

*Approved for tabling.*

REPUBLIC OF KENYA



KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT - THIRD SESSION

DEPARTMENTAL COMMITTEE ON EDUCATION, RESEARCH AND TECHNOLOGY

REPORT ON

THE CONSIDERATION OF THE BASIC EDUCATION (AMENDMENT) BILL, 2014



PARLIAMENT BUILDINGS  
NAIROBI

AUGUST, 2015

*BT*  
*SMA*  
*25/8/15*  
*Super Land*  
*BT the leader*  
*majority*  
*Dr. Ameyi*  
*Dr. Daudi*  
*on Tuesday*  
*25/8/2015*  
*[Signature]*

## 1.0 PREFACE

**Hon. Speaker,**

On behalf of the Departmental Committee on Education, Research and Technology and pursuant to the provisions of Standing Order No. 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Basic Education (Amendment) Bill, 2014. The Bill was committed to the Committee on 14<sup>th</sup> October, 2014, and it is on the basis of this that the Committee makes this report pursuant to Standing Order 127.

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### 1.1 Mandate of the Committee

The Committee on Education, Research and Technology is one of the Departmental Committees of the National Assembly established under Standing Order 216 and mandated to:-

- (i) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
- (ii) Study the programme and policy objectives of ministries and departments and the effectiveness of the implementation.
- (iii) Study and review all legislation referred to it;**
- (iv) Study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;
- (v) Investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary and as may be referred to them by the House;
- (vi) Vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (*Committee on Appointments*); and
- (vii) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

### 1.2 Committee Membership

The Committee comprises following members:-

- 1. The Hon. Sabina Chege, M.P. (Chairperson)**
- 2. The Hon. Julius Melly, M.P. (Vice Chairperson)**
3. The Hon. (Prof.) Hellen Sambili, M.P.
4. The Hon. (Dr.) Wilber Ottichilo, M.P.
5. The Hon. Harrison Kombe, M.P.
6. The Hon. Yusuf Chanzu, M.P.
7. The Hon. Joseph Manje, M.P.
8. The Hon. Rose Mitaru, M.P.
9. The Hon. Anthony Kimaru, M.P.

10. The Hon. Jacob Macharia, M.P.
11. The Hon. Mary Seneta, M.P.
12. The Hon. Joseph M'eruaki, M.P.
13. The Hon. Dr. Susan Chebet, M.P.
14. The Hon. Eric Keter, M.P.
15. The Hon. Ceciliah Ng'etich, M.P.
16. The Hon. Mohamed Huka, M.P.
17. The Hon. Moses Injendi, M.P.
18. The Hon. Charles Muriuki, M.P.

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19. The Hon. Kenneth Okoth, M.P.
20. The Hon. Geoffrey Odanga, M.P.
21. The Hon. (Dr.) Christine Ombaka, M.P.
22. The Hon. Jared Opiyo, M.P.
23. The Hon. Michael Kisoi, M.P.
24. The Hon. Halima Ware, M.P.
25. The Hon. Dorcas Kedogo, M.P.
26. The Hon. Ibren Nasra Ibrahim, M.P.
27. The Hon. Richard Makenga, M.P.
28. The Hon. Silverse Anami M.P
29. The Hon. Steven kariuki, M.P.

### **1.3 Consideration of the Bill**

On 14<sup>th</sup> October, 2014, the Basic Education (Amendment) Bill, 2014 was published and read a First Time and thereafter committed to the Departmental Committee on Education, Research and Technology for consideration Pursuant to Standing Order 127.

In processing the Bill, the Committee invited comments from the Public by placing advertisements in the Daily Nation and Standard newspapers on 25<sup>th</sup> October, 2014 pursuant to Article 118 of the Constitution. The Committee received several memoranda from various stakeholders including, but not limited to, Ministry of Education, Science and Technology, the Kenya Catholic Episcopal Conference of Catholic Bishops, the Kenya National Association of Parents, Transparency International, Kenya Private School Association among others as contained in the main body of the report.

The views of each of the stakeholders have been captured in the body of the report together with the obtaining justifications. To mention but a few of the amendments proposed, several amendments were proposed especially in the composition and functions of the County and Sub County Education Boards. There were also amendments proposed in the Members that would constitute the School Board of Management. The most contentious amendment was on the role of a sponsor of a school. Arguments were raised as to the kind of consultation that should happen between the sponsors of schools and the Government especially when the status of the school is about to be changed.

The Committee scrutinized all the memoranda presented by the stakeholders and made their recommendations. The Committee will be proposing amendments as contained in the report during the Committee stage of the Bill.

#### **1.4 Acknowledgement**

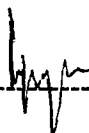
The Committee is in appreciation to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings.

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Finally, I wish to express my appreciation to the Honourable Members of the Committee who made useful contributions during the consideration of the Bill and in preparation of this report.

It is my pleasant duty and privilege, on behalf of the Departmental Committee on Education, Research and Technology, to table its report in the House on its consideration of the Public Audit Bill, 2014, Pursuant to Standing Order 127.

SIGNED



HON. SABINA CHEGE, MP

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON EDUCATION, RESEARCH AND  
TECHNOLOGY

DATE

19/8/2015



## 2.0 BACKGROUND

### Introduction of the Bill

On 14<sup>th</sup> October, 2014, the Basic Education (Amendment) Bill, 2014 was published and read a First Time and thereafter committed to the Departmental Committee on Education, Research and Technology for consideration Pursuant to Standing Order 127. The Bill is seeking to amend several sections of the Basic Education Act No. 14 of 2013. The Bill was initiated by the Committee in order to realize the aspirations of the Constitution in Article 253 and other enabling provisions. Details of what each clause seeks to amend in the Principal Act are provided in the next chapter.

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## 3.0 CONSIDERATION OF THE MEMORANDA SUBMITTED ON THE BASIC EDUCATION (AMENDMENT) BILL, 2014

### 3.1 CLAUSE ANALYSIS

**Clause 2** of the Bill sets out to provide new definitions to key terms in the Bill namely the definitions for the word curriculum to allow the definition to be within the meaning provided in the Kenya Institute of Curriculum Development Act, 2012. The other definition is the word manager to mean a person appointed by a proprietor to coordinate and oversee the implementation of education policies and guidelines in a non-public basic education institution and may perform delegated teacher management functions and lastly sponsor to mean a person or institution that owns land or property on which an institution of basic education is instituted, and who provides foundational objectives to the institution and ensures that the educational and non curricular objectives of the institution of basic education are met.

**Clause 3** of the Bill further proposes to provide additional functions to the County Education Board to maintain a databank of students ranked in the first quartile by the constituency in the Kenya Certificate of Primary Education examination and who due to inability to pay school fee fail to gain entry into or complete education in a public secondary school.

The Bill in **clause 4** proposes to include Members of Parliament to the membership of the County Education Boards.

**Clause 5** of the Bill proposes to establish Sub County Education Boards whose role is to represent the County Education Boards and coordinate all education related matters at sub county level.

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**Clause 6** of the Bill proposes to empower the Teachers Service Commission to assign teachers to institutions of basic education and training used for conducting pre primary education, childcare facilities, home craft centres and village polytechnics.

**Clause 7** of the Bill proposes to remove the role of meeting the chaplains expense from the sponsor and give additional powers to the sponsors to participate in the decision making process leading to change of status of a public sponsored schools, to be consulted by the Teachers Service Commission on persons to be appointed as head teachers, principals, deputy head teachers and deputy principals in public sponsored schools.

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**Clause 8** of the Bill proposes to empower the Cabinet Secretary, in consultation with the Cabinet Secretary responsible for the Treasury to develop and gazette regulations for the provision of financial assistance to children learning in non public or sponsored schools but who, on account of financial hardship , experience difficulty in paying fees and other charges levied in such schools limited to the amount that it would cost to educate such child in a public school.

**Clause 9** of the Bill proposes to amend the Act to allow private schools to charge admission fee while admitting a child to a private school.

**Clause 10** of the Bill seeks to amend the Act to ensure that children are not denied admission to public schools as long as they meet the criteria prescribed by the Cabinet Secretary for admission to the public school.

**Clause 11** of the Bill seeks to delete the provision that requires pupils to be given appropriate incentives to learn and complete basic education. It further amends the Act to ensure that no pupil admitted in a school shall be held back in any class or expelled from school except with the concurrence of the parents or guardians.

**Clause 12** of the Bill seeks to make it a duty of the Cabinet Secretary to put in place measures to ensure that students who are ranked in the first quartile by the constituency in the Kenya Certificate of Primary Education examination and are admitted to a public secondary school but fail to gain entry into or complete education due to inability to pay school fees a re supported to complete their secondary school education. Further the Cabinet Secretary is required to work in consultation and cooperation with the county education board to establish mechanism for provision of public funds to educate bright and needy students who are ranked in the first quartile by the constituency in the Kenya Certificate of Primary Education examination.

**Clause 13** of the Bill proposes to make it duty of a principal or head teacher of a public primary or secondary school to every year, develop and submit to the county education board a list of students who are ranked in the first quartile by the constituency in the Kenya Certificate of Primary Education examination of the preceding year but are unable to pursue their studies owing to inability to pay school fees. Further, the county education board will be required to vet students who appear in the list prepared by the principal or head teacher and ensure that the deserving needy students are supported to complete their secondary school studies.

**Clause 14** of the Bill seeks to amend the categorization of basic educational institutions to include sponsored schools which are schools established, owned or operated by sponsors but which Government supports financially, materially or through the provision

The Bill in **Clause 15** seeks to amend the Act to enable private school to follow different curriculums and not necessarily one approved curriculum.

**Clause 16** of the Bill seeks to amend the composition of the Board of Management to reduce the number of persons elected to represent parents of the pupils in the schools or local community in the case of county secondary schools from six to four and replacing the representative of the teaching staff in the school elected by teachers with the principal of the school who shall be the secretary of the Board.

**Clause 17** further seeks to amend the Act to ensure that a curriculum which is developed or approved for Basic education in Kenya shall be examined by the Kenya National Examination Council.

**CLAUSE 18** seeks to amend the Act to ensure that public examinations are conducted as provided for under the KNEC Act only in institutions of Basic Education whose curriculum is registered as examinable by the Kenya National Examinations Council.

**Clause 19** proposes to amend the Act to ensure that the Cabinet Secretary in making regulations for integration of the madrassa, Duksi and Pastoral Programmes of instructions into the formal education system as appropriate to improve access and retention consult with the relevant sponsors.

**Clause 21** proposes to amend the Act to ensure movable and immovable property of a public institution be in the name of the institution or a sponsor who was in possession of title prior to commencement of this Act.

### **3.2 STAKEHOLDERS VIEWS ON THE BILL**

The Committee considered the Memoranda submitted regarding the Basic Education (Amendment) Bill, 2014 as follows: -

#### **CLAUSE 2**

#### **Memorandum from Ministry of Education, Science & Technology**

#### **CLAUSE 2**

##### **Section 2**

**That a new Definition be further included as by inserting a new definition as follows:**

“**manager**” means a person, may be the proprietor, nominated by the proprietor(s) of private institution of basic education and training registered by the CEB as provided for under section 78 of this Act to oversee, implements all education programs, policies and

guidelines issued from time to time and who may in addition perform delegated teacher management functions.

**Recommendation: Agreed to**

**Justification:** Registration is done by County Education Board which is an agent of Ministry of Education, Science and Technology. Section 78 provides for ways of discipline in case one operates without being licensed, accredited or registered.

**That a new Definition be further included as by inserting a new definition as follows:**

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**“head of institution”** means a person, a head teacher or a principal who has the delegated authority in writing of the Cabinet Secretary to manage and account for all resources accruable to the institution and to oversee, implement and/or initiate all education programs/projects, policies and guidelines at the institution.

**Recommendation: Rejected**

**Justification:** Board of Management (BOMs) are in charge of running schools. Management of schools is provided for in TSC Act. The delegated authority should be captured under the regulations.

**That a new Definition be further included as by inserting a new definition as follows:**

**“Alternative provisions of Basic Education and Training”** means embracing strategies that are flexible or specifically tailored to provide education and training or life skills programs, within or outside the formal education framework that suits the circumstantial lifestyles of specific categories of persons such as the minorities, disadvantaged, marginalized children adults out of school youth and old members of society.

**Recommendation: rejected**

**Justification:** The term has not been used anywhere in the body of the Principal Act hence no need for definition.

**That a new Definition be further included as by inserting a new definition as follows:**

**“complementary schools”** institutions located in an unplanned urban and pre-urban settlement areas that deliver formal education to school going-age children

**Recommendation: rejected**

**Justification:** The term has not used anywhere in the body of the Principal Act

**That a new Definition be further included as by inserting a new definition as follows:**

**“Center”** means an educational facility providing childcare and early childhood education including, non-formal education, adult and continuing education services.



**Recommendation:** rejected

**Justification:** There is no need to define the term since the usage of the term provides no ambiguity in the Principal Act. Not every term ought to be defined. It's a term better understood in its literal meaning.

**That a new Definition be further included as by inserting a new definition as follows:**

“special interest groups” means minority, migrants, marginalized, displaced persons or households headed by persons of minority age by persons over 60 years or persons with exceptional skills.

**Recommendation:** rejected

**Justification:** The term can not be conclusively defined as the status of special interest keeps changing from time to time and therefore there is no need for closing out unforeseen special interests. Other Acts of Parliament have also captured the special interest category of person hence there is no need of defining the term.

**That a new Definition be further included as by inserting a new definition as follows:**

“youth polytechnic” has the same meaning as the phrase ‘village polytechnic’ under CoK 2010.

**Recommendation:** rejected

**Justification:** The Committee will make further consultations before giving its opinion on the amendment.

## **Memorandum from Kenya National Parents Association**

### **CLAUSE 2**

**THAT**, the Principal Act be amended by inserting a meaning for “**Parents Association**” to mean ‘an association established by the national parents association at the school level to represent the interest of parents and children in the boards of management and also sub county education boards and county education boards.

**Recommendation:** Proposal rejected

**Justification:** The term has already defined in the Act. As prescribed in subsection 55(2)

“**the national parents association to mean**” An association established under this Act and registered with the registrar of societies to represent the interest of parents and children in the public and private institutions of basic education on all matters relating to education and other areas at the national, sub county, and at school or institutional level.

