) the education centre is likely to meet the criteria for registration as an education centre in that period.

(4) The County Education Board may undertake further investigations of the education centre, in addition to the review required under section 16, of an education centre that has its provisional registration renewed under subsection (3).

16. (1) As soon as practicable after provisionally registering an education centre under section 15, the County Education Board shall inform the County Executive Committee member responsible for early childhood education in the County of the provisional registration.

Review of registration.

(2) The County Executive Committee member shall review any education centre that is provisionally registered under section 15 either—

- (a) between six and twelve months after the provisional registration of the education centre or proposed education centre; or
- (b) a period earlier than that specified under paragraph (a) if in the opinion of the department, a shorter time is necessary.

(3) The County Executive Committee member shall conduct a further review of the education centre that has had its provisional registration renewed under section 15, upon a request of the review by the County Education Board.

(4) The County Executive Committee member shall, upon conducting a review under subsection (2) or (3) submit its findings in relation to the County Education Board and to the head teacher of the education centre for implementation.

(5) The findings submitted under subsection (4) on a review under this section shall include—

- (a) information as to whether the education centre meets the criteria for registration as an education centre; and
- (b) information as to the areas in which improvement is required, if it does not meet the criteria.

17. The County Education Board shall not approve an application for registration of a private institution as an education centre unless such institution —

Criteria for registration as a private education centre.

- (a) is situated in a premises that meets the requirements of a suitable premises under section 19;
- (b) has the capacity to care and provide early childhood education to at least ten children;
- (c) has adequate and qualified staffing that would ensure that the education imparted to the children is suitable according to the age range and level of development of the children, the curriculum taught at the education centre and the size of the education centre;
- (d) has equipment that is suitable for the curriculum being delivered or to be delivered at the education centre;
- (e) meets the standards prescribed under this Act; and
- (f) has a head teacher who meets the qualifications and criteria prescribed under this Act.

18. Where the County Education Board is satisfied that an education centre that is provisionally registered meets the criteria for registration as an education centre, it shall grant full registration to the centre and issue to the centre, a certificate of registration.

Registration.

19. (1) In determining whether the premises of an education centre are suitable for the administration of early childhood education, the County Education Board shall take into account the criteria specified under the First Schedule to this Act.

Suitable premises.

(2) Subsection (1) shall apply to all premises used by the education centre for the regular delivery of courses, whether or not the proprietor of the centre owns or leases the premises for the education centre.

(3) The Cabinet Secretary shall, in consultation with the County Education Board, prescribe the minimum acreage of the compound in which an education centre is situated and the minimum standards required to be met in relation

(4) to premises prior to the registration of an education centre under this Act.

20. (1) The head teacher of an education centre shall not change the location of the centre nor acquire additional

Change of premises.

premises for the purpose of running the education centre unless he or she has applied to, and obtained the approval of the County Education Board.

(2) In determining whether to grant approval under subsection (1), the County Education Board shall take into account the criteria specified under section 17.

(3) The head teacher of an education centre shall notify the County Education Board of any change in the location of the education centre including –

- (a) the acquisition of premises that are in addition to its current premises; or
- (b) the relocation of the education centre to a different premises from that currently occupied by the education centre.

21. (1) A County Government may establish such mobile schools as it considers necessary to facilitate access to early childhood education within the county.

Mobile schools.

(2) The provisions of this Part shall, subject to subsection (3), apply with necessary modification to the registration of mobile schools.

(3) The Cabinet Secretary may, in consultation with the County Education Board prescribe the requirements for the establishment of a mobile school within the county.

22. A private early childhood education provider registered under this Act shall—

Obligations of a private education centre.

- (a) establish the structures necessary for the management and administration of education within the centre;
- (b) recruit persons who are qualified and registered by the Teachers Service Commission to administer the early childhood education curriculum in the education centre;
- (c) administer a curriculum that adheres to the early childhood education policy and this Act;
- (d) maintain premises in a manner that ensures that it meets the requirements of the occupational health, safety regulations and building standards;
- (e) maintain necessary teaching and learning materials and equipment;

- (f) maintain a data bank on pupils admitted in the education centre and submit to the county executive committee member; and
- (g) meet such other requirements as the county executive committee member, in consultation with the County Education Board, may consider necessary for the delivery of quality early childhood education services within the county.

23. (1) The County Education Board may take any action specified under subsection (2) with regard to a private education centre where—

Action by the County Education Board where centre fails to comply with Act.

- (a) it considers that the education centre has not met any or all of the criteria for registration as an education centre;
- (b) a review conducted under section 16 indicates that the education centre does not, or is not likely to, meet all or any of the criteria for registration as a private education centre;
- (c) the head teacher of the education centre have breached or are breaching their statutory duties in relation to the education centre under this or any other written law; or
- (d) it has reasonable grounds to believe that serious criminal activity has or is occurring in the education centre.

(2) Where the County Education Board is satisfied that any ground specified under subsection (1) exists in relation to an education centre registered under section 18, it may take one or more of the following action –

- (a) issue the head teacher of the education centre with a notice to comply in the prescribed form;
- (b) require the head teacher of the education centre to inform parents of the pupils in the centre that the centre is not meeting the criteria for registration as a private education centre;
- (c) impose conditions on the continued registration of the education centre;
- (d) take any action specified under paragraphs (a) to (c), and suspend the education centre's registration; or

(e) cancel the education centre's registration in accordance with section 25.

(3) Any action taken by the County Education Board under subsection (2) —

(a) shall be proportionate to the seriousness of the action or inaction by the education centre; and

(b) is in addition to any fine incurred or other penalty imposed under this Act, or under any other written law.

24. (1) The County Education Board may at any time suspend the registration of an education centre registered under section 18 if it has reasonable grounds to believe that the welfare of the pupils at the education centre is at risk, and—

Suspension of registration where welfare of pupils is at risk.

