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TWELFTH PARLIAMENT

FOURTH SESSION - 2020

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TABLED BY	Chairperson
COMMITTEE	Mediation
CLERK AT THE TABLE	Lillian

**THE MEDIATION COMMITTEE ON THE EARLY CHILDHOOD
EDUCATION BILL, 2018 (SENATE BILLS No. 26 of 2018)**

**REPORT ON THE CONSIDERATION OF THE EARLY
CHILDHOOD EDUCATION BILL, (SENATE BILLS No. 26 of
2018)**

Approved
J.M.
12/2/2021

Joint Clerk's Chambers
Parliament Buildings,
NAIROBI

DECEMBER 2020

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PREFACE

Establishment of the Committee

The Mediation Committee on the Early Childhood Education Bill (Senate Bills No. 26 of 2018) was constituted by the Speaker of the National Assembly pursuant to Article 113 of the Constitution and Standing Order 149 of the National Assembly Standing Orders and by the Speaker of the Senate pursuant to Standing Order 160 of the Senate Standing Orders on 1st October, 2020.

Mandate of the Committee

The Mediation Committee derives its mandate from Articles 112 and 113 of the Constitution, Standing Order 149 of the National Assembly Standing Orders and Standing Order 160(1) of the Senate Standing Orders.

These provisions outline the functions of the Committee as follows-

- i. to consider Bills where the Houses do not agree on all or any of the amendments made by either Houses;
- ii. to consider Bills where either House rejects a Motion that a Bill which originate in the other House be read a Second or Third time; and,
- iii. to attempt to develop a version of the Bill that both Houses of Parliament will pass.

The Mediation Committee was established to negotiate an agreed version of the Early Childhood Education Bill, 2018 (Senate Bills. No 26 of 2018) that would be presented to both Houses of Parliament for approval.

Membership of the Committee

The Committee is comprised of the following Members-

- | | |
|--|---------------------------|
| 1) The Hon. Sen. Okong’o Omogeni, MP | - Chairperson |
| 2) The Hon. Wambugu Ngunjiri, MP | - Vice Chairperson |
| 3) The Hon. (Dr.) Daniel Kamuren Tuitoek, MP | - Member |
| 4) The Hon. Sen. Mwangi Githiomi, MP | - Member |
| 5) The Hon. John Paul Mwirigi, MP | - Member |
| 6) The Hon. Sen. (Dr.) Agnes Zani, MP | - Member |
| 7) The Hon. Sen. Seneta Mary Yiane, MP | - Member |
| 8) The Hon. Sen. Falhada Dekow, MP | - Member |
| 9) The Hon. Eve Akinyi Obara, MP | - Member |
| 10) The Hon. (Dr.) Pamela Ochieng’, MP | - Member |

EXECUTIVE SUMMARY

Hon Speaker,

The Early Childhood Education Bill, 2018 (Senate Bill. No 26 of 2018) was passed by the Senate, with amendments, on 22nd May, 2019. It was thereafter referred to the National Assembly for consideration.

The National Assembly passed the Bill, with amendments, on 5th December, 2019. The Senate thereafter considered the National Assembly's amendments on 30th June, 2020 and negatived some of the said amendments.

Hon. Speaker,

Pursuant to the provisions of Articles 112 and 113 of the Constitution, Standing Order 149 of the National Assembly Standing Orders and the Standing Order 160(1) of the Senate Standing Orders, the Bill was committed to the Mediation Committee for consideration.

The Mediation Committee comprising of five members each from the Senate and the National Assembly respectively, was constituted on 1st October, 2020 and held its first meeting on 10th November, 2020, and elected Sen. Okong'o Omogeni, SC, MP as the Chairperson and Hon. Wambugu Ngunjiri, MP as Vice-Chairperson.

The Committee thereafter commenced consideration of the contentious provisions of the Bill in both virtual and physical meetings.

Hon. Speaker, following consideration of the contentious clauses, the Mediation Committee resolved to **retain clauses 33 and 37 as proposed by the Senate. The Mediation Committee further resolved to adopt the National Assembly amendments to clauses 27, 28, 36, 44 and 68.**

The Committee held its final meeting on to consider and adopt its report on Tuesday, 8th December, 2020.

Hon. Speaker,

As I conclude, I want to thank all the Members of the Mediation Committee for their immense contribution during consideration of this Bill that culminated to this report.