**Recommendation:** Proposal rejected

**Justification:** The term has not been used in the text of the main Act



**“The head of an institution of Basic education”** a person appointed by the Cabinet Secretary to exercises delegated authority in terms of managing and accounting for all resources accrued to a public institution of basic education.

**Recommendation:** Proposal rejected

**Justification:** The same could be captured under the regulations.

## **Memorandum from the Episcopal Conference of the Catholic Bishops**

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### **CLAUSE 2**

**That a new Definitions be further included as by inserting a new definition as follows:**

#### **Insert in Section 2**

“Consultation “ refers to a two way process of Exchange of proposals, recommendations and ideas between the parties involved in the consultation, but does not imply concurrence or veto but reasonable involvement.

**Recommendation:** Proposal rejected

**Justification:** The term ought not to be defined but rather capture as it is literally. Not every word ought to be defined.

### **CLAUSE 3**

## **MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY**

### **Section 18**

Amend the Principal Act by deleting the entire section 18 and replacing it with the following:

Functions of County Education Board:

Put in place measures that shall

- 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) All institutions of Basic Education and Training have conducive learning environment and are provided with appropriate and adequate infrastructure.
- d) Collaborate with the national and county governments, the TSC, 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 Country.
  - g) Vet nominees for Board of Management members and managers for private institutions.
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- h) Transfer and discipline of learners and non-teaching staff employed by Board of management
  - i) 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
  - j) Coordinate Adult and Continuing Education programs in the County
  - k) Perform such other functions as may be necessary for the promotion of basic education under this Act or any other written law.

**Recommendation:** The Committee should consult further and agree to those amendments that are in line with the Act rather than deleting the whole Section 18.

#### **Memorandum from Council of Governors**

##### **CLAUSE 3**

##### **Section 18**

A further amendment to delete section 18(1)(a)

Justification: The Board is an agent of the National government trying to perform the counties functions.

**Recommendation:** Proposal rejected

#### **Memorandum from Transparency International**

##### **Section 18**

That section 18(f) of the principal Act be amended by deleting the words “**the principals and the head teachers**” immediately after the word “**board of management**”

**Recommendation:** Proposal Rejected

Section 18 be amended to ensure that Sub County Education Boards and the CEB work together in preparation of a priority list of school infrastructure development. In 18(g) Sub County Education should submit to the CEB a priority list of public schools with infrastructural challenges; the Board should submit annually to the CS, a county priority list of public schools with infrastructural challenges to inform planning as well as eventual improvement of infrastructural development in public schools.

**Recommendation:** Agreed to with amendments provided for in Section 18(k) and as provided for in Sections 26 and 28 of the Principal Act.

#### **CLAUSE 4**

##### **Section 20 - Composition of the County Education Boards**

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###### **Ministry of Education, Science and Technology,**

That section 20 (1) of the Principal Act be amended by deleting the word “twelve” and replacing thereof with the word “fifteen”

**Committee’s position/ recommendation:** Proposal rejected

**Justification:** the proposal would have led to bloated County Education Boards which would be against the government regulations on lean boards.

###### **Memoranda by the Council of Governors**

That Section 20 of the Principal Act on the Composition of the County Education board be amended by reducing the number of members to the initial twelve (12) and further that Subsection (2) of this provision must be unconditional and carried in good faith.

**Committee’s position/ recommendation:** The proposal by the Council of the Governors was rejected

That Clause 4 be amended by deleting Sub-Clause (4)

**Committee’s position/ recommendation:** Proposal rejected

**Justification:** Inclusion of the Members of Parliament is critical since they play a very key role especially in the infrastructural development of schools through Constituency Development Fund.

###### **Memoranda by the Kenya National Parents Association**

That Clause 4(h) be amended by deleting the words Parents teachers association immediately after “representative of “ and replacing thereof the words “County Parents Association nominated by the National Parents Association”.

**Committee’s position/ recommendation:** Proposal rejected

**Justification:** The proposal only serves the interests of parents whereas the Committee’s proposal ensures that the both the interests of the teachers and parents are taken care of.

### **Memoranda by the Nakuru High School**

That Clause 4 (1) be amended further by qualifying for avoidance of doubt the children's department be further qualified as it was not clear as to who qualified within the meaning of a child rights organization.

**Committee's position/ recommendation: Proposal rejected**

### **Memoranda by Muturi Ireri**

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His Memoranda was proposing that Section 20 (1) c) should be the County Executive in charge of education

**Recommendation: Agreed to**

20 (1) e) should be the County Director of Teacher Management

**Recommendation:** proposal rejected

**Justification:** TSC can designate one of its officers at the county level

### **Memoranda by the Kenya Episcopal Conference of the Catholic Bishops**

The Kenya Episcopal Conference of the Catholic Bishops was proposing to amend Section 20 as follows: - Section 20(1) (f) where applicable one person each representing

The National Council of Churches of Kenya

The Evangelical Alliance of Kenya;

The Kenya Episcopal Conference;(Kenya Conference of Catholic Bishops)

The Muslims Education Council;

**Recommendation:** Agreed with amendment that i and ii shall work under one umbrella and Agreed to the change of name The Kenya Episcopal Conference; to (Kenya Conference of Catholic Bishops)

**Justification:** the provision of religion is well stipulated in the constitution of Kenya.

### **CLAUSE 5**

**Section 25A** -The establishment of the Sub- County Education Board in every Sub-County in the principal Act by the National Assembly

### **Memoranda by the Ministry of Education, Science and Technology**

The Ministry was proposing the deletion of the proposed amendments after section 25 of the Principal Act by the National Assembly

*Justification: There is no need to establish a Sub-County Education Board in every sub-county. This will result in wastage and increased cost in the management of education. This may lead to superiority contests, duplications of functions between the CEBs and Sub-CEBs. Strengthen the Sub-County Education office by adequate staffing and through provision of equipment.*

**Committee's recommendation/ position: proposal rejected**

**Memoranda by the Council of Governors**

In Section 25 A (1), the Council of Governors was proposing the deletion of the section and 25 A (2)

*Justification: The responsible Cabinet Secretary wields appointive and regulative powers over these education boards thereby rendering them extensions of the Ministry of Education. County governments have been granted token representation therein in a failed attempt to make the boards appear independent of national control*

**Committee Recommendation/ position: proposal rejected**

**Justification:** There was need to establish a Sub- County Education Board in every Sub-County in order to provide for a working framework similar to the former District Education Boards.

**Memoranda by the Transparency International**

Transparency International was proposing that Section 25A of the Amendment Bill be reviewed as follows: -

The introduction of Sub-County Education Board is good idea but the numbers of people comprising the boards are too many. There are so many Sub-Counties in the Country and having about 18 people in each would be too costly pushing up recurrent expenditures in the education sector.

Transparency International was proposing that the number of people comprising a Sub-County Education board should be reduced to a manageable number of about 11 people namely:

- 1) An educationist of at least five years standing;
- 2) the Sub-county Education Officer; a representative of the county executive in charge of education;
- 3) a representative of the Teachers Service Commission;
- 4) a representative of the association of private schools;
- 5&6) two representatives of a trade union representing the interest of teachers;
- 7) one representatives of parents teachers association;
- 8) a representative of persons with disability; 9&10) two members nominated by the Primary School Head Teachers' Association; and the Secondary School Principals Association and
- 11) a representative of a child rights organization. All reports can be shared with the Sub County Commissioner for ease of coordination.

**Justification:** *The relevance to this review is that a smaller number is cost effective. It is easier to manage a smaller number of people and in terms of decision making; a smaller number can effectively execute its mandate and meet the 2/3rd threshold as provided by the Act.*



**Committee Recommendation:** Agreed to the proposal by the Transparency International with a further amendment in order to have the number of persons serving in the sub-County Education Board be a total of thirteen (13) as follows: -

“The Cabinet Secretary shall appoint Chairperson of the Board and shall observe the principal of gender equity, regional, ethnic and religious balance, transparency openness and competitiveness and shall have due regard to the principal of equal opportunities for persons with disabilities.

- (i) The sub-County Education Officer who shall be the secretary to the Sub County Education Board;
- (ii) a representative of the County Executive in charge of Education
- (iii) a representative of the Teachers Service Commission
- (iv) a representative of the Association of private schools
- (v) two representative of a trade Union representing the interest of teachers
- (vi) where applicable one person each representing
  - (a) jointly the National Council of Churches of Kenya and the Evangelical Fellowship of Kenya
  - (b) the Kenya Conference of Catholic Bishops
  - (c) the Muslim Education Council
- (vii) One representative of Persons with Disability
- (viii) two members nominated by the primary school Head Teachers Association and the Secondary Schools Principal Association;
- (ix) Deputy County Commissioner.

**Committee Justification:** Sub-County Education Board are agents of the Cabinet Secretary in charge of Education at the Sub-County level which replaced the District Education Board. Section 18 (2) empowers the establishment of Sub- County Education Board.

#### **Memoranda by Muturi Ireri**

Mr. Muturi Ireri was proposing that Section 25A 1 be amended as follows: -

- c) should be the Sub-County Administrator.
- e) should be the sub-county director teacher management.

*Justification: The offices cited are well established with designated officers in place at the county and subcounty levels for both the county government and TSC. It should therefore be the officers so designated who should be members of the county and subcounty education boards not their representatives*

Committee’s Recommendation: Proposal Rejected

#### **Section 25B - Functions of the Sub-County Education Board**

#### **Memoranda by the Ministry of Education, Science and Technology**

The Ministry of Education was proposing the deletion of the sub clause providing for the functions of Sub- County Education Board

**Committee's recommendation:** proposal rejected

**Memoranda by the Council of Governors**

The Council of Governors was proposing the deletion of the sub clause providing for the functions of Sub- County Education Board

**Committee's recommendation:** proposal rejected

Rejected the proposal by Ministry of Education, Science and Technology and Council of Governors and further agreed to the proposal by the Transparency International with Amendment.

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The Committee agreed to have the functions of the Sub County Education Boards as follows: -

Put in place measures that shall

- (i) Facilitate the full realization of the right of all children to access quality basic education
- (ii) Ensure that all children and youth of school going age attend and complete basic education and training.
- (iii) All institutions of Basic Education and Training have conducive learning environment and are provided with appropriate and adequate infrastructure.
- (iv) Initiate policy proposals for the Sub- County Education Board.
- (v) 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.
- (vi) Generate and maintain statistics in all education matters including all students who are ranked in the first quartile by the constituency in the Kenya Certificate of Primary Schools data bank on learners, and the report transmitted to the County Education Board.
- (vii) Nominate Board of Management members and managers for private institutions.
- (viii) Coordinate Adult and Continuing Education Programs in the county.
- (ix) Perform such other functions as may be necessary for the promotion of basic education under this Act or any other written law.

**Justification:** The function of the Sub- County Education Board which is an agent body that will represent the County Education Board at the sub county level which is also critical and Section 18 (2) empowers the establishment of Sub- County Education Board.

**Memoranda by the Transparency International**

**Transparency International in their Memorandum observed that Section 25 B of the Amendment Bill and section 18 of the Act should be reviewed because: -**

Promotion of school infrastructure development hasn't been addressed appropriately in the functions of both the Sub County Education Board and the CEB. Our submission under both sections and particularly on (g) is that Sub County Education should submit to the CEB a **priority list of public schools with infrastructural challenges; and that for the CEB; the Board should submit annually to the CS, a county priority list of public schools with infrastructural challenges to inform planning as well as eventual promotion of infrastructural development in public schools.**

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**Committee Recommendations:** Comment by the Transparency International adopted. Sub- County Education Boards to also generate statistics/databank of all students who are ranked in the first quartile for maintenance and transmitted to the County Education Board.

## **SECTION 25C**

### **Memoranda by the Ministry of Education, Science and Technology**

The Ministry was proposing a deletion of the Section 25 C

*Justification: There is no need to establish a Sub-County Education Board in every sub-county. This will result in wastage and increased cost in the management of education. This may lead to superiority contests, duplications of functions between the CEBs and Sub-CEBs. Strengthen the Sub-County Education office by adequate staffing and through provision of equipment.*

**Committee's Recommendation:** proposal rejected

*Justification:* Sub-County Education Board will be an agent of the Cabinet Secretary in charge of Education at the Sub-County level, which formerly functioned as the District Education Board.

### **Memoranda by the Transparency International**

Transparency International observes that Section 25(A, B and C) of the Basic education (Amendment) Bill attracted a review because even though the current Act provides for Remuneration/allowance of County Education Board (CEB) under section 23 and members of the BOM under section 63, the same hadn't been provided for the Sub County Education Board within the amendment Bill hence it should be provided.

*THE relevance to this review is based on the fact that: the functions of the Sub County Education Board are highly demanding in efforts to promote access to quality Basic Education and for fairness sake, the remuneration rationale should as a result apply also to the members.*

**Committee Recommendation:** agreed with the proposal

**Justification:** the proposal is relevant (for consistency)

## **CLAUSE 6**

## **SECTION 26**

### **Memoranda by the Ministry of Education, Science and Technology**

The Ministry of Education, Science and Technology submitted that Article 235 of the Constitution of Kenya, 2010 provides that, The Teachers' Service Commission may assign teachers to a public pre-primary, childcare facilities, village polytechnics, home craft centres or any other institutions of basic education and training established and managed by a County government.

Justification: *Necessary to bring to harmony the provisions of Articles 235 and 237 of COK, 2010*

**Committee's Recommendation:** proposal rejected

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#### **Memoranda by the Transparency International**

Transparency International submitted that the amendment introduced to section 26 of the Act attracted a review. This was because the provision of TSC to assign teachers in public basic education institutions as classified under the fourth schedule (part 2-powers and functions of the County Governments) should not be a unilateral arrangement as proposed by the amendment. As such, the amendment could make more meaning in respect to the functions of the County Governments, if consultation and cooperation with the CEB was also sanctioned therein.

Justification: *THE relevance to this review is based on the fact that County Education Board draws representation from the County executive in charge of education and Teacher service commission, and will be in a position to best espouse consultation and cooperation as well as giving meaning to Article 187, 2(B) of the Constitution.*

**Committee Recommendation:** proposal Rejected

**Justification:** TSC is an independent body under 235 of the COK 2010 and shall not need to consult and cooperate with County Education Board.