(a) that it is unlikely that the risk can be managed by any practicable means other than by suspension of the registration; or

(b) that, although the risk could be managed by means other than by suspension of the registration, the amount of time necessary to do so is likely, in the opinion of the County Education Board, to be excessive.

(2) An education centre shall remain suspended under subsection (1) until the County Education Board—

(a) is satisfied that the head teacher has complied with all requirements imposed by it; or

(b) cancels the registration of the education centre in accordance with section 25.

(3) A suspension under subsection (1) shall continue in force until the County Education Board—

(a) is satisfied that the welfare of the pupils in the education centre is no longer at risk; or

(b) cancels the registration of the education centre in accordance with section 25, after issuing the head teacher of the education centre with a notice to comply in accordance with section 23.

25. (1) The County Education Board may cancel the registration of an education centre if, following an action taken under paragraphs (a) to (d) of section 23(2),—

Cancellation of registration.

- (a) the education centre—
 - (i) does not improve sufficiently to meet the criteria for registration under section 17; and
 - (ii) is not, in the opinion of the County Education Board, likely to meet the criteria, within a further reasonable time;
- (b) the head teacher of the education centre are continuing in breach of their statutory duties in relation to the centre; or
- (c) serious criminal activity has or continues to occur in the education centre.

(2) Before cancelling the registration certificate of an education centre under subsection (1), the County Education Board shall—

- (a) take reasonable steps to obtain and consider any relevant information, including any report by a review committee appointed by the County Education Board for that purpose;
- (b) give written notice to the head teacher of the education centre that it is considering cancelling the registration of the education centre, and give reasons; and
- (c) give the head teacher of the education centre a reasonable opportunity to respond to the notice.

26. (1) A person who is aggrieved by the decision of the County Education Board under this Part may, within thirty days of being notified of the decision, appeal to the Education Appeals Tribunal established under section 93 of the Basic Education Act.

Appeal from decision of the County Education Board.

No. 14 of 2013.

(2) The Appeal shall be in such form as the Cabinet Secretary may, prescribe.

(3) The appeal shall be determined in such manner as the Cabinet Secretary shall, under section 93(3) of the Basic Education Act, prescribe.

27. (1) Education centres shall be categorized as—

Categories of education centres.

- (a) private education centres established, owned or operated by private persons; and

(b) public education centres established, owned or operated by the county government.

(2) A public education centre shall not be converted to a private education centre.

28. (1) A public education centre may be sponsored by a private person including a religious institution. Sponsors.

(2) A sponsorship entered into under subsection (1) shall be used to enhance the educational programmes in an education centre and contribute directly or indirectly to the quality of education administered in an education centre under this Act.

(3) A sponsor shall not influence the curriculum administered in an education centre, compromise the implementation of any written law applicable to the education centre or compromise the professional standards and ethics of teachers in the early education centre.

(4) Notwithstanding the generality of subsection (2), the role of the sponsor under subsection (1) shall be—

- (a) to participate and make recommendations of review of syllabus, curriculum, books and other teaching aids;
- (b) to offer financial and infrastructural support to the education centre.

(5) Notwithstanding the fact that the sponsor of an education centre is a faith based institution, the curriculum in the education centre shall be as set and approved by the Kenya Institute of Curriculum Development.

PART IV—MANAGEMENT OF EARLY CHILDHOOD EDUCATION CENTRES

29. (1) There is established in every public education centre, a board of management.

Management board of an early childhood education centre.

(2) The board of management shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;

- (c) borrowing money;
- (d) entering into contracts; and
- (e) doing or performing all other things or acts for the proper performance of its functions under this Act which may be lawfully done or performed by a body corporate.

30. (1) The board of management shall consist of –

Composition of
board of
management.

- (a) one person elected from amongst the parents from each level within the education centre to represent parents of pupils in the education centre;
- (b) one representative of the teaching staff in the education centre nominated by the teachers;
- (c) two persons with experience in matters of nutrition and social work relating to early childhood development and education nominated by the County Governor on the recommendation of the County Education Board;
- (d) one public officer nominated by the county executive committee member within the county;
- (e) one person to represent children with disabilities;
- (f) the head teacher of the education centre, who shall be an *ex officio* member; and
- (g) in the case of a sponsored education centre, one person nominated by the sponsor.

(2) A person shall qualify for nomination to the board of management if such person holds at least a Kenya Certificate of Secondary Education.

(3) The head teacher to the education centre shall be the secretary to the board of management and shall report to the County Education Board in the performance of his or her functions under this Act.

(4) The members of the board of management shall, at their first meeting convened on such date as the County Education Board shall determine, appoint from amongst themselves, a person who shall be the chairperson of the board of management.

(5) The board of management may co-opt such persons not exceeding two in number to sit in the committee of the board, whose knowledge and skills are

found necessary for the performance of the functions of the board.

(6) The board of management shall conduct its affairs in accordance with the provisions of the Second Schedule.

(7) Except as provided in the Second Schedule, the board of management may regulate its own procedure.

31. The functions of the board of management shall be to –

Functions of the board of management.

- (a) identify the needs of early childhood education and development services within their local communities and develop viable strategies for meeting these needs;
- (b) mobilize the parents and local communities to initiate and sustain education centres and support early education programmes;
- (c) manage the early education programme in the centre in ensuring the provision of quality early childhood education;
- (d) identify local resources necessary to equip the education centre and identify sources for, and undertake fundraising activities to raise funds for the education centre;
- (e) ensure the provision of quality early education services in the education centre in accordance with the standards prescribed under this Act and by the County Education Board;
- (f) ensure the provision of adequate equipment and facilities within the education centre that such equipment and facilities are well maintained;
- (g) carry out advocacy in relation to the needs and the rights of the child in relation to early childhood education; and
- (h) carry out such other functions as may be necessary for the implementation of this Act within the education centre.