The Committee wishes to thank the Offices of the Speakers of the Senate and the National Assembly, the Clerks of the Senate and the National Assembly for the necessary support extended to it in the conduct and execution of its mandate.

The Committee further wishes to record its appreciation for the services rendered by the staff of the Senate and the National Assembly that enabled the production of this report.

Hon. Speaker,

It is my pleasant duty, on behalf of the Mediation Committee and pursuant to Standing Order 161 (1) of the Senate Standing Orders and Standing Order 150 (1) of the National Assembly Standing Orders, to present the Report of the Mediation Committee on its consideration of the Early Childhood Education Bill 2018 (Senate Bill No 26 of 2018).

I thank you, **Hon. Speaker.**

Signed

Date10th December, 2020...

**SEN. OKONG'O OMOGENI, SC, MP
CHAIRPERSON, EARLY CHILDHOOD EDUCATION BILL, 2018
MEDIATION COMMITTEE**

Signed

Date10th December, 2020.....

**HON. WAMBUGU NGUNJIRI, MP
VICE-CHAIRPERSON, EARLY CHILDHOOD EDUCATION BILL, 2018
MEDIATION COMMITTEE**

**ADOPTION OF THE MEDIATION COMMITTEE REPORT ON THE EARLY
CHILDHOOD EDUCATION BILL, 2018, (SENATE BILL NO 26 OF 2018)**

**We, the undersigned Members of the Mediation Committee, do hereby append
our signature to adopt the Report on the Early Childhood Education Bill (Senate
Bill No. 26 of 2018) Mediation Committee.**

Sen. Okong'o Omogeni, SC, MP - **Chairperson**



Hon. Deric Wambugu Ngunjiri, MP - **Vice Chairperson**



Hon. (Dr.) Daniel K. Tuitoek, MP - Member



Hon. Sen. Mwangi Githiomi, MP - Member

Hon. Sen. Falhada Dekow, MP - Member



Hon. John Paul Mwirigi, MP - Member

Hon. Sen. (Dr.) Agnes Zani, MP - Member



Hon. Sen. Seneta Mary Yiane, MP - Member

Hon. Eve Akinyi Obara, MP - Member



Hon. (Dr.) Pamela Ochieng' MP - Member

CHAPTER ONE

1. INTRODUCTION

1.1. The Early Childhood Education Bill, 2018

The County Early Childhood Education Bill, 2018 (Senate Bill. No 26 of 2018) (*Short title of Bill amended to: The Early Childhood Education Bill*) seeks to provide a framework for the implementation of early childhood education by the county government in line with its functions as set out under the Fourth Schedule of the Constitution.

The Bill provides for among others, the –

- 1) procedure for the registration of early childhood education centres;
- 2) management of early childhood education centres;
- 3) establishment and operations of boards of management of early childhood education centres;
- 4) administration of the early childhood education system in the county with reference to matters such as the admission of children, the standards of education in a private education centre, the curriculum, education centre programmes and school feeding programmes to be implemented in an education centre;
- 5) accreditation of education centres administering or intending to administer foreign curriculum;
- 6) quality of education and standards required to be maintained in an early childhood education centre;
- 7) establishment of the county early childhood quality assurance committee to ensure the implementation of the policies and standards of education;
- 8) transitional provisions in relation to existing education centres or schools that offer early childhood education services;
- 9) formulation of regulations by the Cabinet Secretary for the effective implementation of the Act; and
- 10) amendments to the Basic Education Act, 2013 to align it with the Constitution with regard to the provisions of early childhood education services by the county governments in line with the Fourth Schedule to the Constitution.

The Early Childhood Education Bill, 2018 (Senate Bill No. 26 of 2018) was published on 4th September, 2018 and read a First Time in the Senate on 25th September, 2018. The Bill was read for the Second Time on 28th and 29th November, 2018 and 26th February, 2019 when it was passed.

The Bill was considered and passed by the Senate with amendments on 22nd May, 2019 and was thereafter referred to the National Assembly for concurrence.

The Bill was read a First Time in the National Assembly on 11th June 2019. The Second Reading of the Bill in the National Assembly was done on 26th September, 1st October and 2nd October, 2019.