#### **Clause 7**

#### **Section 27**

#### **Memorandum from Ministry of Education, Science & Technology**

#### **Clause 7**

#### **Section 27**

The proposed new sub-section 27(g) should be deleted and considered appropriately under the TSC Act

**Committee Recommendation:** Proposal agreed to

Amend section 27 (a) to read as follows "The sponsor shall participate and offer proposals on matters regarding syllabuses , text books ,digital content and other instructional materials and teaching aids during curriculum reviews forums convened by KICD".

**Committee Recommendation:** Proposal agreed to

Section 27(c) Retain the phrase 'at their own expense' after "chaplains" appearing in (c )

**Committee Recommendation:** Proposal agreed to



Section 27(e) Offer material and financial support to institutions in regard to infrastructure improvement or any other project to support academic programs.

**Committee Recommendation:** Proposal agreed to

Section 27(f) Participate and be consulted in the process that may lead to a change of the status of a public sponsored Institutions of Basic Education and Training to national , Extra-county or from private to a public managed institution;

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**Committee Recommendation:** Proposal Agreed to with further amendment by deleting the following phrase, 'to national, Extra County or from private to a public managed institution' immediately after the word 'Training.'

**Justification:** *The Ministry is providing secular education therefore spiritual matters should be handled solely by the sponsors themselves.*

#### **Memorandum from Kenya National Parents Association**

##### **Section 27**

That Section 27(g) of the proposed Bill be further amended by deleting paragraph (g)

**Justification:** *This amendment should be deleted because it is trying to amend the TSC Act through the Basic Education Act.*

**Committee Recommendation:** Proposal agreed to

That Section 27 be amended by inserting a new Section 27(2) and inserting the following new words "notwithstanding the provisions of Section 27(1) no person or institution shall be classified as a sponsor unless the land is registered in his or her name and unless the original buildings were built him or her".

**Justification:** *This amendment is necessary in that it will weed out a lot of "briefcase sponsors" who have never contributed anything in the physical development of the school and have no title to prove ownership.*

**Committee Recommendation:** Proposal rejected

#### **Memorandum from Mr. Muturi Ileri**

##### **Section 27**

Amend (g) to " be consulted by TSC in appointing competitively selected teachers to fill the posts of school administrators in public sponsored schools"

**Justification:** *There is need to be specific about the quality of teachers to be appointed as school administrators to guard against undue influence by sponsors who may be interested in rewarding friends or relatives. The spirit of this recommendation is to*



*enable the TSC advertise school administrators posts, interview applicants and thereafter maintain a data bank from which applicants would be picked to fill vacant posts.*

**Committee Recommendation:** Proposal rejected

### **Memorandum from the Episcopal Conference of the Catholic Bishops**

#### **Section 27**

(c) Delete the words “at their own expenses”

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**Justification:** *In this way, the authority and mandate of the Board of Management will be respected and recognized. Where a chaplain is available full time other than teaching, the Board of Management be allowed to allocate a stipend for the chaplain. The stipend should not be nominal or extravagant and it should take into account the financial status of the school. Chaplains in schools will promote the ethos of the sponsor which makes the schools not only unique but exemplary perform. They will ensure that the spiritual needs of all learners are cared for without interfering with individual faith.*

**Committee Recommendation:** Proposal rejected

“(f) To make recommendations and be consulted by the Teachers Service Commission on persons to be appointed or deployed as head teachers, principals and their deputies in public sponsored schools”.

**Justification:** *The sponsor has a close touch with the community both local and national and can guide the appropriateness of a particular appointment always respecting the rights of TSC.*

*The consultations in appointment of head teachers/principals and deputies of sponsored public schools are meant to safeguard the educational spirit and religious traditions of these institutions.*

- *Parents seeks schools that focus on integral formation of the whole person*

- *Sponsored public schools prepares students for life thus the need for consultation in appointment of heads.*

**Committee Recommendation:** Proposal rejected

Related to TSC Act

Insert in section 12 “(e) Shall, in the appointment and deployment of head teachers and principals of public sponsored schools, consult with the sponsors of that school.”

And insert in section 2: “Sponsor” has the meaning assigned to it under section 2 of the Basic Education Act, 2013.

**Committee Recommendation:** Proposal rejected

**Justification:** The proposal is more of administrative issue and should therefore be under Regulations

## Clause 8

### MEMORANDA FROM THE MINISTRY OF EDUCATION, SCIENCE & TECHNOLOGY

#### Section 28

The proposed new sub-section 28(2) should be deleted and if possible considered under regulations.

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#### **Justification:**

*Attending a private institution of basic education and training is a question of making a personal choice by the concerned person. This provision can easily be manipulated and abused resulting into loss of public funds. The Cabinet Secretary under regulations should exceptional cases on their own merit rather than blanket authorization of the same.*

**Committee Recommendation:** Proposal agreed to

#### Memorandum from Council of Governors

#### Clause 8

#### Section 28

Amend the section to allow for regulations to be done in consultation with County Governments.

**Justification:** *This provision gives the Cabinet Secretary total control over Basic Education through the development of control measures.*

*-County governments should be consulted and their views incorporated in the development of the regulations, otherwise their representations in the County Education Boards are irrelevant.*

**Committee Recommendation:** Proposal rejected

#### Kenya Private Schools Association

Supports the proposal to empower the cabinet secretary in consultation with the Cabinet Secretary responsible for the treasury to develop and gazette regulations for the provision of financial assistance to children learning in nonpublic or sponsored schools but who, on account of financial hardship, experience difficulty in paying fees and other charges levied in such schools.

## **CLAUSE 9**

### **MEMORANDA FROM THE MINISTRY OF EDUCATION, SCIENCE & TECHNOLOGY**

The Ministry is in agreement with the Committee's amendment.

### **MEMORANDA FROM KENYA PRIVATE SCHOOLS ASSOCIATION**

Supports the proposal to amend the act to allow private schools to charge admission fee while admitting a child to a private school.

**Committee's recommendation: Proposal rejected**

## **CLAUSE 10**

### **Section 34**

### **MEMORANDA FROM THE MINISTRY OF EDUCATION, SCIENCE & TECHNOLOGY**

The Ministry is in agreement with the Committee's amendment.

### **MEMORANDA FROM NAKURU HIGH SCHOOL**

#### **Section 34**

Section 34(2): Insert: the tradition and existing category of school shall be considered during admission.

Section 34(5): insert: which according to the categorization by the cabinet secretary the child qualifies for admission.

**Committee Recommendation: proposal rejected**

## **CLAUSE 11**

### **Section 35**

### **MEMORANDA FROM THE MINISTRY OF EDUCATION, SCIENCE & TECHNOLOGY**

The Ministry is in agreement with the Committee's amendment.

### **MEMORANDA FROM NAKURU HIGH SCHOOL**

Section 35(1): delete and substitute with: The schools shall make effort to retain all admitted students until completion of the learning cycle.

Section 35(2): delete: expelled and substitute with excluded

**Committee Recommendation: rejected**

## CLAUSE 12

### MEMORANDA FROM THE MINISTRY OF EDUCATION, SCIENCE & TECHNOLOGY

#### Section 39

The principal Act is amended by inserting the following new sub-section 39(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”.

**Committee Recommendation:** Proposal agreed to

(hb) “In consultation and cooperation with the CEB, the County government and other stakeholders mobilize resources for the provision of bursaries to deserving but needy students”.

**Justification:** *The focus should be on the deserving and needy learners. One deserves to be supported if the person displays resilience and commitment to learning and is financially needy. Bright as determined by KCPE performance only may shut out those with special needs education or those living in extremely difficult circumstances*

**Committee Recommendation:** Proposal Agreed to with further amendment by inserting the following phrase, ‘the Sub-County Education Board,’ immediately after the phrase ‘with the CEB’

## Clause 13

### MEMORANDA FROM THE MINISTRY OF EDUCATION, SCIENCE & TECHNOLOGY

#### Section 40

,insert new sub-section 40(5) to read as follows ‘Every head of a public institution of basic education and training shall, not later than 28th February of each year a list profiling the performance and conduct of learners in the preceding year in their institution whose parents /guardians are unable to pay school levies and therefore more likely to drop out.’

**Committee Recommendation:** Proposal agreed to with further amendment by inserting the following phrase immediately after the word drop out ..... ‘submit the report to Sub-County Education Board on account of the child and a copy to the County Education Board.’

40(6) 'The CEB 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.'

**Justification:** *This intervention will increase completion/ retention rates for learners in institutions of basic education and training.*

**Committee Recommendation:** Proposal agreed to with further amendment by deleting the phrase 'the County Education Board' and replacing it with 'Sub County Education Board'

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## **Memorandum from Kenya National Parents Association**

### **Section 40**

That Section 40(1) be amended by deleting the word "the head teacher" immediately after the word " attend school" and replace it with the word "head of an institution of basic education".

**Justification:** *This amendment is necessary because it is in line with Section 62 which combines the two titles of a principal and head teacher and gives one title of "head of an institution of basic education.*

**Committee Recommendation:** Proposal rejected

That Section 40(2) be amended by deleting the word "head teacher" immediately after the word " where the" and replace it with the word "head of an institution of basic education".

**Justification:** *This amendment is necessary because it is in line with Section 62 which combines the two titles of a principal and head teacher and gives one title of "head of an institution of basic education.*

**Committee Recommendation:** Proposal rejected

That the new Section 40(5) of the proposed Bill be further amended by deleting the word "principal or head teacher" after the word "Every" and replacing it with the word "head of an institution of basic education"

**Justification:** *This amendment is necessary because it is in line with Section 62 which combines the two titles of a principal and head teacher and gives one title of "head of an institution of basic education.*

**Committee Recommendation:** Proposal rejected



## **Memorandum from the Transparency International**

### **Section 40**

Section 40 of the Act under the duty of a principal or head teacher attracts review. The section depicts repetition on (b) and (d) and in addition, there is no mention of Sub County Education Board in the Amendment Bill. Our submission is that the Sub County Education Board should be mentioned in section 40, and that the Head teacher should submit the report to the board on account of the child and a copy to the County Education Board.

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***Justification:** The relevance to this review is that Sub County Education Boards are important as they present a closer link to schools in the respective Sub Counties and the first line for education accountability in schools.*

**Committee Recommendation:** Proposal agreed to

## **CLAUSE 14**

### **MEMORANDA FROM THE MINISTRY OF EDUCATION, SCIENCE & TECHNOLOGY**

#### **Section 43**

The original categorization of institution of basic education and training in the principal Act to be retained.

***Justification:** The categorization of institution of basic education and training in the Principal Act into public and private is clear. However further sub categorization, if need arises, for institutions belonging to either public or are private can be made through regulations.*

**Committee Recommendation:** Proposal agreed to

### **MEMORANDA FROM THE KENYA NATIONAL PARENTS ASSOCIATION**

#### **Section 43**

That Section 43(2) of the principal Act be amended by deleting the word “private” immediately before the word “status”.

**Committee Recommendation:** Proposal rejected

### **MEMORANDA FROM THE EPISCOPAL CONFERENCE OF THE CATHOLIC BISHOPS**

#### **Section 43**

Insert a new paragraph after (b) to read

“ sponsored schools which are maintained out of public funds and include schools established by sponsors”

**Justification:** *This is to ensure that the sponsor’s right to own property is safeguarded.*

*Section 43 nationalizes public sponsored schools, most of which are on privately owned property. This infringes on the sponsor’s Constitutional right to property.*

**Committee Recommendation:** Proposal rejected

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## **MEMORANDA FROM NAKURU HIGH SCHOOL**

### **Section 43**

Section 43(1)a: the cabinet secretary shall designate a school to be either national, county or district depending on admission criteria

**Committee Recommendation:** Proposal rejected

**Justification:** Can be considered under regulations

## **CLAUSE 15**

### **Section 52 of the Principal Act**

#### **Memorandum from the Ministry of Education, Science and Technology**

Amend the Principal Act by deleting the entire 52(2) in the Principal Act and replace with “ESQAC in liaison with the CEB shall gain entry to the whole or a section of a private Institution of Basic Education and Training, either on their own initiative or following a request by any member of the public or the owner to assess and evaluate the institution’s academic program instructional materials and teaching aids in use, effectiveness of teachers’ performance and competences ,effectiveness and performance of non-teaching staff, state of repair, adequacy and suitability of physical facilities, sanitation ,general learning environment or any other aspect of the institution in which the C.S shall require”.

**Justification:** *This being as an aspect of quality assurance in education whose custodian is ESQAC. It is of import to have pre-determined parameters in which ESQAC shall use to carry out its mandate so as to minimize discretionary evaluations and assessments.*

**Committee’s Recommendation:** Committee amendment dropped

### **Memorandum from Transparency International**

Comment on the Clause: The Clause should be amended since as proposed it introduces latent disparity of the knowledge imparted on the children. The submission is that a standard curriculum to be adopted in all basic education institutions including private, unless the different curriculums are approved by the CS in consultation with NEB and Education Standards and Quality Assurance Council.

CS should prescribe a regulation to qualify these curriculum in line with section 4 (guiding principles) upon which the CEB will supervise and monitor.

*Justification: The relevance to this review is that different private institutions if not well regulated may come up with different curriculums that do not conform to the guiding principle of the Act*

**Committee Recommendation:** The Committee agreed with the view of transparency international on the amendment hence the Committee's amendment was dropped.

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### **Memorandum from the Kenya Private Schools Association**

Support the proposal to amend the act to allow private schools follow different curriculums and not necessarily the one approved so that it benefits private international schools.

**Committee Recommendation:** The Committee agreed with the view of transparency international on the amendment hence the Committee's amendment was dropped.

### **CLAUSE 16**

Section 56 (1)

Agreed to with amendments, "deleting the word 'Six' and replacing it with 'four' as per third schedule"

Agreed to with an amendment, delete 'principal of the school' and substitute/replace it with 'head of institution'

### **MEMORANDUM FROM THE TRANSPARENCY**

*Comments from the TI on the proposed amendment:*

section 56(1) (g) of the Act, under the Composition of Board of Management attracts review. Rights of the child to participate and contribute to school governance and Development in view of strengthening quality and standards will received a huge set back. Our submission is that this section should be retained as opposed to the proposed Amendment that does away with it.