32. The board of management of an early childhood education centre may establish such committees as the board of management may consider appropriate to perform

Committees of the board of management.

such functions and discharge such responsibilities as the board of management may deem necessary.

33. (1) There shall be a Parents Teachers Association for every public and private school consisting of—

Parents Teachers Association.

- (a) every parent with a pupil in the education centre; and
- (b) a representative of the teachers in the education centre.

(2) There shall be an Executive Committee of the Parents Teachers Association consisting of representatives of parents with pupils in each level within the education centre and a teacher.

(3) The members of the Executive Committee of Parents Teachers Association shall be elected during an annual general meeting of parents and teachers.

(4) The Parents Teachers Association shall, at its first meeting, elect a Chairperson from amongst the persons elected under subsection (3).

(5) The Chairperson of the Parents Teachers Association shall be co-opted to the board of management.

(6) The head teacher shall be the Secretary to the Parents Teachers Association

(7) The functions of the parents teachers association shall be to—

- (a) promote quality care, nutritional and health status of the pupils;
- (b) maintain good working relationship between teachers and parents;
- (c) discuss, explore and advise the parents on ways to raise funds for the physical development and maintenance;
- (d) explore ways to motivate the teachers and pupils to improve their performance in academic and co-curricular activities;
- (e) discuss and approve charges to be levied on pupils or parents;
- (f) assist the school management in the monitoring, guidance, counseling and disciplining of pupils; and

- (g) discuss and recommend measures for the welfare of staff and pupils.

34. Every public education centre shall submit an annual report to the County Education Board.

Annual report on governance.

35. Every education centre shall keep, and make available to the County Education Board on request,—

Record keeping requirements.

- (a) a register of the pupils who attend or have attended the early childhood education centre, specifying the date of birth of each pupil;
- (b) a record of the attendance of pupils at the education centre;
- (c) a record of all fees and other charges paid in respect of pupils' attendance at the education centre;
- (d) academic progress assessment reports in relation to each pupil who is registered in the education centre;
- (e) a record of the immunizations administered with respect to each pupil who is registered in the education centre; and
- (f) such other records that are necessary to enable the centre's performance to be monitored adequately.

36. (1) A person is qualified for employment as an early childhood education teacher if such person –

Teaching staff.

- (a) holds at least a diploma in early childhood development and education from an institution recognized in Kenya;
- (b) is registered as a teacher by the Teachers Service Commission; and
- (c) holds a certificate of good conduct.

(2) A person is qualified for employment as a head teacher in an education centre if such person –

- (a) meets the requirements of subsection (1); and
- (b) has at least two years' experience in matters of early childhood education.

PART V—ADMINISTRATION OF THE EARLY CHILDHOOD EDUCATION SYSTEM

37. (1) Each county government shall be responsible for the overall governance and management of early childhood education within the respective county.

Management of early childhood education within a county.

(2) The county executive committee member in each County shall, in consultation with the County Education Board, determine the early childhood education resource and infrastructure requirements within the County.

38. (1) The county government shall be responsible for the-

Recruitment of early childhood teachers

(a) Recruitment and training of early childhood education teachers in public education centres within the county; and

(b) maintenance of a register of early childhood education teachers recruited by it under paragraph (a).

(2) The county government shall pay to early childhood education teachers employed in public education centres within the county, such remuneration as it shall, in consultation with the Salaries and Remuneration Commission, determine.

39. (1) A person shall not charge or collect any fee for the purpose of admitting a child into any public education centre.

Free admission into public education centre.

(2) Notwithstanding subsection (1) admission fees may be payable by persons who are not Kenyan citizens.

40. (1) A child shall be admitted in an education centre at the commencement of the academic year or within such other extended period as may be prescribed by an education centre.

Period of admission.

(2) The person responsible for admission of children in an education centre shall not discriminate against any child seeking admission on any ground including ethnicity, gender, religion, race, age, disability, language or culture.

41. (1) A child who has attained the age of three years and who is not more than six years of age shall be eligible for admission in an education centre.

Age of admission.

(2) Notwithstanding the provisions of subsection (1), the head teacher of an education centre may, where the head teacher considers it appropriate, admit a child who is more than six years of age.

(3) For purposes of subsection (1), the head teacher of an education centre may, in determining the age of a child,

use the immunization card or birth certificate, passport or any other recognized identification document of the child.

42. An education centre under this Act shall not administer examinations for the purpose of determining admission into the education centre.

Prohibition of administration of exams for purposes of admission.

43. No pupil admitted in an education centre shall be held back in any class or expelled from the centre.

Prohibition from holding back and expulsion.

44. (1) The education administered in a private education centre registered under this Act shall be of a suitable standard and not of a lower standard than that administered to children enrolled in a public education centre of the same class levels.

Standards of education in a private education centre.

(2) In assessing the standard of tuition, the mode of curriculum delivery and the regularity of instruction shall be considered.

45. (1) The Kenya Institute of Curriculum Development shall be responsible for the development of the early childhood education curricula to be applied by counties.

Framework of curriculum.

(2) The Kenya Institute of Curriculum Development shall review the curriculum framework to be administered by all licensed education centres within the county in consultation with the relevant stakeholders including the national and county quality assurance bodies -

- (a) within a period of five years after the development of the curriculum under subsection (1); and
- (b) subsequently every five years after each review.

(3) The Kenya Institute of Curriculum Development shall, in carrying out the review under subsection (2), take into account the specific or special needs of children within the respective county.

(4) In reviewing the curriculum under subsection (1), the Kenya Institute of Curriculum Development shall ensure that the curriculum adheres to the policy and guidelines on curricula developed by the Cabinet Secretary under the Basic Education Act.