The Bill was considered at the Committee of the whole House in the National Assembly on 20th November 2019 and passed on 21st November, 2019. The Bill was thereafter forwarded to the Senate for consideration on 3rd December, 2019.

The Senate considered the National Assembly's amendments on 30th June, 2020 and concurred with most of the amendments and negatived some of the said amendments.

Consequently, pursuant to Article 113 of the Constitution, Standing Order 149 of the National Assembly Standing Orders and Standing Order 160 (1) of the Senate Standing Orders, the Bill was referred to a Mediation Committee with the sole objective of negotiating on an agreed version of the Bill that would be presented to both Houses for approval.

CHAPTER TWO

2. CONSIDERATION OF THE EARLY CHILDHOOD EDUCATION BILL, 2018

2.1. Amendments passed by the National Assembly to the Early Childhood Education Bill, (Senate Bill No. 26 of 2018)

The National Assembly passed the following amendments to the Bill

CLAUSE 2

THAT, clause 2 of the Bill be amended by—

in the definition of the term "Education Appeals Tribunal" by deleting the expression "92 and substituting therefor the expression "93",

deleting the definition of the term "pupil"; and inserting the following new definition in their proper alphabetic sequence—

"children with special needs" means a child in need of special needs education;

"learner" has the meaning assigned to it in the Teachers Service Commission Act;

"special needs education" has the meaning assigned to it in the Basic Education Act;

"village administrator" means the office of a village administrator established in section 52 of the County Governments Act."

Justification

It is important to align the use of terms in the Bill to those general definitions applied within the education sector, as well as within the various legislations within the education sector. The amendments therefore seek to align the terms "learner" and "special needs education" to the Basic Education Act, No. 14 of 2013.

The amendment also serves the purpose of correcting a referencing error.

CLAUSE 8

THAT, clause 8 of the Bill be deleted and substituted therefor the following new clause—

Duty of head teacher 8.

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

Where the head teacher finds that there are no reasonable grounds for the learner's failure to attend school, the head teacher shall—

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

A parent who without reasonable cause and after a written notice from the head teacher, fails to comply with a notice under subsection (2) commits an offence and shall be liable, on conviction, to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding one year, or to both.

Justification

The amendment seeks to conform to the term "learner" as used in various legislations within the education sector.

The amendment also serves to ensure a similar penalty to a parent or guardian in respect to the offences of failure to take a child to school, as well as the failure to comply with a notice from the head teacher to ensure the attendance of a child to school. This is because both offences are similar and should therefore attract the same penalty.

CLAUSE 9

THAT, clause 9 of the Bill be deleted and substituted therefor the following new clause—

Children with special needs

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

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

- i. ensure that screening tools for early identification of children with special needs and disabilities are developed and distributed for use;
- ii. ensure early identification, assessment and interventions of children with special needs and disabilities;
- iii. ensure training of personnel working with children with special needs and disabilities on use of screening tools for early interventions;
- iv. facilitate development of programmes for training and professional development for all pre-primary

- education providers and personnel in special needs education;
- v. ensure that children with special needs and disabilities have equal access to recreational sporting facilities within and outside pre-primary school programmes to nurture talents;
 - vi. ensure that teachers and other staff in integrated pre-primary schools plan and implement an integrated individualized education programme for the purpose of monitoring the progress of an individual child with special needs and disabilities;
 - vii. liaise with other professionals and stakeholders to provide psychosocial support to learners with special needs and disabilities;
 - viii. facilitate provision of teacher aids to pre-primary schools to support teachers handling children with special needs and disabilities; and
 - ix. ensure that children with disabilities are provided with any other necessary support.

Justification

The amendment seeks to ensure that the Bill is aligned with the provisions of the Basic Education Act, No. 14 of 2013 that make reference to children with special needs.

Further, the amendment seeks to provide for the specific measures that shall be taken by the county executive committee member to ensure that children with special needs have access to early childhood education.

CLAUSE 15

THAT, clause 15 of the Bill be amended—

in sub-clause (1) by deleting the words "'or is likely to meet"; and
in sub-clause (3) by deleting paragraph (b).

Justification

The amendment seeks to eliminate any ambiguity that may arise in the interpretation of what amounts to the term "is likely to meet".