*Justification: This is in order to ensure that the child is able to invoke his/her constitutional rights as provided under Article 53 and is protected and able to participate in decisions making by Board of Management. Further, decisions made by Board of management are made to benefit the child and not necessarily the Board.*

**Committee's recommendation:** Agreed to and hence the Committee's amendment dropped.

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**MEMORANDA FROM THE MINISTRY OF EDUCATION, SCIENCE & TECHNOLOGY**

Section 56

Renumber

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Amend Section 56(1) of the principal Act by deleting all the words appearing after the word community. (it should therefore read, " Four persons elected to represent parents of the pupils in the school or local community"

**Committee Recommendation:** Proposal agreed to

Replace subsection 56 (1)(a) by " Three persons elected to represent parents of learners in the institution or persons from the immediate community of the institution".

**Committee Recommendation:** Proposal Agreed to

Delete the entire subsection 56(1)(c ) of the principal act.

**Committee Recommendation:** Proposal rejected

Delete the word "three" in subsection 56(1)(d) of the principal act and replace it with the word "two".

**Committee Recommendation:** Proposal agreed to

Delete the word "one" in subsection 56(1)(e) of the principal act and replace it with the word "two".

**Committee Recommendation:** Proposal rejected

**Justification:** Maintain one

Amend the Principal Act ,section 56(2) by replacing (2) to read as follows "The Board of Management as it may deem necessary for the discharge of its mandate ,may enlist the help of a person or persons with requisite skills and experience into its membership from time to time .However, such person(s) shall have no voting right on any matter before the Board."

This amendment should be cut from this subsection and be pasted as a new section immediately after section 13 of the 4th schedule of the principal act.

**Committee Recommendation:** Proposal rejected



Amend the principal act subsection 56(4) by deleting all words after the word 'themselves'.

**Committee Recommendation:** Proposal rejected

Amend the principal act subsection 56(4) by inserting the phrase "The Chairperson and one other member under subsection 55(5) shall be coopted to the BoM. Hence delete section (4) of the 3rd schedule of the principal act.

**Committee Recommendation:** Proposal rejected

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### **Memorandum from Kenya National Parents Association**

#### Section 56

That Section 56(1a) of the proposed Bill be further amended by deleting the word "four" and retaining the word "six" in the principal Act, this section be further amended by deleting the word "or local community in the case of county secondary schools"

***Justification:** This amendment is necessary in that the parents are key in the development of the school and as such they need at least six members in the board to enable them participate actively in proposing any development project on behalf of the other parents. The amendment relating to deleting of county secondary school is necessary in that the principal Act has not classifies a category of schools called county secondary schools.*

**Committee Recommendation:** Proposal rejected

That Section 56(1c) in the proposed Bill be amended by deleting the entire section in the bill as well as the principal Act

***Justification:** This amendment is necessary in that Section 62 of the principal Act combines both the principal and the head teacher and makes them the head of institution of basic education and assign them the duty of being the secretary of the board of management*

**Committee Recommendation:** Proposal Rejected

That Section 56(1d) in the principal Act be amended by inserting the following words immediately after the word "school" in the case where the land title of the school is registered in the name of the sponsor"

***Justification:** This amendment is necessary in that it will weed out a lot of "briefcase sponsors" who have never contributed anything in the physical development of the school.*

**Committee Recommendation:** Proposal rejected

That Section 56(7) of the principal Act be amended by inserting the following words immediately after the word “sponsor” “who does not have a title deed of the school land and does”

**Justification:** *This amendment is necessary in that it will weed out a lot of “briefcase sponsors” who have never done anything in a school.*

**Committee Recommendation:** Proposal rejected

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### **Memorandum from Nakuru High School**

Section 56

Section 56(1) a: insert: or 3 persons to represent the community appointed in consultation with the cabinet secretary and 3 persons to represent parents in case of national schools or other categories

**Committee Recommendation:** Proposal rejected

Section 56(1) g: Delete g. the parents will represent the needs of the students

**Committee Recommendation:** Proposal agreed to

Section 56(7): delete: the whole of 7

**Committee Recommendation:** Proposal rejected

### **CLAUSE 17**

Section 75: Committee amendment dropped

### **CLAUSE 18**

Section 84: Committee amendment dropped (It’s taken care of in the KQF Act)

### **CLAUSE 19**

## **MEMORANDUM FROM THE EPISCOPAL CONFERENCE OF THE CATHOLIC BISHOPS**

Section 95

Insert the words “in consultation with the relevant sponsors” immediately after “appropriate”

**Justification:** *The regulations must be made in consultation with the religious sponsors to ensure equitable religious freedom.*



**Committee Recommendation:** proposal rejected

**Clause 19**

Section 95; Agreed to with further amendment, "... appearing in 'e' and not 'c'"

**CLAUSE 20**

**MEMORANDUM FROM THE EPISCOPAL CONFERENCE OF THE CATHOLIC BISHOPS**

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Section 100

Insert the words "or be possessed by" immediately before "the respective" appearing in subsection (1).

*Justification:* To retain status quo before the new Act in regard to title of land which in many situations is held by the Sponsors.

**Committee Recommendation:** Proposal rejected

**Justification:** It is a provisional Clause

Section 100: Committee amendment dropped

**CLAUSE 21**

**MEMORANDUM FROM THE EPISCOPAL CONFERENCE OF THE CATHOLIC BISHOPS**

**Paragraph 19, Fourth Schedule**

Insert the words "or a sponsor" immediately after "in the name of the institution" appearing in paragraph 19.

**Committee Recommendation:** Amendment rejected

**MEMORANDA FROM NAKURU HIGH SCHOOL**

Fourth schedule paragraph 17(2): this will amount to micro managing schools by the county education board. Delete the whole section.

**Clause 21 - Paragraph 19, Fourth Schedule;** Amendment dropped

**5.0 COMMITTEE RECOMMENDATIONS**

- 1) Clause 1 agreed to
- 2) Clause 2 agreed to but with amendments

- 3) Clause 3 agreed but with amendments
  - 4) Clause 4 agreed to but with amendments
  - 5) Clause 5 agreed to but with amendments
  - 6) Clause 6 agreed to
  - 7) Clause 7 agreed to but with amendments
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- 8) Clause 8 agreed to but with amendments
  - 9) Clause 9 agreed to
  - 10) Clause 10 agreed to
  - 11) Clause 11 agreed to but with amendments
  - 12) Clause 12 agreed to but with amendments
  - 13) Clause 13 agreed to but with amendments
  - 14) Clause 14 dropped
  - 15) Clause 15 dropped
  - 16) Clause 16 agreed but with amendments
  - 17) Clause 17 dropped
  - 18) Clause 18 dropped
  - 19) Clause 19 agreed to but with amendments
  - 20) Clause 20 dropped
  - 21) Clause 21 dropped

## **6.0 COMMITTEE AMENDMENTS TO BE CONSIDERED DURING THE THIRD READING**

Having considered the views of the stakeholders, the Committee is the process of considering the following amendments for possible introduction at the Committee

Stage of the Bill-

## CLAUSE 2

THAT clause 2 of the Bill be amended—

- (a) in paragraph (b) by deleting the definition of “manager” and substituting thereof the following new definition—

“manager’ means a person, may be the proprietor, nominated by the proprietor(s) of private institution of basic education and training registered by the County Education Board as provided for under section 78 of this Act to oversee, implements all education programs, policies and guidelines issued from time to time and who may in addition perform delegated teacher management functions.; and

- (b) in paragraph (c) by deleting the definition of “sponsor”.

## CLAUSE 3- include submission of infrastructural priority list.

THAT clause 3 of the Bill be amended by deleting the words “Kenya Certificate of Primary Education” appearing before the word “examination”.

## CLAUSE 4- confirm the amendments

THAT clause 4 of the Bill be amended—

- (a) in paragraph (c) by deleting paragraph (c) and substituting therefor the following new paragraph –

“(c) County Executive in charge of education;”

- (b) in paragraph (f) by deleting sub-paragraph (ii) and substituting therefor the following new sub-paragraph –

“(ii) Kenya Conference of Catholic Bishops; and”

## CLAUSE 5

THAT clause 5 of the Bill be amended—

- (a) in the proposed section 25A by deleting the proposed sub-section (2) and substituting therefor the following new sub-section—

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

- (i) The Sub-County Education Officer who shall be the secretary to the Sub County Education Board;
- (ii) a representative of the County Executive in charge of Education;

- (iii) a representative of the Teachers Service Commission;
- (iv) a representative of the Association of private schools ;
- (v) two representative of a trade Union representing the interest of teachers;
- (vi) where applicable one person each representing—
  - (a) jointly the National Council of Churches of Kenya and the Evangelical Fellowship of Kenya;
  - (b) the Kenya Conference of Catholic Bishops; and
  - (c) the Muslim Education Council.
- (vii) one representative of Persons with Disability;
- (viii) two members nominated by the primary school Head Teachers Association and the Secondary Schools Principal Association;
- (ix) Deputy County Commissioner.

(b) by deleting the proposed section 25B and substituting therefor the following new section—

“ 25B (1) The functions of the Sub-county Education Board shall be to put in place measures to—

- (x) facilitate the full realization of the right of all children to access quality basic education;
- (xi) ensure that all children and youth of school going age attend and complete basic education and training;
- (xii) ensure all institutions of Basic Education and Training have conducive learning environment and are provided with appropriate and adequate infrastructure;
- (xiii) initiate policy reforms proposals for the County Education Board;
- (xiv) 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;
- (xv) 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;
- (xvi) generate and a priority list of public schools with infrastructural challenges within the sub-county;
- (xvii) nominate Board of Management members and managers for private institutions;
- (xviii) coordinate Adult and Continuing Education Programs in the sub-county; and
- (xix) perform such other functions as may be necessary for the promotion of basic education under this Act or any other written law.

## NEW CLAUSE

**THAT**, clause 5 of the Bill be amended by inserting the following new clause immediately after clause 25C-

Remuneration of  
the Sub-county  
Education Boards.

**(29D)** 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 Remunerations Commission.

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## CLAUSE 7

**THAT** the Bill be amended by deleting clause 7 and substituting therefor the following new clause-

Amendment of  
section 27 f No. 14  
of 2013.

**(7)** Section 27 of the principal Act is amended by-

- (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 and substituting therefor the following paragraph-  
“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)-  
“to participate in the process that may lead to change of status of a public sponsored institutions of basic education and training.”

## CLAUSE 8

**THAT** the Bill be amended by deleting clause 8.

## CLAUSE 11

**THAT** clause 11 of the Bill is amended by deleting the words “The Principal Act is amended in section 35 by–” and substituting therefor the following words “Section 35 of the Principal Act is amended–”.

## **CLAUSE 12**

**THAT** the Bill be amended by deleting clause 12 and inserting the following new clause–

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Amendment of (12) Section 39 of the principal Act is amended by inserting the section 39 of No. following new paragraphs immediately after paragraph (h)–  
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 CEB, Sub-County Education Board, the County government and other stakeholders mobilize resources for the provision of bursaries to deserving but needy students”.

## **CLAUSE 13**

**THAT** the Bill be amended by deleting clause 13 and inserting the following new clause–

Amendment of (13) Section 40 of the principal Act is amended by inserting the section 40 of following new subsections immediately after subsection (4)–  
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.”



**CLAUSE 14**

**THAT** the Bill be amended by deleting clause 14.

**CLAUSE 15**

**THAT** the Bill be amended by deleting clause 15.

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**CLAUSE 16**

**THAT** the Bill be amended by deleting clause 16 and inserting the following new clause—

Amendment of (16) Section 56(1) of the principal Act is amended by deleting –  
section 40 of  
No. 14 of 2013.

- (a) “paragraph (a) and substituting therefor the following paragraph “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  
“ head of the institution who shall be the secretary of the Board”
- (c) “paragraph (d) and substituting therefor the following paragraph  
“ two representatives of the sponsors of the school;”

**CLAUSE 17**

**THAT** the Bill be amended by deleting clause 17.

**CLAUSE 18**

**THAT** the Bill be amended by deleting clause 18.

**CLAUSE 19**

**THAT** the Bill be amended by deleting the phrase “(e)” appearing at the end of the clause and substituting therefor with the phrase “(c)”.

**CLAUSE 20**

**THAT** the Bill be amended by deleting clause 20.

**CLAUSE 21**

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**THAT** the Bill be amended by deleting clause 21.

**MINUTES OF THE 32<sup>ND</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON EDUCATION, RESEARCH AND TECHNOLOGY HELD ON WEDNESDAY, 6<sup>TH</sup> MAY, 2015 IN MASHUA CONFERENCE ROOM, SERENA BEACH AND RESORT AT 3:20PM**

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**PRESENT**

- |                                       |   |                  |
|---------------------------------------|---|------------------|
| 1. Hon. Sabina Chege, M.P             | - | Chairperson      |
| 2. Hon. Julius Melly, MP              | - | Vice Chairperson |
| 3. Hon. Yusuf Chanzu, M.P             |   |                  |
| 4. Hon. (Dr.) Wilber Ottichillo, M.P  |   |                  |
| 5. Hon. Muriuki Njagagua, M.P         |   |                  |
| 6. Hon. (Prof.) Helen Sambili, M.P    |   |                  |
| 7. Hon. Rose Rwamba Mitaru, M.P       |   |                  |
| 8. Hon. Joseph Meruaki, M.P           |   |                  |
| 9. Hon. Joseph Manje, M.P             |   |                  |
| 10. Hon. Halima Ware Duri, M.P        |   |                  |
| 11. Hon. Michael Kisoi Munyao, M.P    |   |                  |
| 12. Hon. Cecilia Ng'etich, M.P        |   |                  |
| 13. Hon. Richard Makenga, M.P         |   |                  |
| 14. Hon. Kedogo Dorcas Luvalitsa, M.P |   |                  |
| 15. Hon. Steven Kariuki, M.P.         |   |                  |
| 16. Hon. Jacob Macharia, M.P          |   |                  |
| 17. Hon. Geoffrey Makokha Odanga, M.P |   |                  |
| 18. Hon. Silverse Lisamula Anami, M.P |   |                  |
| 19. Hon. Anthony Kimaru, M.P          |   |                  |
| 20. Hon. Mohamed Adan Huka, M.P       |   |                  |
| 21. Hon. Ibren Nasra Ibrahim, M.P     |   |                  |
| 22. Hon. Mary Seneta, M.P             |   |                  |

**ABSENT WITH APOLOGY**

1. Hon. Kenneth Okoth, M.P
2. Hon. (Dr.) Susan Chebet, M.P
3. Hon. Moses Injendi, M.P
4. Hon. (Dr.) Christine Ombaka, M.P
5. Hon. Eric Keter, M.P

## ABSENT

1. Hon. Harrison Kombe, M.P
2. Hon. Opiyo Jared Odhiambo, M.P

## IN ATTENDANCE

### National Assembly

- |                         |   |                         |
|-------------------------|---|-------------------------|
| 1. Ms. Leah Wanjiru     | - | First Clerk Assistant   |
| 2. Mr. Mugoma John      | - | Third Clerk Assistant   |
| 3. Mr. Jimale Mohamed   | - | Third Clerk Assistant   |
| 4. Ms. Marale Sande     | - | Senior Research Officer |
| 5. Ms. Colletah Sigilai | - | Legal Counsel II        |
| 6. Ms. Caroline Njue    | - | Research officer III    |
| 7. Mr. Simon Muinde     | - | Audio Officer           |
| 8. Mr. Timothy Ayako    | - | Pupilage Intern         |

## AGENDA

1. Prayers
2. Preliminaries/introductions
3. Communication from the Chairperson
4. Bills;
  - i. Meeting to consider Memoranda on Basic Education (Amendment) Bill, 2014
5. Any other Business
6. Date for the next Sitting

### MIN.NO.DC.D/156 /2015: ADOPTION OF THE AGENDA AND THE PROGRAMME

The Agenda of the meeting was unanimously adopted by Members present.