(5) As soon as practicable after reviewing the curriculum framework, the Kenya Institute of Curriculum Development shall publish by notice in the Gazette —

- (a) the curriculum framework that has been prescribed or, as the case may be, reviewed; and
- (b) the curriculum framework or the amendment to the curriculum framework in its entirety, or a notice as to the manner in which a copy of the curriculum framework or the amendment to the curriculum framework can be obtained by members of the public.

No. 14 of 2013.

(6) If a curriculum framework is reviewed under this section, every service provider for a registered education centre and to whom that curriculum framework applies, shall implement that curriculum framework in accordance with any requirements prescribed in regulations made under this Act.

46. (1) A public education centre shall not charge or cause any parent or guardian to pay tuition fee for or on behalf of any pupil in the education centre.

Free tuition.

(2) Notwithstanding subsection (1), a public education centre may charge tuition fees for the education of children who are not citizens of Kenya.

(3) A head teacher of a public education centre who –

- (a) imposes a charge or causes any parent or guardian to pay tuition fees commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months; or
- (b) refuses a child admitted in an education centre to attend the education centre because of failure by the parent or guardian to pay any tuition fees or charges imposed on the child, commits an offence and shall be liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding twelve months or both.

47. In administering early childhood education, an education centre shall –

Education centre programmes.

- (a) provide appropriate and adequate learning and play materials;
- (b) emphasize and carry out activities aimed at enhancing creativity amongst the children and use of learning materials; and

- (c) emphasize the need for the child centred approach in individual learning for the development of each individual child.

48. An education centre shall not undertake early childhood education services nor offer tuition during school holidays, on weekends or on a day declared to be a public holiday under the Constitution or the Public Holidays Act.

Prohibition of holiday tuition.

Cap.110.

49. The teacher to child ratio in an education centre under this Act shall be as prescribed by the Cabinet Secretary in consultation with the Teachers Service Commission.

Teacher to child ratio.

50. An education centre under this Act shall not offer boarding facilities unless such centre is a child care centre and is registered in accordance with the law regulating child care facilities.

Prohibition from offering boarding facilities.

PART VI — ACCREDITATION

51. An education centre administering or intending to administer a foreign curriculum shall apply to the County Education Board for accreditation in the manner specified under this Part.

Accreditation of education centres offering foreign curriculums.

52. (1) An education centre which intends to apply for accreditation shall make an application to the County Education Board in the prescribed form.

Application for accreditation.

(2) An education centre shall submit the application made under subsection (1) together with a certificate from the Kenya Institute of Curriculum Development containing a statement that the foreign curriculum adheres to the set curriculum for early childhood education.

53. Upon receipt of an application under section 52 the County Education Board shall -

Consideration of application.

- (a) acknowledge receipt within a period of seven days of such receipt;
- (b) consider the application to determine if the applicant has submitted the required information; and
- (c) carry out a site visit to the education centre.

54. (1) The County Education Board shall carry out a site visit of the education centre within a period of sixty days from the date of the application for accreditation.

Evaluation of applicant for accreditation.

(2) The County Education Board shall, in carrying out a site visit, authenticate the information submitted by the education centre and evaluate the institution to determine whether it meets the standards for the registration of an education centre under this Act.

55. (1) The County Education Board may, in consultation with the county executive committee member grant to an applicant a certificate of interim accreditation where the County Education Board is not satisfied that the education centre complies with the prescribed accreditation standards.

Interim accreditation.

(2) An education centre to which a certificate of interim accreditation is issued under subsection (1) shall address areas of non-compliance within such a period as may be specified by the County Education Board not exceeding twelve months from the date on which the certificate is issued and on compliance, resubmit an application to the County Education Board for full accreditation.

(3) The certificate of interim accreditation shall be deemed to have expired if an education centre fails to meet the accreditation standards within the period specified by the County Education Board.

56. (1) The County Education Board in consultation with the county executive committee member, may —

Grant of accreditation.

- (a) grant to an applicant a certificate of accreditation upon satisfaction that the education centre complies with the prescribed accreditation standards and meets the requirements under this Act; or
- (b) reject the application.

(2) The certificate of accreditation shall be valid for a period of five years and renewable subject to the education centre meeting the prescribed conditions.

(3) The County Education Board may defer its decision on an application for accreditation and require the applicant to submit to it such additional information or take such measures as it may consider necessary.

57. (1) An education centre may make an application for renewal of its accreditation to the County Education Board in the prescribed form.

Renewal of accreditation.

(2) An application for renewal of accreditation shall be submitted at least ninety days before the expiry of the certificate of accreditation.

(3) The County Education Board in consultation with the county executive committee member shall consider an application for renewal of accreditation.

58. An education centre to which a certificate of accreditation is issued shall –

Adherence to conditions for accreditation.

- (a) adhere to the standards and conditions for accreditation; and
- (b) ensure that the curriculum administered in the centre meets the standards as may be determined under this Act.

59. (1) The County Education Board may, in consultation with the county executive committee member suspend a certificate of accreditation issued to an education centre for a specified period where the centre fails to comply with the standards of accreditation until the standards are met.

Suspension of a certificate of accreditation.

(2) The County Education Board shall communicate a decision made under subsection (1) to the education centre specifying the reasons for the decision, the noncompliance noted and the action required to be taken by the education centre.

60. (1) The County Education Board may, in consultation with the county executive committee member, revoke a certificate of accreditation granted to an education centre where such centre –

Revocation of accreditation.

- (a) fails to comply with a standard of accreditation; or
- (b) fails to correct any deficiency noted and communicated to the institution by the County Education Board.

(2) The County Education Board shall not revoke a certificate of accreditation unless it grants the education centre, a right to be heard on the revocation.

(3) An education centre whose certificate has been revoked may apply for accreditation after a period of not less than twelve months from the date of revocation of accreditation.

61. An education centre which is aggrieved by the decision of the County Education Board may appeal to the Education Appeals Tribunal within a period of fourteen days from the date of the decision of the County Education Board.