CLAUSE 16

That, clause 16 of the Bill be deleted and substituted therefor the following new clause—

Review of Registration

16. (1) As soon as practicable after provisionally registering an education centre under section 15, the County Education Board

shall inform the County Executive Committee member of the provisional registration.

(2) The County Executive Committee member shall cause the county early childhood quality assurance committee to review any education centre that is provisionally registered under section 15 either—between six and twelve months after the provisional registration of the education centre or proposed education centre; or a period earlier than that specified in paragraph (a) if in the opinion of the county executive committee member, a shorter time is necessary.

The county executive committee member shall cause a further review of an education centre to be conducted upon the request of the County Education Board.

The county executive committee member shall submit the findings of a review under this section to the County Education Board and to the head teacher of the education centre for implementation.

The findings submitted under subsection (4) shall include—

- i. Information on whether the education centre meets the criteria for registration as an education centre; and
- ii. Information on the areas where improvement is required, if it does not meet the criteria.

Justification

The amendment seeks to ensure that the review of provisional registration is done by the county early childhood quality assurance committee, instead of having the review conducted by the County Executive Committee acting alone. This is necessary for purposes of accountability.

CLAUSE 20

That, clause 20 of the Bill be amended—

by deleting sub-clause (1) and substituting therefor the following new sub-clause—

"(1) The board of management shall not change the location of the centre nor acquire additional premises for the purpose of running the education centre unless it has applied to, and obtained the approval of the County Education Board."

in sub-clause (3) by deleting the words "head teacher" and substituting therefor the words "board of management"

Justification

This amendment seeks to ensure that the board of management of an education centre shall be vested with the mandate of notifying the County Education Board of any change or acquisition of premises, in line with the functions of the board of management as provided in clause 31 of the Bill.

CLAUSE 23

That, clause 23 of the Bill be amended—

in sub-clause (1) by deleting paragraph (c) and substituting therefor the following new paragraph—

"(c) the head teacher of the education centre has breached or is breaching his or her statutory duties in relation to the education centre under this or any other written law;"

in sub-clause (2) by deleting the word "pupil" appearing in paragraph (b) and substituting therefor the word "learner".

Justification

The amendment is necessary for purposes of correction of a grammatical error. The amendment also seeks to conform to the term "learner" as used in various legislations within the education sector.

CLAUSE 24

That, clause 24 of the Bill be amended—

in sub-clause (1) by deleting the word "pupils" appearing in the opening sentence and substituting therefor the word "learners"; and

in sub-clause (3) by deleting the word "pupils" appearing in paragraph (a) and substituting therefor the word "learners".

Justification

The amendment seeks to conform to the term "learner" as used in various legislations within the education sector.

CLAUSE 25

That, clause 25 of the Bill be amended—

in sub-clause (1) by deleting the word "are" appearing in paragraph (b) and substituting therefor the word "is";

in sub-clause (2) by deleting the words "head teacher" appearing in paragraph (b) and substituting therefor the words "board of management"; and by deleting the words "head teacher" appearing

in paragraph (c) and substituting therefor the words "board of management",

Justification

The amendment is necessary for purposes of correction of a grammatical error. The amendment also seeks to ensure that the board of management of an education centre, and not the head teacher, shall be responsible to the County Education Board for ensuring that the registration of the education centre is maintained. This is in line with the function of the County Education Board, as provided in the Basic Education Act, No. 14 of 2013, to collaborate with the board of management in the management of basic schools.

CLAUSE 27

That, clause 27 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

"(2) A public education centre shall not be converted to a private education centre or to any other private status without consultation with the County Education Board and approved by the county executive committee member."

Justification

The amendment seeks to allow the conversion of early childhood education centres from public status to private status, but only after the consultation with the County Education Board and the Approval of the county executive committee member. This seeks to align the Bill with the provisions of section 43(2) of the Basic Education Act, No. 14 of 2013, which provides that a public basic education institution shall not be converted to a private basic education institution or to any other private status without consultation with the National Education Board and approval by the Cabinet Secretary.

CLAUSE 28

That, clause 28 of the Bill be amended by deleting sub-clause (4) and substituting therefor the following new sub-clause—

"(4) Notwithstanding the generality of subsection (2), the role of the sponsor under subsection (1) shall be—
to participate and make proposals for the review of syllabus, curriculum, books and other teaching aids; and
to offer financial, infrastructural and spiritual support to the education center"

Justification

The amendment seeks to ensure that the role of the sponsor of an education centre shall not be to make recommendations for curriculum

review, but to make proposals for the review of curriculum, this is to ensure that the role of the sponsor does not conflict with the mandate of the Kenya Institute of Curriculum Development which is responsible for curriculum review.