### MIN.NO.DC.D/157/2015: PRELIMINARIES

The meeting was called to order at 3:20 p.m and thereafter a prayer was said.

### MIN.NO.DC.D/158/2015: CONSIDERATIONS OF THE MEMORANDA ON THE BASIC EDUCATION (AMENDMENT) BILL, 2014

The Committee considered the Memoranda on Basic Education (Amendment) Bill, 2014 as follows:-

#### I. Committee Amendments

##### Clause 15

- ~~Section 521(c): Committee Amendment Dropped~~

**Clause 16**

Section 56 (1)

- (a) Agreed to with amendments, "deleting the word 'Six' and replacing it with 'four' as per third schedule"
- (b) Agreed to with an amendment, delete 'principal of the school' and substitute/replace it with 'head of institution'
- (c) Agreed to

**Clause 17**

Section 75: Committee Amendment Dropped

**Clause 18**

Section 84: Committee Amendment Dropped (It's taken care of in the KQF Act)

**Clause 19**

Section 95; Agreed to with further amendment, "... appearing in 'e' and not 'c'"

**Clause 20**

Section 100; Committee Amendment Dropped

**Clause 21**

Paragraph 19, Fourth Schedule; Amendment Dropped

## II. Memorandum from Ministry of Education, Science & Technology

**Clause 15**

Section 52

Amend the Principal Act by deleting the entire 52(2) in the Principal Act and replace with "ESQAC in liaison with the CEB shall gain entry to the whole or a section of a private Institution of Basic Education and Training, either on their own initiative or following a request by any member of the public or the owner to assess and evaluate the institution's academic program instructional materials and teaching aids in use, effectiveness of teachers' performance and competences, effectiveness and performance of non-teaching staff, state of repair, adequacy and suitability of physical facilities, sanitation, general learning environment or any other aspect of the institution in which the C.S shall require".

**Committee Recommendation:** Proposal Agreed to

**Justification:** It is basically on management especially private schools

**Clause 16**

Section 56

Renumber

Amend Section 56(1) of the principal Act by deleting all the words appearing after the word community. (it should therefore read, " Four persons elected to represent parents of the pupils in the school or local community"

**Committee Recommendation: Proposal Agreed to**

Replace subsection 56 (1)(a) by " Three persons elected to represent parents of learners in the institution or persons from the immediate community of the institution".

**Committee Recommendation: Proposal Agreed to**

Delete the entire subsection 56(1)(c ) of the principal act.

**Committee Recommendation: Proposal Disregarded**

Delete the word "three" in subsection 56(1)(d) of the principal act and replace it with the word "two".

**Committee Recommendation: Proposal Agreed to**

Delete the word "one" in subsection 56(1)(e) of the principal act and replace it with the word "two".

**Committee Recommendation: Proposal Rejected**

**Justification:** Maintain one

Amend the Principal Act ,section 56(2) by replacing (2) to read as follows "The Board of Management as it may deem necessary for the discharge of its mandate ,may enlist the help of a person or persons with requisite skills and experience into its membership from time to time .However, such person(s) shall have no voting right on any matter before the Board."

This amendment should be cut from this subsection and be pasted as a new section immediately after section 13 of the 4th schedule of the principal act.

**Committee Recommendation: Proposal Rejected**

Amend the principal act subsection 56(4) by deleting all words after the word 'themselves'.

**Committee Recommendation: Proposal Rejected**

Amend the principal act subsection 56(4) by inserting the phrase "The Chairperson and one other member under subsection 55(5) shall be coopted to the BoM.

Hence delete section (4) of the 3rd schedule of the principal act.

**Committee Recommendation: Proposal Rejected**

**III. Memorandum from Kenya National Parents Association**



**Clause 16**

Section 56

That Section 56(1a) of the proposed Bill be further amended by deleting the word "four" and retaining the word "six" in the principal Act, this section be further amended by deleting the word "or local community in the case of county secondary schools"

**Committee Recommendation:** Proposal Agreed to

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That Section 56(1c) in the proposed Bill be amended by deleting the entire section in the bill as well as the principal Act

**Committee Recommendation:** Proposal Rejected

That Section 56(1d) in the principal Act be amended by inserting the following words immediately after the word "school" in the case where the land title of the school is registered in the name of the sponsor"

**Committee Recommendation:** Proposal Rejected

That Section 56(7) of the principal Act be amended by inserting the following words immediately after the word "sponsor" "who does not have a title deed of the school land and does"

**Committee Recommendation:** Proposal Rejected

**IV. Memorandum from the Catholic Church**

**Clause 19**

Section 95

Insert the words "in consultation with the relevant sponsors" immediately after "appropriate"

**Committee Recommendation:** Amendment Rejected

**Clause 20**

Section 100

Insert the words "or be possessed by" immediately before "the respective" appearing in subsection (1).

**Committee Recommendation:** Amendment Rejected

**Justification:** It is a provisional Clause

**Clause 21**

### **Paragraph 19, Fourth Schedule**

Insert the words "or a sponsor" immediately after "in the name of the institution" appearing in paragraph 19.

**Committee Recommendation:** Amendment rejected

## **V. Memorandum from Nakuru High School**

### **Clause 16**

#### **Section 56**

Section 56(1) a: insert: or 3 persons to represent the community appointed in consultation with the cabinet secretary and 3 persons to represent parents in case of national schools or other categories

**Committee Recommendation:** Proposal Rejected

Section 56(1) g: Delete g. the parents will represent the needs of the students

**Committee Recommendation:** Proposal Agreed to

Section 56(7): delete: the whole of 7

**Committee Recommendation:** Proposal Rejected

### **Clause 21**

#### **Paragraph 19, Fourth Schedule**

Fourth schedule paragraph 17(2): this will amount to micro managing schools by the county education board. Delete the whole section.

**Committee Recommendation:** Amendment rejected

Fourth schedule paragraph 21: Note: not clear. Amendment implies the it means changing school calendar to coincide with the government financial calendar.

## **VI. Memorandum from Transparency International**

**Committee Recommendation:** Proposal Agreed to

### **Clause 15**

Section 52

Clause 15 attracts review. The clause introduces latent disparity of the knowledge imparted on the children. Our submission is that a standard curriculum to be adopted in all basic education institutions including private, unless the different curriculums are approved by the CS in consultation with NEB and Education Standards and Quality Assurance Council.

CS should prescribe a regulation to qualify these curriculum in line with section 4 (guiding principles) upon which the CEB will supervise and monitor.

**Committee Recommendation:** Proposal Dropped

### **Clause 16**

Section 56

Section 56(1) (g) of the Act, under the Composition of Board of Management attracts review. Rights of the child to participate and contribute to school governance and Development in view of strengthening quality and standards will received a huge set back. Our submission is that this section should be retained as opposed to the proposed Amendment that does away with it.

**Committee Recommendation:** Proposal Dropped

## **MIN.NO.DC.D/159/2015: ANY OTHER BUSINESS**

The Chairperson thanked Members for their support and cooperation and informed them that: -

### **Retreat with the Ministry of Education, Science and Technology and its SAGAS**

The Committee will meet with the Ministry of Education, Science and Technology and its SAGAs on 7<sup>th</sup> and 8<sup>th</sup> May, 2015 at Serena Hotel to deliberate on various programmes being undertaken within the Ministry including the challenges and successes of the Ministry.

### **Budget Estimates for the FY 2015/16**

The Committee was informed that the Budget Estimates for the next FY had since been tabled (30<sup>th</sup> April of every year, pursuant to the PFM Act) and Departmental Committee were expected to interrogate the estimates and make their recommendations to the Budget and Appropriations Committee on or before the 21<sup>st</sup> May, 2015. The Committee was informed that the Ministry of Education, Science and Technology and the Teachers

Service Commission were scheduled to appear before the Committee on Friday 15<sup>th</sup> May, 2015

**MIN.NO.DC.D/160/2015: ADJOURNMENT**

The Chairperson adjourned the meeting at 6.40pm

Signed.....

HON. SABINA CHEGE, M.P  
(CHAIRPERSON)

Date.....

**MINUTES OF THE 31<sup>ST</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON EDUCATION, RESEARCH AND TECHNOLOGY HELD ON WEDNESDAY, 6<sup>TH</sup> MAY, 2015 IN MASHUA CONFERENCE ROOM, SERENA BEACH AND RESORT AT 9:30AM**

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**PRESENT**

- |                                       |   |                  |
|---------------------------------------|---|------------------|
| 1. Hon. Sabina Chege, M.P             | - | Chairperson      |
| 2. Hon. Julius Melly, MP              | - | Vice Chairperson |
| 3. Hon. Yusuf Chanzu, M.P             |   |                  |
| 4. Hon. (Dr.) Wilber Ottichillo, M.P  |   |                  |
| 5. Hon. Muriuki Njagagua, M.P         |   |                  |
| 6. Hon. (Prof.) Helen Sambili, M.P    |   |                  |
| 7. Hon. Rose Rwamba Mitaru, M.P       |   |                  |
| 8. Hon. Joseph Meruaki, M.P           |   |                  |
| 9. Hon. Joseph Manje, M:P             |   |                  |
| 10. Hon. Halima Ware Duri, M.P        |   |                  |
| 11. Hon. Michael Kisoi Munyao, M.P    |   |                  |
| 12. Hon. Cecilia Ng'etich, M.P        |   |                  |
| 13. Hon. Richard Makenga, M.P         |   |                  |
| 14. Hon. Kedogo Dorcas Luvalitsa, M.P |   |                  |
| 15. Hon. Steven Kariuki, M.P.         |   |                  |
| 16. Hon. Jacob Macharia, M.P          |   |                  |
| 17. Hon. Geoffrey Makokha Odanga, M.P |   |                  |
| 18. Hon. Silverse Lisamula Anami, M.P |   |                  |
| 19. Hon. Anthony Kimaru, M.P          |   |                  |
| 20. Hon. Mohamed Adan Huka, M.P       |   |                  |
| 21. Hon. Ibren Nasra Ibrahim, M.P     |   |                  |
| 22. Hon. Mary Seneta, M.P             |   |                  |

**ABSENT WITH APOLOGY**

1. Hon. Kenneth Okoth, M.P
2. Hon. (Dr.) Susan Chebet, M.P
3. Hon. Moses Injendi, M.P
4. Hon. (Dr.) Christine Ombaka, M.P
5. Hon. Eric Keter, M.P

## ABSENT

1. Hon. Harrison Kombe, M.P
2. Hon. Opiyo Jared Odhiambo, M.P

## IN ATTENDANCE

### National Assembly

- |                         |   |                         |
|-------------------------|---|-------------------------|
| 1. Leah Wanjiru         | - | First Clerk Assistant   |
| 2. Mr. Mugoma John      | - | Third Clerk Assistant   |
| 3. Mr. Jimale Mohamed   | - | Third Clerk Assistant   |
| 4. Ms. Marale Sande     | - | Senior Research Officer |
| 5. Ms. Colletah Sigilai | - | Legal Counsel II        |
| 6. Ms. Caroline Njue    | - | Research officer III    |
| 7. Mr. Simon Muinde     | - | Audio Officer           |
| 8. Mr. Timothy Ayako    | - | Pupilage Intern         |

## AGENDA

1. Prayers
2. Preliminaries/introductions
3. Communication from the Chairperson
4. **Bills - Meeting to consider Memoranda on Basic Education (Amendment) Bill, 2014**
5. Any other Business
6. Date for the next Sitting

### **MIN.NO.DC.D/151 /2015: ADOPTION OF THE AGENDA AND THE PROGRAMME**

The Agenda of the meeting was unanimously adopted by Members present.

### **MIN.NO.DC.D/152/2015: PRELIMINARIES**

The meeting was called to order at 9:50 a.m and thereafter a prayer was said. The Chairperson then welcomed Hon. Members present to the meeting.