Appeal against decision of the County Education Board to revoke accreditation.

62. (1) The County Education Board shall establish and maintain a register of accredited education centres.

Register of accredited education centres.

(2) The register established and maintained under subsection (1) shall be open to the public for inspection.

PART VII—QUALITY ASSURANCE

63. (1) There is established a committee known as the county early childhood quality assurance committee which shall consist of—

Quality assurance.

(a) two persons, not being public officers, appointed by the Governor by notice in the County Gazette and who have knowledge and at least fifteen years experience in matters relating to early childhood education or education quality assurance;

(b) two public officers in the department responsible for education, nominated by the county executive committee member;

(c) one representative of the Education Standards and Quality Assurance Council; and

(d) one person with knowledge and experience in matters relating to education nominated by the County Education Board.

(2) The quality assurance committee, in consultation with the Education Standards and Quality Assurance Council, shall—

(a) ensure the implementation and adherence to standards and guidelines on quality assurance in education centres in the County in accordance with the national standards developed by the Education, Standards and Quality Assurance Council;

(b) ensure that the standards and quality of education offered in education centres under this Act and under any other written law are adhered to and maintained;

- (c) monitor and evaluate and where appropriate, review the standards and guidelines on quality assurance in the county; and
- (d) ensure –
 - (i) the implementation of the policies formulated by the Council; and
 - (ii) monitor the implementation of such standards.

PART VIII—SAFETY AND PROTECTION OF CHILDREN IN AN EDUCATION CENTRE

64. (1) The board of management in each education centre under this Act shall – Safety equipment.

- (a) maintain premises that meet the requirements of the occupational health, safety regulations and building standards;
- (b) ensure the welfare and safety of the pupils, teachers, non-teaching staff and other persons within the institution; and
- (c) put in place fire fighting equipment, first aid and other emergency equipment and non-prescription medicine as the county executive committee member may prescribe.

(2) In providing the equipment specified under subsection (1)(c), the centre shall ensure that such equipment is accessible during an emergency.

(3) The equipment and medicine under subsection (1) shall be maintained or kept by a centre in such manner as to ensure that it is out of the reach of children and ensures that the safety of the children is not compromised.

(4) The Cabinet Secretary shall prescribe minimum standards for the health and safety of pupils and for a satisfactory environment for education.

65. (1) No teacher or any staff of an education centre shall administer corporal punishment. Prohibition of corporal punishment.

(2) A child in an education centre shall not be subject to emotional or psychological abuse.

(3) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not

exceeding five hundred thousand or to imprisonment for a term not exceeding four years, or to both.

PART IX—TRANSITIONAL PROVISIONS

66. (1) Subject to subsections (2), (3), and (6), every education centre that, immediately before the commencement of this Act, was registered as an education centre shall be deemed to be registered as an education centre under this Act, and continues to be so licensed for a period of one year after the commencement of this Act subject to such conditions of registration as may be imposed under this Act.

Existing education centres.

(2) Despite subsection (1), the County Education Board may give written notice to the registered owner of an education centre registered under subsection (1), requiring the service provider who operates that centre to apply for registration under section 14 within three months of the date of that notice, and—

- (a) if that service provider fails to make such an application within the specified period, the centre ceases to be registered under subsection (1) at the end of that period; or
- (b) if that service provider makes the an application within the required period, the centre continues to be registered under subsection (1) until that application has been determined.

(3) Despite subsection (1), if subsection (4) applies, the County Education Board may, by written notice to the service provider who operates an education centre that is deemed to be registered under subsection (1), declare that the centre is no longer registered under subsection (1) and the notice has effect accordingly.

(4) The County Education Board may give a notice under subsection (3) only if it is satisfied that the service provider or the centre—

- (a) has failed to comply with this Act on the requirements of registration; or
- (b) fails to comply with any conditions for registration.

(5) The County Education Board may, despite the fact that the centre concerned does not meet the minimum

requirements for registration under section 13 or 17, issue to the service provider operating the centre a transitional certificate in such manner as the county executive committee member may prescribe and subject to such conditions as he or she may impose.

(6) Where the County Education Board is not satisfied that the conditions specified in a certificate issued under subsection (5) are being complied with, the County Education Board may, by written notice to the service provider operating the centre, cancel the certificate.

(7) Every notice under subsection (3) or subsection (6) shall set out the reasons for the action taken.

(8) Subsections (1) to (6) shall not limit any powers to cancel or suspend the registration of an education centre in the manner prescribed by the county executive committee member.

PART X - MISCELLANEOUS PROVISIONS

67. (1) The Cabinet Secretary may, in consultation with the Council of County Governors, make regulations generally for the better carrying out of the provisions of this Act.

Regulations.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may—

- (a) prescribe minimum standards relating to the following matters —
 - (i) premises and facilities;
 - (ii) programmes of education;
 - (iii) practices in relation to children’s learning and development;
 - (iv) staffing and parental or caregiver participation;
 - (v) health and safety;
 - (vi) implementation of the curriculum framework;
 - (vii) communication and consultation with parents;
 - (viii) the operation or administration of early childhood education services in a manner that ensures the health, comfort, care,

education, and safety of children attending licensed early childhood services;

- (b) limit or regulate the numbers of children who may attend a registered education centre;
- (c) provide for the grant, duration, expiry, renewal, suspension, transfer, reclassification, and cancellation of registration certificates of or more specified kinds for service providers for each kind of early childhood service;
- (d) prescribe the conditions subject to which such registration certificates may be granted, renewed or transferred and the fees payable in respect of the grant, renewal, and transfer of such certificates;
- (e) prescribe conditions governing, or that may be imposed in respect of, registered education centres and the duties of their service providers;
- (f) prescribe the records to be kept by education centres in respect of children attending registered centres;
- (g) prescribe fees required to be paid under this Act; and
- (h) regulate the qualifications to be held by persons managing, teaching or offering any care services in an education centre.