CLAUSE 29

That, clause 29 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2)—

"(3) In the performance of its functions under paragraphs (b) and (c) of subsection (2), the board of management shall first seek the approval of the County Education Board."

Justification

The amendment seeks to ensure that the board of management will be required to seek the approval of the County Education Board before acquiring or charging assets of the education centre, as well as borrowing money on behalf of the education centre. This will ensure that the County Education Board performs an oversight role by ensuring that the board of management makes sound financial decisions.

CLAUSE 30

That, clause 30 of the Bill be amended in sub-clause (1) by deleting paragraph (a) and substituting therefor the following new paragraph—

"(a) one person elected by the parents from each level within the education centre to represent parents of learners in the education centre;"

Justification

The amendment seeks to conform to the term "learner" as used in various legislations within the education sector. The amendment is also necessary to ensure that where all the parents from the levels in an education centre fail to meet the minimum requirements for nomination to the board of management as provided in sub-clause (2), such parents shall be at liberty to elect any other person to represent them in the board of management.

CLAUSE 33

That, clause 33 of the Bill be deleted.

Justification

The deletion of this clause is necessary to ensure that there is no duplication of duties between the parents teachers association and the board of management. Further, at the early childhood education level,

the period is too short to warrant too many governance structures which will result in unnecessary cost implications.

CLAUSE 35

That, clause 35 of the Bill be amended by deleting the word "pupil" wherever it appears and substituting therefor the word "learner".

Justification

The amendment seeks to conform to the term "learner" as used in various legislations within the education sector,

CLAUSE 37

That, clause 37 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2)—

"(3) In the performance of the functions under this section, the County Education Board shall establish a County Early Childhood Education Committee, as a committee of the County Education Board, to oversee the implementation of early childhood education in each county."

Justification

The amendment seeks to establish the Early Childhood Education Committee as a committee within the County Education Board which shall be responsible for overseeing the implementation of early childhood education in each county.

The creation of the Early Childhood Education Committee as a committee within the County Education Board will guard against the establishment of too many governance structures whose mandates may overlap. This will also ensure a co-ordinated and seamless approach in the management of early childhood education in the counties.

CLAUSE 36

That, clause 36 of the Bill be amended in sub-clause (1) by— (a) deleting paragraph (a); and (b) deleting paragraph (c).

Justification

This amendment will ensure that it shall be the responsibility of the Teachers Service Commission to set the requirements for a person to qualify for employment as an early childhood education teacher. This is in line with the provisions of Article 237(3)(a) of the Constitution which provide that the Teachers Service Commission shall review the standards of education and training of persons entering the teaching service.

CLAUSE 41

That, clause 41 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (3)—

"(4) A child shall not be denied admission in an early childhood education centre for lack of proof of age. "

Justification

The amendment seeks to ensure that where a parent lacks the documents required to determine a child's age for purposes of admission into an early education centre, the child shall not be denied admission into the education centre. This is in keeping with the constitutional right of every child to compulsory education.

CLAUSE 43

That, clause 43 of the Bill be deleted and substituted therefor the following new clause—

Prohibition from holding back and the expulsion

43. A learner admitted in an education centre shall not be held back in any class or expelled from the centre without the approval of the County Education Board.

Justification

The amendment seeks to conform to the term "learner" as used in various legislations within the education sector. The amendment is also necessary to ensure that whenever there is a recommendation to have a child held back in a class or to expel a child, the school must seek the approval of the County Education Board before such action is taken.

CLAUSE 44

That, clause 44 of the Bill be deleted and substituted therefor the following new clause—

Standards of the education in a private education centre

44. A private education centre shall comply with and follow the curriculum approved by the Kenya Institute of Curriculum Development.

Justification

The amendment seeks to ensure the use of certainty in regards to the standard of education to be offered in a private education centre. The amendment aligns to the provision on standards of education of a private basic education institution as contained in the Basic Education Act, No. 14 of 2013, which provides that a private institution shall comply with and follow the curriculum as approved by the Kenya Institute of Curriculum Development.