### **MIN.NO.DC.D/153/2015: CONSIDERATIONS OF THE MEMORANDA ON THE BASIC EDUCATION (AMENDMENT) BILL, 2014**

The Committee considered the Memoranda on Basic Education (Amendment) Bill, 2014 as follows;

#### **I. Committee Amendments**

Clause 7  
Section 27



- (a) Dropped
- (f) Agreed to (Adopted the MOEST proposal)
- (g) Dropped (Amendment to be considered in TSC Act)

**Clause 8**

**Section 28** Committee Amendment Dropped (The section can be easily manipulated)

**Clause 9**

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**Section 32** Agreed to with further Amendment, insert the word 'public' immediately after "or a"

**Clause 10**

**Section 34** Committee Amendment Dropped

**Clause 11**

**Section 35**

- (a) Committee Amendment Dropped
- (b) Sec 35 (2) It should be Amended further to read, "Subject to sub section 3, No pupil admitted in a school shall be held back in any class except with the concurrence of parents or guardians or expelled from school."
- (c) Agreed to (it was a typo error)

**Clause 13**

**Section 39**

- (ha) Amendment Dropped (Adopt the MOEST Proposal)
- (hb) Amendment Dropped (Adopt the MOEST proposal with the following amendment, 'and the Sub-County')

**Clause 13**

**Section 40**

- (5) Amendment Dropped (Adopt the MOEST proposal)
- (6) Amendment Agreed to with amendments from MOEST and T.I

**Clause 14**

**Section 43;** Committee Amendment Dropped, (Retain what is in the Principal Act)

**II. Memorandum from Ministry of Education, Science & Technology**

**Clause 7**

**Section 27**

The proposed new sub-section 27(g) should be deleted and considered appropriately under the TSC Act

**Committee Recommendation:** Proposal Agreed to

Amend section 27 (a) to read as follows "The sponsor shall participate and offer proposals on matters regarding syllabuses , text books ,digital content and other instructional materials and teaching aids during curriculum reviews forums convened by KICD ".

**Committee Recommendation:** Proposal Agreed to

Section 27(c) Retain the phrase 'at their own expense' after "chaplains" appearing in (c )

**Committee Recommendation:** Proposal Agreed to

Section 27(e) Offer material and financial support to institutions in regard to infrastructure improvement or any other project to support academic programs.

**Committee Recommendation:** Proposal Agreed to

Section 27(f) Participate and be consulted in the process that may lead to a change of the status of a public sponsored Institutions of Basic Education and Training to national , Extra-county or from private to a public managed institution;

**Committee Recommendation:** Proposal Agreed to with further amendment by deleting the following phrase, 'to national, Extra County or from private to a public managed institution' immediately after the word 'Training.'

## **Clause 8**

### **Section 28**

The proposed new sub-section 28(2) should be deleted and if possible considered under regulations.

**Committee Recommendation:** Proposal Agreed to

## **Clause 12**

### **Section 39**

The principal Act is amended by inserting the following new sub-section 39(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 ".

**Committee Recommendation:** Proposal agreed to

(hb) "In consultation and cooperation with the CEB, the County government and other stakeholders mobilize resources for the provision of bursaries to deserving but needy students".

**Committee Recommendation:** Proposal Agreed to with further amendment by inserting the following phrase, 'the Sub-County Education Board,' immediately after the phrase 'with the CEB'

### Clause 13

#### Section 40

,insert new sub-section 40(5) to read as follows 'Every head of a public institution of basic education and training shall, not later than 28th February of each year a list profiling the performance and conduct of learners in the preceding year in their institution whose parents /guardians are unable to pay school levies and therefore more likely to drop out.'

**Committee Recommendation:** Proposal agreed to with further amendment by inserting the following phrase immediately after the word drop out ..... 'submit the report to Sub-County Education Board on account of the child and a copy to the County Education Board.'

40(6) 'The CEB 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.'

**Committee Recommendation:** Proposal agreed to with further amendment by deleting the phrase 'the County Education Board' and replacing it with 'Sub County Education Board'

### Clause 14

#### Section 43

The original categorization of institution of basic education and training in the principal Act to be retained.

**Committee Recommendation:** Proposal Agreed to  
**Justification:** Retain what is in the Principal Act.

## III. Memorandum from Kenya National Parents Association

### Clause 7

#### Section 27

That Section 27(g) of the proposed Bill be further amended by deleting paragraph (g)

**Committee Recommendation:** Proposal Agreed to

That Section 27 be amended by inserting a new Section 27(2) and inserting the following new words "notwithstanding the provisions of Section 27(1) no person or institution shall be classified as a sponsor unless the land is registered in his or her name and unless the original buildings were built him or her".

**Committee Recommendation: Proposal Rejected**

**Clause 13**  
**Section 40**

That Section 40(1) be amended by deleting the word "the head teacher" immediately after the word "attend school" and replace it with the word "head of an institution of basic education".

**Committee Recommendation: Proposal Disregarded**

That Section 40(2) be amended by deleting the word "head teacher" immediately after the word "where the" and replace it with the word "head of an institution of basic education".

**Committee Recommendation: Proposal Disregarded**

That the new Section 40(5) of the proposed Bill be further amended by deleting the word "principal or head teacher" after the word "Every" and replacing it with the word "head of an institution of basic education"

**Committee Recommendation: Proposal Disregarded**

**Clause 14**

**Section 43**

That Section 43(2) of the principal Act be amended by deleting the word "private" immediately before the word "status".

**Committee Recommendation: Proposal Rejected**

**IV. Memorandum from Mr. Muturi Ileri**

**Clause 7**

**Section 27**

Amend (g) to "be consulted by TSC in appointing competitively selected teachers to fill the posts of school administrators in public sponsored schools"

**Committee Recommendation: Proposal Rejected**

## V. Memorandum from the Catholic Church

### Clause 7

#### Section 27

(c) Delete the words "at their own expenses"

**Committee Recommendation:** Proposal Rejected

~~“(f) To make recommendations and be consulted by the Teachers Service Commission on persons to be appointed or deployed as head teachers, principals and their deputies in public sponsored schools”.~~

**Committee Recommendation:** Proposal Disregarded

Related to TSC Act

Insert in section 12 “(e) Shall, in the appointment and deployment of head teachers and principals of public sponsored schools, consult with the sponsors of that school.”

And insert in section 2: “Sponsor” has the meaning assigned to it under section 2 of the Basic Education Act, 2013.

**Committee Recommendation:** Proposal Rejected

**Justification:** The proposal is more of administrative issue and should therefore be under Regulations

### Clause 14

#### Section 43

Insert a new paragraph after (b) to read

“ sponsored schools which are maintained out of public funds and include schools established by sponsors”

**Committee Recommendation:** Proposal Disregarded

## VI. Memorandum from Council of Governors

### Clause 8

#### Section 28

Amend the section to allow for regulations to be done in consultation with County Governments.

**Committee Recommendation:** Proposal Rejected

## VII. Memorandum from Nakuru High School

**Clause 10**

**Section 34**

Section 34(2): Insert: the tradition and existing category of school shall be considered during admission.

**Committee Recommendation:** Proposal Rejected

Section 34(5): insert: which according to the categorization by the cabinet secretary the child qualifies for admission.

**Committee Recommendation:** Proposal Rejected

**Section 35**

~~Section 35(1): delete and substitute with:~~ The schools shall make effort to retain all admitted students until completion of the learning cycle.

**Committee Recommendation:** Proposal Rejected

**Justification:** It's a component in the main Act

Section 35(2): delete: expelled and substitute with excluded

**Committee Recommendation:** Proposal Rejected

**Justification:** To exclude is against the principle of inclusivity as envisaged in the Constitution

**Clause 14**

**Section 43**

Section 43(1)a: the cabinet secretary shall designate a school to be either national, county or district depending on admission criteria

**Committee Recommendation:** Proposal Rejected

**Justification:** Can be considered under regulations

**VIII. Memorandum from Transparency International**

**Clause 13**

**Section 40**

Section 40 of the Act under the duty of a principal or head teacher attracts review.

The section depicts repetition on (b) and (d) and in addition, there is no mention of Sub County Education Board in the Amendment Bill. Our submission is that the Sub County



Education Board should be mentioned in section 40, and that the Head teacher should submit the report to the board on account of the child and a copy to the County Education Board.

**Committee Recommendation:** Proposal Agreed to

**MIN.NO.DC.D/154/2015: ANY OTHER BUSINESS**

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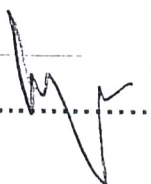
No any other business arose

**MIN.NO.DC.D/155/2015: ADJOURNMENT**

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The Chairperson adjourned the meeting at 2.20pm

Signed.....



HON. SABINA CHEGE, M.P

(CHAIRPERSON)

Date.....

8/6/15

**MINUTES OF THE 30TH SITTING OF THE DEPARTMENTAL COMMITTEE ON  
EDUCATION, RESEARCH AND TECHNOLOGY HELD ON TUESDAY, 5TH MAY,  
2015 IN CONFERENCE ROOM SERENA BEACH RESORT, MOMBASA AT 2:30  
P.M**

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**PRESENT**

1. Hon. Sabina Chege, M.P - Chairperson
2. Hon. Julius Melly, MP - Vice Chairperson
3. Hon. (Prof.) Helen Sambili, M.P
4. Hon. (Dr.) Susan Chebet, M.P
5. Hon. (Dr.) Wilber Ottichillo, M.P
6. Hon. Yusuf Chanzu, M.P
7. Hon. Cecilia Ng'etich, M.P
8. Hon. Anthony Kimaru, M.P
9. Hon. Jacob Macharia, M.P
10. Hon. Mohamed Adan Huka, M.P
11. Hon. Muriuki Njagagua, M.P
12. Hon. Rose Rwamba Mitaru, M.P
13. Hon. Mary Seneta, M.P
14. Hon. Joseph Meruaki, M.P
15. Hon. Joseph Manje, M.P
16. Hon. Halima Ware Duri, M.P
17. Hon. Michael Kiso Muniyao, M.P
18. Hon. Silverse Lisamula Anami, M.P
19. Hon. Ibren Nasra Ibrahim, M.P
20. Hon. Richard Makenga, M.P
21. Hon. Geoffrey Makokha Odanga, M.P
22. Hon. Kedogo Dorcas Luvalitsa, M.P

**ABSENT WITH APOLOGY**

1. Hon. (Dr.) Christine Ombaka, M.P
2. Hon. Kenneth Okoth, M.P
3. Hon. Moses Injendi, M.P
4. Hon. Harrison Kombe, M.P
5. Hon. Opiyo Jared Odhiambo, M.P

**IN ATTENDANCE**

National Assembly

1. Ms. Leah Wanjiru - First Clerk Assistant
2. Mr. Jimale Mohamed - Third Clerk Assistant
3. Mr. Mugoma John - Third Clerk Assistant
4. Ms. Colleta Sigilai - Legal Counsel II
5. Ms. Marale Sande - Senior Research Officer
6. Ms. Caroline Njue - Research officer III

## AGENDA

1. Preliminaries
  - (i) Prayers
  - (ii) Chairperson Remarks
  - (iii) Adoption of the agenda
2. **Bills- Consideration of Memoranda presented on the Basic Education (Amendment) Bill, 2014**
3. Any other Business
4. Date for the next Sitting

### **MIN.NO.DC.D/ 147/2014: ADOPTION OF THE AGENDA**

The Agenda of the meeting was adopted having been proposed by the Honourable Members present.

### **MIN.NO.DC.D/148/2015: PRELIMINARIES**

The meeting was called to order at 2.35 p.m. and thereafter prayer was read. The Chairperson then welcomed Members to the retreat. In her Opening Remarks the Chairperson called upon Members thanked Members for availing themselves to the retreat to consider the Basic Education (Amendment) Bill that was long overdue.

### **MIN.NO.DC.D/ 149/2014: CONSIDERATION OF MEMORANDA ON BASIC EDUCATION (AMENDMENT) BILL, 2014**

The Committee considered the memoranda on the Bill as follows: -

#### **CLAUSE 5**

**Section 25A** -The establishment of the Sub- County Education Board in every Sub-County in the principal Act by the National Assembly

Memorandum by:

#### **Ministry of Education, Science and Technology**

The Ministry was proposing the deletion of the proposed amendments after section 25 of the principal Act by the National Assembly

**Committee's recommendation/ position:** The Committee rejected the Ministry's proposal

#### **Council of Governors**

In Section 25 A (1), the Council of Governors was proposing the deletion of the section and 25 A (2)

**Committee Recommendation/ position:** The Committee rejected the proposal

**Justification:** There was need to establish a Sub- County Education Board in every Sub- County in order to provide for a working framework similar to the former District Education Boards.

### **Transparency International**

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Transparency International was proposing that Section 25A of the Amendment Bill be reviewed as follows: -

The introduction of Sub-County Education Board is good idea but the numbers of people comprising the boards are too many. There are so many Sub-Counties in the Country and having about 18 people in each would be too costly pushing up recurrent expenditures in the education sector.

Transparency International was proposing that the number of people comprising a Sub-County Education board should be reduced to a manageable number of about 11 people namely:

- 1) An educationist of at least five years standing;
- 2) the Sub-county Education Officer; a representative of the county executive in charge of education;
- 3) a representative of the Teachers Service Commission;
- 4) a representative of the association of private schools;
- 5&6) two representatives of a trade union representing the interest of teachers;
- 7) one representatives of parents teachers association;
- 8) a representative of persons with disability; 9&10) two members nominated by the Primary School Head Teachers' Association; and the Secondary School Principals Association and
- 11) a representative of a child rights organization. All reports can be shared with the Sub County Commissioner for ease of coordination.

**Committee Recommendation:** Agreed to the proposal by the Transparency International with a further amendment in order to have the number of persons serving in the sub-County Education Board be a total of thirteen (13) as follows:-

“The Cabinet Secretary shall appoint Chairperson of the Board and shall observe the principal of gender equity, regional, ethnic and religious balance, transparency openness and competitiveness and shall have due regard to the principal of equal opportunities for persons with disabilities.

- 1) The sub-County Education Officer who shall be the secretary to the Sub County Education Board;
- 2) a representative of the County Executive in charge of Education
- 3) a representative of the Teachers Service Commission
- 4) a representative of the Association of private schools
- 5) two representative of a trade Union representing the interest of teachers

- 6) 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
  - iii. the Muslim Education Council
- 7) one representative of Persons with Disability
- 8) two members nominated by the primary school Head Teachers Association and the Secondary Schools Principal Association;
- 9) Deputy County Commissioner.

**Committee Justification:** Sub-County Education Board are agents of the Cabinet Secretary in charge of Education at the Sub-County level which substituted the District Education Board. Section 18 (2) empowers the establishment of Sub- County Education Board.

## **Muturi Ileri**

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Mr. Muturi Ileri was proposing that Section 25A 1 be amended as follows: -

- c) should be the Sub-County Administrator.
- e) should be the sub-county director teacher management.