(3) Regulations made under subsection (2) may prescribe different standards and other requirements—

- (a) for early childhood services of different types or descriptions; and
- (b) in respect of different kinds of registrations.

(4) For the purposes of Article 94(6) of the Constitution –

- (a) the authority of the Cabinet Secretary to make regulations shall be limited to bringing into effect the provisions of this Act and the fulfilment of the objectives specified under subsection (1); and
- (b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act in relation to subsidiary

legislation shall apply to regulations made under this Act.

68. A person who contravenes any provision of this Act for which no penalty is specifically provided commits an offence and is liable, on conviction, to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding two years, or to both.

General penalty.

69. The Basic Education Act is amended —

Amendments to
No. 14 of 2013.

(a) in section 2 by —

(i) deleting the words “pre-primary education institutions and” and substituting therefore the words “early childhood education” in the definition of the word “basic education”;

(ii) inserting the following new definition immediately after the definition of the expression “Duksi”—

“early childhood education” has the meaning assigned to it under the law relating to early childhood education;”

(iii) deleting the definition of “pre-primary education”;

(iv) deleting the words “pre-primary education and substituting therefor the words “early childhood education” in the definition of “primary education”;

(b) in section 4(g) by deleting the word “pre-primary” and substituting therefor the words “early childhood”;

(c) in section 18(1) by deleting the word “pre-primary” and substituting therefor the words “early childhood”;

(d) in section 26(1) by deleting the word “pre-primary” and substituting therefor the words “early childhood”;

(e) by deleting the word “pre-primary” appearing in section 28(2) (a) and substituting therefor the words “early childhood”;

(f) in section 41(1) by deleting the word “pre-primary” and substituting therefor the words “early childhood”;

- (g) by deleting the word “pre-primary,” appearing in section 44(2) and substituting therefor the words “early childhood;
- (h) by deleting paragraph (a) of section 55(1);
- (i) by repealing section 58; and
- (j) by deleting the word “pre-primary” appearing in section 76(4).

FIRST SCHEDULE**(s. 6,19)****CRITERIA FOR DETERMINING THE SUITABILITY OF
PREMISES FOR THE CONDUCT OF EARLY CHILDHOOD
EDUCATION**

1. The number of children admitted into the education centre
2. The size of the classrooms which shall not be less than 8m x 6m and which shall hold not more than forty children
3. Condition of the premises
4. Adequate ventilation
5. Lockable doors and windows and the existence of emergency exits
6. Ablution blocks suitable for use by children
7. Adequate furniture suitable for use by children
8. Existence of play or psychomotor materials and teaching materials

SECOND SCHEDULE

(s. 30)

**CONDUCT OF AFFAIRS OF BOARD OF MANAGEMENT OF
EARLY CHILDHOOD EDUCATION CENTRE**

1. (1) The board of management shall meet at least once in every two months to conduct its business. Meeting of the Board.

(2) The first meeting of the board shall be convened by the chairperson and the board shall meet subsequently at such a time and place as it shall determine.

(3) Notwithstanding the provisions of sub-paragraph (1), the chairperson shall, upon a written request by at least five members of the board, convene a special meeting of the board at any time where he considers it expedient for the transaction of the business of the board.

(4) The members of the board shall elect a vice-chairman from among themselves-

(a) at the first sitting of the board; and

(b) whenever it is necessary to fill the vacancy in the office of the vice-chairperson.

(5) A meeting shall be presided over by the chairperson or in his absence by the vice-chairperson.

(6) The board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the board

(7) The proceedings of the board shall not be invalidated by reason of a vacancy within its membership.

2. (1) Subject to sub-paragraph (2), the quorum of a meeting the board shall not be less than half of the members. Quorum.

(2) Where there is a vacancy in the board, the quorum of the meeting shall not be less than three appointed members.

(3) Unless a unanimous decision is reached, a decision on any matter before the board shall be by a simple majority of the votes of the members present and voting and in the case of an equality of votes, the chairperson or person presiding over the meeting shall have a casting vote.

3. (1) A member of the board who has a direct or indirect personal interest in any matter being considered or to be considered by the board shall, upon the relevant facts Conflict of interest.

concerning the matter having come to his knowledge, disclose the nature of his interest to the board.

(2) A disclosure of interest made by a member of the board under sub-section (1) shall be recorded in the minutes of the meeting of the board and the member shall not, unless the board otherwise determines-

- (a) be present during the deliberation on the matter by the board; or
- (b) take part in the decision of the board on the matter

(3) A member of the board who makes a disclosure under sub-section (1) shall not-

- (a) be present in the meeting of the board held to determine whether or not the member should take part in the deliberations or decision of the board in relation to the matter; or
- (b) influence any other member of the board in arriving at a particular decision in relation to the matter.

(4) No member of the board shall transact any business or trade with the education centre.

4. (1) Subject to provisions of this Schedule, the board may determine its own procedure and the procedure for any committee of the board.

Rules of
Procedure and
minutes.

(2) The board shall cause the minutes of all proceedings of its meetings to be recorded and kept, and the minutes of each meeting shall be confirmed by the board at the next meeting of the board and signed by the chairperson or the person presiding at the meeting.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal object of this Bill is to provide a framework for the implementation of early childhood education by the county government in line with its functions as set out under the Fourth Schedule of the Constitution. The county governments are conferred with the responsibility of ensuring the implementation of early childhood education in the counties.

Part I of the Bill deals with preliminary matters and sets out the objects and purposes of the Bill and the principles that are to guide the counties and other actors in the implementation of this Bill.

Part II of the Bill elaborates on the right to early education as articulated under Article 53 of the Constitution. It also confers various obligations on the county governments, parents or guardians and head teachers in ensuring that the right to early childhood education is realised.

This Part also makes provision for children with special needs and confers an obligation on the county governments to ensure that there are in place, facilities and education centres that ensure that the early childhood education needs of children with special needs are met.

Part III sets out the procedure for the registration of early childhood education centre. It sets out the criteria for registration and the circumstances under which the registration of an early childhood education centre may be cancelled or revoked. This Part also provides for appeals from the decision of the Board.

Part IV provides for the management of early childhood education centres. It provides for the establishment of boards of management of early childhood education centres, their functions in relation to the education centre and the record keeping and reporting requirements of the board to the County Education Board. It also provides for the deployment of principals by the county by the department responsible for education in consultation with the County Education Board to a public education centre to ensure that the centre is managed and operated in accordance with the provisions of this Act.

Part V provides for the administration of the early childhood education system in the county. It sets out provisions relating to the admission of children, the standards of education in a private education centre, the curriculum, education centre programmes and school feeding programmes to be implemented in an education centre as well as the teacher to child ration required to be maintained in an institution.

Part VI of the Bill provides for the accreditation of education centres administering or intending to administer foreign curriculum. The part provides for application and evaluation of the application, issuance of interim accreditation, grant, renewal, suspension and revocation of the accreditation and appeal mechanisms. The County Education Board shall maintain a register of accredited education centres.

Part VII of the Bill sets out the quality of education and standards required to be maintained in an early childhood education centre. This Part provides for the establishment of the county early childhood quality assurance committee to ensure the implementation of the policies and standards of education formulated by the National government in the county and for the appointment of inspectors who are conferred with the powers to enter and carry out inspections, thereby ensuring that education centres adhere to the provisions of this Act.

Part VIII makes provision for the maintenance of safety in an education centre and also prohibits the imposition of corporal punishment with respect to children in an education centre.

Part IX sets out transitional provisions in relation to existing education centres or schools that offer early childhood education services.

Part X provides for the formulation of regulations by the Cabinet Secretary for the better implementation of this Act. It also sets out amendments to the Basic Education Act to align it with the Constitution with regard to the provision of early childhood education services by the county governments in line with the Fourth Schedule to the Constitution.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill confers on the Cabinet Secretary the powers to make regulations under the Act for the purposes of operationalizing the Act in order to implement the objectives set out in clause 3 of the Bill. The Bill does not limit any fundamental rights or freedoms.

Statement on how the Bill concerns county governments

The Fourth Schedule to the Constitution confers an obligation on the counties to implement early childhood education. The Bill provides the framework for the implementation of early childhood education by the county governments and therefore concerns county governments.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

Article 114 of the Constitution Clause 72 of the Bill specifically removes the Bill from the ambit of the matters listed under Article 114 of

the Constitution. The clause further provides that any expenses that may be occasioned by the implementation of the Act are to be provided from such gifts, grants or donations as may be given or from such monies as the National Assembly may, in the future, provide for the defraying of such expenses. The Bill also provides that a fund may be established for the purposes of the custody of such funds. The Bill does not therefore appropriate funds for the implementation of the Act; any appropriation would be effected through separate legislation which would be introduced and enacted in terms of Article 114 of the Constitution. This Bill is therefore not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 9th August, 2018.

CHRISTOPHER LANG'AT,
Chairman, Standing Committee on Education.

Section 2 of No. 14 of 2013 which it is proposed to amend—

“basic education” means the educational programmes offered and imparted to a person in an institution of basic education and includes Adult basic education and education offered in pre-primary educational institutions and centres;

Interpretation

“pre-primary education” means education offered to a child of four or five years before joining level one in a primary school;

“primary education” means education imparted to a child who has completed pre-primary education;

Section 4 of No. 14 of 2013 which it is proposed to amend—

The provision of basic education shall be guided by the following values and principles—

Guiding principles

- (a) the right of every child to free and compulsory basic education;
- (b) equitable access for the youth to basic education and equal access to education or institutions;
- (c) promotion of quality and relevance;
- (d) accountability and democratic decision making within the institutions of basic education;
- (e) protection of every child against discrimination within or by an education department or education or institution on any ground whatsoever;
- (f) protection of the right of every child in a public school to equal standards of education including the medium of instructions used in schools for all children of the same educational level;
- (g) without prejudice to paragraph (f) above, advancement and protection of every child in pre-primary and lower primary level of education to be instructed in the language of his or her choice where this is reasonably practicable;
- (h) encouraging independent and critical thinking; and cultivating skills, disciplines and capacities for reconstruction and development;
- (i) promotion of peace, integration, cohesion, tolerance, and inclusion as an objective in the provision of basic education;

- (k) elimination of hate speech and tribalism through instructions that promote the proper appreciation of ethnic diversity and culture in society;
- (l) imparting relevant knowledge, skills, attitudes and values to learners to foster the spirit and sense of patriotism, nationhood, unity of purpose, togetherness, and respect;
- (m) promotion of good governance, participation and inclusiveness of parents, communities, private sector and other stakeholders in the development and management of basic education;
- (n) transparency and cost effective use of educational resources and sustainable implementation of educational services;
- (o) ensuring human dignity and integrity of persons engaged in the management of basic education;
- (p) promoting the respect for the right of the child's opinion in matters that affect the child;
- (q) elimination of gender discrimination, corporal punishment or any form of cruel and inhuman treatment or torture;
- (r) promoting the protection of the right of the child to protection, participation, development and survival;
- (s) promotion of innovativeness, inventiveness, creativity, technology transfer and an entrepreneurial culture;
- (t) non-discrimination, encouragement and protection of the marginalised, persons with disabilities and those with special needs;
- (u) enhancement of co-operation, consultation and collaboration among the Cabinet Secretary, Teachers Service Commission, the National Education Board, the County Education Boards, the education and training institutions and other related stakeholders on matters related to education; and
- (v) provision of appropriate human resource, funds, equipment, infrastructure and related resources

that meet the needs of every child in basic education.