**Committee's Recommendation:** Rejected the Proposal

**Justification:** It was inconsistent

## **Section 25B - Functions of the Sub-County Education Board**

### **Ministry of Education, Science and Technology**

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The Ministry of Education was proposing the deletion of the sub clause providing for the functions of Sub- County Education Board

**Committee's recommendation:** The proposal was rejected

### **Council of Governors**

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The Council of Governors was proposing the deletion of the sub clause providing for the functions of Sub- County Education Board

**Committee's recommendation:** The proposal was rejected

- 1) Rejected the proposal by Ministry of Education, Science and Technology and Council of Governors.
- 2) Agreed to the proposal by the Transparency International with Amendment.

The Committee agreed to have the functions of the Sub County Education Boards as follows: -



- a) Put in place measures that shall
  - i. Facilitate the full realization of the right of all children to access quality basic education
  - ii. Ensure that all children and youth of school going age attend and complete basic education and training.
  - iii. All institutions of Basic Education and Training have conducive learning environment and are provided with appropriate and adequate infrastructure.
- b) Initiate policy proposals for the Sub- County Education Board.
- c) 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.
- d) Generate and maintain statistics in all education matters including all students who are ranked in the first quartile by the constituency in the Kenya Certificate of Primary Schools data bank on learners, and the report transmitted to the County Education Board.
- e) Nominate Board of Management members and managers for private institutions
- f) Coordinate Adult and Continuing Education Programs in the county.
- g) Perform such other functions as may be necessary for the promotion of basic education under this Act or any other written law.

**Justification:** The function of the Sub- County Education Board which is an agent body that will represent the County Education Board at the sub. county level which is also critical and Section 18 (2) empowers the establishment of Sub- County Education Board.

### Transparency International

**Transparency International in their Memorandum observed that Section 25 B of the Amendment Bill and section 18 of the Act should be reviewed because:-**

Promotion of school infrastructure development hasn't been addressed appropriately in the functions of both the Sub County Education Board and the CEB. Our submission under both sections and particularly on (g) is that Sub County Education should submit to the CEB a **priority list of public schools with infrastructural challenges; and that for the CEB; the Board should submit annually to the CS, a county priority list of public schools with infrastructural challenges to inform planning as well as eventual promotion of infrastructural development in public schools.**

**Committee Recommendations:** Comment by the Transparency International adopted. Sub- County Education Boards to also generate statistics/databank of all students who are ranked in the first quartile for maintenance and transmitted to the County Education Board.



## **SECTION 25C**

Consideration of Memorandum by:

### **Ministry of Education, Science and Technology**

The Ministry was proposing a deletion of the Section 25 C

**Committee's Recommendation:** Rejected

Justification: Sub-County Education Board will be an agent of the Cabinet Secretary in charge of Education at the Sub-County level which formerly functioned as the District Education Board.

### **Transparency International**

Transparency International observes that Section 25(A, B and C) of the Basic education (Amendment) Bill attracted a review because even though the current Act provides for Remuneration/allowance of County Education Board (CEB) under section 23 and members of the BOM under section 63, the same hadn't been provided for the Sub County Education Board within the amendment Bill hence it should be provided.

**Committee Recommendation:** Accepted

**Justification:** the proposal is relevant (for consistency)

## **CLAUSE 6**

### **SECTION 26**

Consideration of Memorandum by:

### **Ministry of Education, Science and Technology**

The Ministry of Education, Science and Technology observed that Article 235 of the Constitution of Kenya, 2010 provides that, The Teachers' Service Commission may assign teachers to a public pre-primary, childcare facilities, village polytechnics, home craft centres or any other institutions of basic education and training established and managed by a County government.

**Committee Recommendation:** The Amendment was rejected

**Justification:** TSC can inquire from County Education Board

### **Transparency International**

Transparency International observed that the amendment introduced to section 26 of the Act attracted a review. This was because the provision of TSC to assign teachers in public basic education institutions as classified under the fourth schedule (part 2-powers and functions of the County Governments) should not be a unilateral arrangement as proposed by the amendment. As such, the amendment could make

more meaning in respect to the functions of the County Governments, if consultation and cooperation with the CEB was also sanctioned therein.

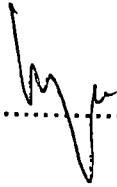
**Committee Recommendation:** Rejected

**Justification:** TSC is an independent body under 235 of the COK 2010 and shall not need to consult and cooperate with County Education Board.

**MIN.NO.DC.D/150/2014: ADJOURNMENT**

There being no any other business, the chairperson adjourned the meeting at 4.25pm.

Signed.....



THE Hon. Sabina Chege, M.P  
(CHAIRPERSON)

Date.....

8/6/15

MINUTES OF THE 24<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON EDUCATION, RESEARCH AND TECHNOLOGY HELD ON TUESDAY, 14 APRIL, 2015 IN 4<sup>TH</sup> FLOOR CONTINENTAL HOUSE MAIN PARLIAMENT BUILDINGS AT 10:00 A.M.

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**PRESENT**

- |                                    |   |                                       |
|------------------------------------|---|---------------------------------------|
| 1. Hon. Sabina Chege, M.P          | - | Chairperson                           |
| 2. Hon. Julius Melly, MP           | - | Vice Chairperson (Chairing)           |
| <hr/>                              |   |                                       |
| 3. Hon. (Prof.) Helen Sambili, M.P |   | 14. Hon. Michael Kisoi Munyao, M.P    |
| 4. Hon. (Dr.) Susan Chebet, M.P    |   | 15. Hon. Jacob Macharia, M.P          |
| 5. Hon. Yusuf Chanzu, M.P          |   | 16. Hon. Silverse Lisamula Anami, M.P |
| 6. Hon. Muriuki Njagagua, M.P      |   | 17. Hon. Moses Injendi, M.P           |
| 7. Hon. Cecilia Ng'etich, M.P      |   | 18. Hon. Richard Makenga, M.P         |
| 8. Hon. Mary Seneta, M.P           |   | 19. Hon. Opiyo Jared Odhiambo, M.P    |
| 9. Hon. Eric Keter, M.P            |   | 20. Hon. Kedogo Dorcas Luvalitsa, M.P |
| 10. Hon. Kenneth Okoth, M.P        |   | 21. Hon. Steven Kariuki, M.P.         |
| 11. Hon. Rose Rwamba Mitaru, M.P   |   |                                       |
| 12. Hon. Joseph Meruaki, M.P       |   |                                       |
| 13. Hon. Joseph Manje, M.P         |   |                                       |

**ABSENT WITH APOLOGY**

22. Hon. Mohamed Adan Huka, M.P

**ABSENT**

23. Hon. Anthony Kimaru, M.P  
24. Hon. (Dr.) Christine Ombaka, M.P  
25. Hon. (Dr.) Wilber Ottichillo, M.P  
26. Hon. Harrison Kombe, M.P  
27. Hon. Geoffrey Makokha Odanga, M.P  
28. Hon. Halima Ware Duri, M.P  
29. Hon. Ibren Nasra Ibrahim, M.P

**IN ATTENDANCE**

**National Assembly**

- |                         |   |                       |
|-------------------------|---|-----------------------|
| 1. Mr. Jimale Mohamed   | - | Third Clerk Assistant |
| 3. Mr. Mugoma John      | - | Third Clerk Assistant |
| 4. Ms. Colletah Sigilai | - | Legal Counsel II      |
| 5. Ms. Caroline Murugi  | - | Research Officer      |

## AGENDA

1. Prayers
2. Preliminaries/Introduction
3. Communication from the Chair
4. Confirmation of Minutes
5. Matters Arising
6. Bills: –
  - I. Consideration of Basic Education (Amendment) Bill, 2014  
Memoranda presented by:-
    - a) Ministry of Education, Science and Technology,
    - b) Kenya National Parents Associations,
    - c) Kenya Private Schools Associations
    - d) Kenya Conference of Catholic Bishops
    - e) Council of Governors
    - f) Transparency International
  - II. Engineering Technologists and Technicians Bill, 2015
7. Petitions-
  - i. Petition by Hon. Timothy Bosire, M.P on unfair discriminative treatment of Dr. Bernard Omwenga by Ministry of Education, Science & Technology
  - ii. Petition by Hon. Isaac Mwaura, M.P on the Kenya Education & Resource Centres (EARC) Association Challenges of the Educational Assessment & Resource Services
8. Papers
9. Statements
10. Consideration/Adoption of Reports/Inquiries
11. Any Other Business
12. Date for the Next Sitting

### **MIN.NO.DC.D/116/2015: PRELIMINARIES**

The meeting was called to order at 10:30 a.m. and thereafter a prayer was read by Hon. Joseph Meruaki, M.P. The Chairperson then welcomed the Members to the meeting.

### **MIN.NO.DC.D/ 117/2015: ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed and seconded by Hon. Joseph Meruaki, M.P and Hon. Richard Makenga, M.P respectively.

### **MIN.NO.DC.D/118/2015: CONSIDERATION OF THE BASIC EDUCATION (AMENDMENT) BILL, 2014**

The Committee was informed that with respect to invitation to submit memoranda on the Basic Education (Amendment) Bill, 2014, the Committee had received representations from several organizations/ persons including:-

- a) Ministry of Education, Science and Technology,
- b) Kenya National Parents Associations,
- c) Kenya Private Schools Associations
- d) Kenya Conference of Catholic Bishops
- e) Council of Governors
- f) Transparency International

The Committee considered the memoranda presented by the stakeholders as follows: -

## **Section 20 - Composition of the County Education Boards**

### **Ministry of Education, Science and Technology,**

The Ministry was proposing to amend section 20 (1) of the Principal Act by deleting the word "twelve" and replace with the word "fifteen"

**Committee's position/ recommendation:** Having considered the Ministry's proposal on the composition of the County Education Board the Committee rejected

**Justification:** the proposal would have led to bloated County Education Boards which was against the spirit of the Constitution

### **Proposal by the Council of Governors**

The Council of Governors was proposing that: -

- (i) Section 20 of the Principal Act on the Composition of the County Education board be amended by reducing the number of members to the initial twelve (12) and further that Subsection (2) of this provision must be unconditional and carried in good faith.

**Committee's position/ recommendation:** The proposal by the Council of the Governors was rejected

**Justification:** it doesn't add any value

- (ii) Subsection (4) delete section Members of Parliament

**Committee's position/ recommendation:** Proposal Dropped

**Justification:** County Executive board also represents the county function and Members of Parliament must participate as 'ex officios' since they play critical roles of oversight, representation and Legislation and are also involved in infrastructural development of schools through the CDF.

### **Kenya National Parents Association**

The Kenya National Parents Association was proposing that Clause 20 (h) of the Principal Act be amended by deleting the word "parent teachers association immediately after the word representatives of" and inserting "County Parent Association nominated by the National Parent Association."

**Committee's position/ recommendation:** Proposal deleted

**Justification:** County Education Board can represent the interest of the Kenya National Parent Association at the county level.

**Nakuru High School**

The Principal of Nakuru High School was proposing that Section 20 (1) k for avoidance of doubt the children's department be further qualified as it was not clear as to who qualified within the meaning of a child rights organization.

**Committee's position/ recommendation: Proposal dropped**

**Muturi Ileri**

His Memoranda was proposing that Section 20 (1) c) should be the County Executive in charge of education

**Recommendation: Agreed to**

**Justification:**

20 (1) e) should be the County Director of Teacher Management

**Recommendation: Dropped**

**Justification:** TSC can designate one of its officers at the county level

**Kenya Episcopal Conference of the Catholic Bishops**

The Kenya Episcopal Conference of the Catholic Bishops was proposing to amend Section 20 as follows: - Section 20(1) (f) where applicable one person each representing

- i. The National Council of Churches of Kenya
- ii. The Evangelical Alliance of Kenya;
- iii. The Kenya Episcopal Conference;(Kenya Conference of Catholic Bishops)
- iv. The Muslims Education Council;

**Recommendation:** Agreed with amendment that i and ii shall work under one umbrella and Agreed to the change of name The Kenya Episcopal Conference; to (Kenya Conference of Catholic Bishops)

**Justification:** the provision of religion is well stipulated in the constitution of Kenya.

**MIN.NO.DC.D/119/2014: ADJOURNMENT**

There being no any other business, the chairperson adjourned the meeting at 2.18pm.

Signed.....

THE Hon. Sabina Chege, M.P

(CHAIRPERSON)

Date.....