Section 18 of No. 14 of 2013 which it is proposed to amend—

18. (1) The functions of the County Education Board shall be to-

Functions of the
County Education
Boards.

- (a) oversee in consultation with the county government, the operation and management of youth polytechnics, pre-primary education including early childhood care and education programmes in the county;
- (b) coordinate and monitor education and training in the County on behalf of the national government and the county government;
- (c) interpret national policies in education based on the county's needs;
- (d) initiate proposals for policy reforms;
- (e) plan, promote, develop, and coordinate education, training and research in the county in accordance with the provisions of this Act, the national education policy and the laws and policies of the county government;
- (f) collaborate with the Board of Management, the Principal, the Head Teacher, and other appropriate authorities in the management of basic schools;
- (g) register and maintain a data bank of all education and training institutions within the county;
- (h) monitor curriculum implementation in basic education in the county;
- (i) monitor the conduct of examinations and assessments at the basic education and training levels in the county in collaboration with all the relevant national bodies;
- (j) collaborate with the Teachers Service Commission on teacher management within the county;
- (k) prepare and submit a comprehensive school termly annual report including Educational Management Information System data to the Cabinet Secretary on all areas of its mandate including education and

training services, curriculum, policy implementation and school based audit report within the County;

- (m) coordinate with all relevant agencies to ensure that all the barriers to the right to quality education are removed and with National Government to facilitate realization of the right to education within the county;
- (n) put measures in place to ensure all children and youth of school going age within the county attend and stay in to complete basic education.
- (o) perform such other functions as may be necessary for the better carrying out of the functions of the county education board under this Act or any other written law.

(2) The County Education Board may in consultation with the National Education Board and relevant stakeholders appoint a sub county education office with clear functions and powers.

Section 26 of No. 14 of 2013 which it is proposed to amend—

(1) The roles of the county government shall include the provision of funds required for the development of the necessary infrastructure for institutions of basic education and training used for conducting preprimary education, childcare facilities, homecraft centres and village polytechnics.

Roles of
County
Government

(2) Pursuant to Article 187 of the Constitution, the national government may, upon request and with agreement between both governments, transfer its functions relating to infrastructure development of primary schools and secondary schools to a county government.

(3) Where the national government transfers its functions to a county government under subsection (2), it may also allocate conditional grants to that county government to cater for the additional responsibilities arising from the transfer.

Section 28 of No. 14 of 2013 which it is proposed to amend—

28. (1) The Cabinet Secretary shall implement the right of every child to free and compulsory basic education.

Right of child to
free and
compulsory.

(2) The Cabinet Secretary shall in consultation with the National Education Board and the relevant County Education Board provide for the establishment of-

- (a) pre-primary, primary and secondary schools mobile schools, and adult and continuing education centers, within a reasonably accessible distance within a county;
- (b) appropriate boarding primary schools in arid and semi-arid areas, hard-to-reach and vulnerable groups as appropriate; and
- (c) academic centres, or relevant educational institutions to cater for gifted and talented learners;
- (d) special and integrated schools for learners with disability.

Section 44 of No. 14 of 2013 which it is proposed to amend—

44. (1) Subject to the Constitution and the provisions of this Act, the Cabinet Secretary shall establish and maintain public special schools.

Establishment and management of special institutions.

(2) The Cabinet Secretary shall provide special needs education in special schools established under subsection (1) or in pre-primary, primary and secondary schools suitable to the needs of a pupil requiring special education.

(3) Children with special needs include-

- (a) intellectually, mentally, physically, visually, emotionally challenged or hearing impaired learners;
- (b) pupils with multiple disabilities; and
- (c) specially gifted and talented pupils.

(4) The Cabinet Secretary shall ensure that every special school or educational institution with learners with special needs is provided with appropriate trained teacher, non teaching staff, infrastructure, learning materials and equipment suitable for such learners.

Section 55 of No. 14 of 2013 which it is proposed to amend—

55. (1) There shall be a Board of Management for every public -

Board of management

- (a) pre-primary institution;

- (b) primary school;
- (c) secondary school;
- (d) adult and continuing education centre;
- (e) multipurpose development training institute; or
- (f) middle level institutions of basic education.

(2) Notwithstanding subsection (1) every school shall have a parents association which shall be constituted in the manner set out in the Third Schedule.

(3) Every private school shall establish a parents' teachers association.

Section 58 of No. 14 of 2013 which it is proposed to amend—

58. (1) The functions of a Management Committee of a pre-primary institution shall be to –

- (a) promote the best interests of the institution and ensure the institution's development;
- (b) develop a strategic plan for the institution;
- (c) promote quality care, nutritional and health status of the children;
- (d) ensure the development of the children's knowledge, self-confidence, free expression, social values and appreciation of other people's needs and views;
- (e) provide a secure physical and psycho social setting for the children;
- (f) facilitate the development of children's affective, cognitive, psychomotor and physical attributes in an integrated manner including the development of talented and gifted pupils;
- (g) perform any other function to facilitate the implementation of its functions under this Act or any other written law; and
- (h) protect human rights of and promote the best interest of the child.

Functions of a management committee of a pre-primary institution

Section 76 of No. 14 of 2013 which it is proposed to amend—

76. (1) A person shall not offer basic education in Kenya unless the person is accredited and registered as provided for under this Act.

Licensing, registration and accreditation of persons and institutions of

(2) A person or organization intending to establish an institution offering basic education shall make an application in the prescribed manner to the relevant County Education Board.

education, training
and research.

(3) Upon receipt of an application, the County Education Board shall-

- (a) record the application; and
- (b) if satisfied that the establishment of the institution conforms to the prescribed requirements, notify the applicant within thirty days.

(4) Where an application is approved the County Education Board shall inform the office representing the Education, Standards and Quality Assurance Council at the county in the case of a pre-primary, primary or secondary school.