**MINUTES OF THE 23<sup>RD</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON EDUCATION, RESEARCH AND TECHNOLOGY HELD ON MONDAY, 13TH APRIL, 2015 IN COMMITTEE ROOM 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 3:30PM**

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**PRESENT**

- |                                       |   |                  |
|---------------------------------------|---|------------------|
| 1. Hon. Sabina Chege, M.P             | - | Chairperson      |
| 2. Hon. Julius Melly, MP              | - | Vice Chairperson |
| 3. Hon. Yusuf Chanzu, M.P             |   |                  |
| 4. Hon. (Dr.) Wilber Ottichillo, M.P  |   |                  |
| 5. Hon. Muriuki Njagagua, M.P         |   |                  |
| 6. Hon. Rose Rwamba Mitaru, M.P       |   |                  |
| 7. Hon. Joseph Meruaki, M.P           |   |                  |
| 8. Hon. Joseph Manje, M.P             |   |                  |
| 9. Hon. Kenneth Okoth, M.P            |   |                  |
| 10. Hon. Halima Ware Duri, M.P        |   |                  |
| 11. Hon. Michael Kisoi Munyao, M.P    |   |                  |
| 12. Hon. (Dr.) Susan Chebet, M.P      |   |                  |
| 13. Hon. Cecilia Ng'etich, M.P        |   |                  |
| 14. Hon. Moses Injendi, M.P           |   |                  |
| 15. Hon. Richard Makenga, M.P         |   |                  |
| 16. Hon. Kedogo Dorcas Luvalitsa, M.P |   |                  |
| 17. Hon. Steven Kariuki, M.P.         |   |                  |

**ABSENT WITH APOLOGY**

1. Hon. (Prof.) Helen Sambili, M.P
2. Hon. Jacob Macharia, M.P
3. Hon. Geoffrey Makokha Odanga, M.P
4. Hon. Silverse Lisamula Anami, M.P

**ABSENT**

1. Hon. Anthony Kimaru, M.P
2. Hon. Mohamed Adan Huka, M.P
3. Hon. Harrison Kombe, M.P
4. Hon. (Dr.) Christine Ombaka, M.P
5. Hon. Ibren Nasra Ibrahim, M.P
6. Hon. Mary Seneta, M.P
7. Hon. Eric Keter, M.P
8. Hon. Opiyo Jared Odhiambo, M.P

## IN ATTENDANCE

### National Assembly

- |                         |   |                       |
|-------------------------|---|-----------------------|
| 1. Mr. Mugoma John      | - | Third Clerk Assistant |
| 2. Mr. Jimale Mohamed   | - | Third Clerk Assistant |
| 3. Ms. Colletah Sigilai | - | Legal Counsel II      |
| 4. Ms. Caroline Njue    | - | Research officer III  |

## AGENDA

1. Prayers
2. Preliminaries/introductions
3. Communication from the Chair
4. Confirmation of Minutes
5. Matters Arising
6. Bills;
  - i. **Meeting to consider Memoranda on Basic Education (Amendment) Bill, 2014**
  - ii. Engineering Technologists and Technicians Bill, 2015
7. Petitions - Meeting with the Ministry of Education, Science and Technology on the following petitions;-
  - I. Petition by Hon. Timothy Bosire, M.P on unfair and discriminative treatment of Dr. Benard Omwenga Momanyi by Ministry of Education, Science and Technology.
  - II. Petition by Hon. Isaac Mwaura, M.P on the Plight of Special Education Assessors by Education Assessment and Resource Centre Associations.
8. Papers
9. Statements
10. Consideration/Adoption of Reports of Reports/Inquiries
11. Any other Business
12. Date for the next Sitting

### MIN.NO.DC.D/111 /2015: ADOPTION OF THE AGENDA

The Agenda of the meeting was adopted having been proposed by Hon. Cecilia Ng'etich, M.P and seconded by Hon. Rose Rwamba Mitaru, M.P respectively.

### MIN.NO.DC.D/112/2015: PRELIMINARIES

The meeting was called to order at 10:30 p.m and thereafter a prayer was said. The Chairperson informed Members that: -

- a) There was students' leadership conference scheduled from 13<sup>th</sup> April, 2015 to 17<sup>th</sup> April, 2014 organized by Kenya Secondary Schools Heads Association. Members were therefore requested to attend on Wednesday, 15<sup>th</sup> April, 2015.

- b) The Committee will undertake a field inspection at Mathare Polytechnic on Friday, 17<sup>th</sup> April, 2015
- c) The Report on Retired teachers was ready for tabling and that the Committee should conclude on the other pending reports.
- d) The Committee will undertake a retreat to consider the Engineering Technologists and Technicians Bill, 2015
- e) In reference to the terrorist attack in Garissa University, there was need to look into the issue of security in schools and other learning institutions.
- f) There was need for the Committee to look at the regulations on Basic Education Act that were gazetted by the Ministry of Education.
- g) The Committee should also finalize on the issue of North Eastern teachers.
- h) The Committee was working on international conferences and Members would be informed once the plans were finalized.

**MIN.NO.DC.D/113/2015: CONSIDERATIONS OF THE MEMORANDA ON THE BASIC EDUCATION (AMENDMENT) BILL, 2014**

The Committee considered the Basic Education (Amendment) Bill, 2014 as follows;

2. The Basic Education Act, (in this Act referred to as "the principal Act"), is amended in section 2 -

- 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.

**Recommendation:** Agreed

- b) by deleting the definition of "manager" and substituting therefor the following new definition -

"manager" means a person appointed by a proprietor to coordinate and oversee the implementation of education policies and guidelines in a non-public basic education institution and may perform delegated teacher management functions";

**Recommendation:** Dropped

- c) by deleting the definition of "sponsor" and substituting therefor the following new definition -

"sponsor" means a person or institution that owns land or property on which an institution of basic education is instituted, and who provides foundational

objectives to the institution and ensures that the educational and non-curricular objectives of the institution of basic education are met,”

**Recommendation:** Rejected

**Justification:** Maintain the definition in the main Act

The Committee further considered the memoranda on the Basic Education (Amendment) Bill, 2014 submitted by various stakeholders as follows;

#### **I. Memorandum from Ministry of Education, Science & Technology**

##### **Section 2;**

Insert “**manager**” means a person, may be the proprietor, nominated by the proprietor(s) of private institution of basic education and training registered by the CEB as provided for under section 78 of this Act to oversee, implements all education programs, policies and guidelines issued from time to time and who may in addition perform delegated teacher management functions.

**Recommendation:** Agreed to

**Justification:** Registration is done by County Education Board which is an agent of Ministry of Education, Science and Technology. Section 78 provides for ways of discipline in case one operates without being licensed, accredited or registered.

“**head of institution**” means a person, a head teacher or a principal who has the delegated authority in writing of the Cabinet Secretary to manage and account for all resources accruable to the institution and to oversee, implement and/or initiate all education programs/projects, policies and guidelines at the institution.

**Recommendation:** Rejected

**Justification:** Board of Governors runs schools. Management of schools is provided for in TSC Act.

This should be provided for in Regulations

“**Alternative provisions of Basic Education and Training**” means embracing strategies that are flexible or specifically tailored to provide education and training or life skills programs, within or outside the formal education framework that suits the circumstantial lifestyles of specific categories of persons such as the minorities, disadvantaged, marginalized children adults out of school youth and old members of society.

**Recommendation:** Dropped

**Justification:** It was not used the main Act but in the framework.

“**complementary schools**” institutions located in an unplanned urban and pre-urban settlement areas that deliver formal education to school going-age children

**Recommendation:** Dropped  
**Justification:** Not used in the main Act

“Center” means an educational facility providing child care and early childhood education including, non-formal education, adult and continuing education services.

**Recommendation:** Dropped  
**Justification:** It's a term better understood in its literal meaning.

“special interest groups” means minority, migrants, marginalized, displaced persons or households headed by persons of minority age by persons over 60 years or persons with exceptional skills.

**Recommendation:** Dropped  
**Justification:** One can't conclusively define special interest group. It is clearly used in Section 56(1)(e)

“youth polytechnic” has the same meaning as the phrase ‘village polytechnic’ under CoK 2010.

**Recommendation:** Suspended  
**Justification:** The Committee will make further consultations before giving its opinion on the amendment.

#### **Section 18;**

Amend the Principal Act by deleting the entire section 18 and replacing it with the following:

#### Functions of County Education Board

- a. Put in place measures that shall
  - i. Facilitate the full realization of the right of all Children to access quality basic education
  - ii. Ensure that all children and youth of school going age attend and complete basic education and training
  - iii. All institutions of Basic Education and Training have conducive learning environment and are provided with appropriate and adequate infrastructure.
- b. Collaborate with the national and county governments, the TSC, 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.
- c. 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.

- d. Initiate policy proposals for the NEB
- e. Establish and maintain a register of all public and private youth (village) polytechnics, home craft centers and any other institution of basic education and training operating in the country.
- f. Establish and maintain a disaggregated data bank on learners, teachers and all service providers in institutions of basic education and training in the Country.
- g. Vet nominees for Board of Management members and managers for private institutions
- h. Transfer and discipline of learners and non-teaching staff employed by Board of management
- i. 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
- j. Coordinate Adult and Continuing Education programs in the County
- k. Perform such other functions as may be necessary for the promotion of basic education under this Act or any other written law.

**Recommendation:** The Committee should consult further and agree to those amendments that are in line with the Act rather than deleting the whole Section 18.

## II. Memorandum from Kenya National Parents Association

### Section 2;

That the Principal Act be amended by inserting a meaning for "**Parents Association**" to mean 'an association established by the national parents association at the school level to represent the interest of parents and children in the boards of management and also sub county education boards and county education boards.

**Recommendation:** Proposal dropped

**Justification:** Already defined in the Act. As prescribed in subsection 55(2)

"the national parents association to mean" An association established under this Act and registered with the registrar of societies to represent the interest of parents and children in the public and private institutions of basic education on all matters relating to education and other areas at the national, sub county, and at school or institutional level.

**Recommendation:** Proposal Rejected

**Justification:** Not provided for in the Act



“The head of an institution of Basic education” a person appointed by the Cabinet Secretary to exercises delegated authority in terms of managing and accounting for all resources accrued to a public institution of basic education.

**Recommendation:** Proposal Rejected

**Justification:** The amendment is only of managing and accounting

#### Memorandum from the Catholic Church

##### Insert in Section 2

“Consultation ” refers to a two way process of Exchange of proposals, recommendations and ideas between the parties involved in the consultation, but does not imply concurrence or veto but reasonable involvement.

**Recommendation:** Proposal Rejected

**Justification:** Shouldn't be defined but rather given its literal meaning

#### Memorandum from Council of Governors

##### Section 18

Amend section 18(1)(a) as the Board is the agent of the National government trying to perform the counties functions.

**Recommendation:** Proposal Rejected

**Justification:** The Council of Governors didn't for alternative proposal. The Basic Education Act is clear, there is consultation.

#### Memorandum from Transparency International

##### Section 18

That section 18(f) of the principal Act be amended by deleting the words “**the principals and the head teachers**” immediately after the word “**board of management**”

**Recommendation:** Proposal Rejected

Section 18 of the Act attracts review. Promotion of school infrastructure development hasn't been addressed appropriately in the functions of both the sub county Education Board and the CEB. Our submission under both sections and particularly on (g) is that Sub County Education should submit to the CEB a priority list of public schools with infrastructural challenges; and that for the CEB; the Board should submit annually to the

CS, a county priority list of public schools with infrastructural challenges to inform planning as well as eventual promotion of infrastructural development in public schools.

**Recommendation:** Agreed to with amendments provided for in Section 18(k) and as provided for in Sections 26 and 28 of the Principal Act.

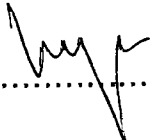
**MIN.NO.DC.D/114/2015: ANY OTHER BUSINESS**

**Hansard Recording**

There's need to ensure that the proceedings of the Committee especially on Bills be put on Hansard for ease of reference.

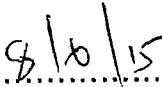
**MIN.NO.DC.D/115/2015: ADJOURNMENT**

The Chairperson adjourned the meeting at 5.30pm

Signed.....

HON. SABINA CHEGE, M.P

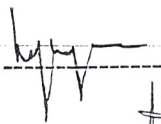
(CHAIRPERSON)

Date.....

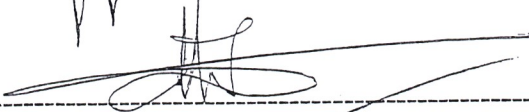
a. 1.4 Adoption of the Report

We the Members of the Departmental Committee on Education, Research and Technology have pursuant to Standing Order No. 199 adopted this report on the Basic Education (Amendment) Act, 2014 and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity today Thursday 9<sup>th</sup> July 2015.

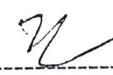
1. Hon. Sabina Chege, M.P.



2. Hon. Julius Melly, MP



3. Hon. Yusuf Chanzu, M.P.



4. Hon. (Dr.) Christine Ombaka, M.P.

5. Hon. (Dr.) Wilber Ottichillo, M.P.

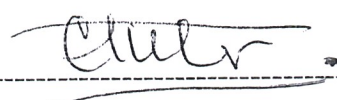
6. Hon. (Dr.) Susan Chebet, M.P.

7. Hon. (Prof.) Helen Sambili, M.P.

8. Hon. Cecilia Ng'etich, M.P.

9. Hon. Muriuki Njagagua, M.P.

10. Hon. Eric Keter, M.P.



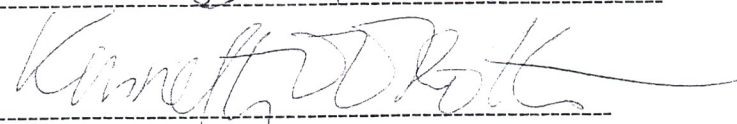
11. Hon. Joseph Meruaki, M.P.

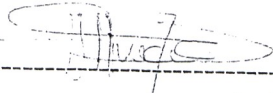
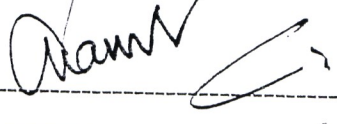
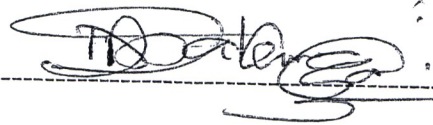
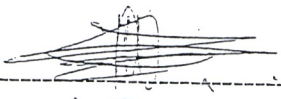
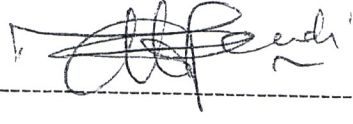
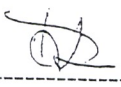
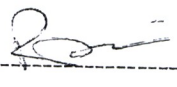
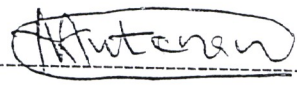
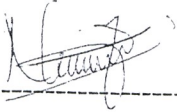


12. Hon. Joseph Manje, M.P.



13. Hon. Kenneth Okoth, M.P.



14. Hon. Halima Ware Duri, M.P. 
15. Hon. Silverse Lisamula Anami, M.P. 
16. Hon. Richard Makenga, M.P. 
17. Hon. Opiyo Jared Odhiambo, M.P. \_\_\_\_\_
18. Hon. Geoffrey Makokha Odanga, M.P. \_\_\_\_\_
19. Hon. Anthony Kimaru, M.P. \_\_\_\_\_
20. Hon. Jacob Macharia, M.P. 
21. Hon. Moses Injendi, M.P. 
22. Hon. Mohamed Adan Huka, M.P. \_\_\_\_\_
23. Hon. Harrison Kombe, M.P. \_\_\_\_\_
24. Hon. Kedogo Dorcas Luvalitsa, M.P. 
25. Hon. Rose Rwamba Mitaru, M.P. 
26. Hon. Mary Seneta, M.P. 
27. Hon. Michael Kisoi Munyao, M.P. \_\_\_\_\_
28. Hon. Ibren Nasra Ibrahim, M.P. 
29. Hon. Steven Kariuki, M.P. 