CLAUSE 46

That, clause 46 of the Bill be amended—

In sub-clause (1) by deleting the word "pupil" and substituting therefor the word "learner"; and by deleting sub-clause (3) and substituting therefor the following new sub-clause—

"(3) A head teacher or a member of the board of management of a public education centre who imposes a charge or causes any parent or guardian to pay tuition fees commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding six months, or to both."

Justification

The amendment seeks to conform to the term "learner" as used in various legislations within the education sector. The amendment also seeks to ensure that the head teacher and the entire board of management shall bear the responsibility in the event of the unlawful imposition of tuition fees in respect of early childhood education.

CLAUSE 47

That, clause 47 of the Bill be amended in paragraph (c) by deleting the words "need for the".

Justification

The amendment seeks to ensure specificity in the responsibility of an education centre to provide a child-centred learning approach in the early education centres.

CLAUSE 48

That, clause 48 of the Bill be deleted.

Justification

The deletion of clause 48 is necessary as it is not a practical provision. It is highly unlikely that an early education centre may offer holiday tuition. Further, this provision may be restrictive in the event that an education centre organizes trips to children during the public holidays, or where the parents would want to take the children to play at the education centres during public holidays.

CLAUSE 56

That, clause 56 of the Bill be amended in sub-clause (1) by deleting paragraph (b) and substituting therefor the following new paragraph—
"(b) reject the application by giving written reasons."

Justification

The amendment seeks to align the provision in the Bill with the constitutional requirement provided in Article 47 which requires the giving of written reasons as an aspect of fair administrative action.

CLAUSE 63

That, clause 63 of the Bill be amended— (a) in sub-clause (1)— by deleting the word "fifteen" appearing in paragraph (a) and substituting therefor the word "ten"; and by deleting the words "Education Standards and Quality Assurance Council" appearing in paragraph (d) and substituting therefor the words "quality assurance body established under the Basic Education Act";

by inserting the following new paragraph immediately after paragraph (e)—

"(f) one person representing persons with disabilities nominated by the National Council for Persons with Disabilities."

(b) in sub-clause(5)—

(i) by inserting the words "make proposals for" immediately after the words "and where appropriate" appearing in paragraph (c); and (ii) by deleting paragraph (d).

Justification

The amendment seeks to lower the number of years of experience required for one to be appointed as a member of the county early childhood quality assurance committee. This is due to the preliminary nature of early childhood education which would not require very many years of experience.

The amendment also seeks to give effect to the provisions of Article 54(2) of the Constitution which provides that the State shall ensure the progressive implementation of the principle that at least five per cent of the members of the public in elective and appointive bodies are persons with disabilities.

Further, the amendment seeks to ensure that there is continuity and no conflict of terms used in the Bill as well as in the Basic Education Act, No. 14 of 2013. The Ministry has made proposals to the Committee to have the name of the body changed from the Education Standards and Quality Assurance Council, to the Directorate of Quality Assurance and Standards. This amendment will thus ensure that the Bill makes reference to the body irrespective of the change of its name.

The amendment also seeks to ensure that county quality assurance committee shall make proposals for the review of standards on quality assurance, while the actual review shall be done by the quality assurance body established in the Basic Education Act, No. 14 of 2013. The amendment also deletes paragraph (d) which is a repetition of the function of the county quality assurance committee as provided in paragraph (c).

CLAUSE 64

That, clause 64 of the Bill be amended—

in sub-clause (1) by deleting the word "pupils" appearing in paragraph (b) and substituting therefor the word "learner"; and in sub-clause (4) by deleting the word "pupils" and substituting therefor the word "learners".

Justification

The amendment seeks to conform to the term "learner" as used in various legislations within the education sector.

CLAUSE 66

That, clause 66 of the Bill be amended in sub-clause (2) by deleting paragraph (b) and substituting therefor the following new paragraph—

"(b) if the service provider makes an application within the required period, the centre continues to be registered under subsection (1) until that application is determined."

Justification

The amendment is necessary for purposes of correction of grammatical errors.

CLAUSE 68

That, clause 68 of the Bill be amended in sub-clause (3)— in paragraph (c) by inserting the word "one" immediately after the words "registration certificates of"; and by deleting paragraph (h).

Justification

The amendment is necessary to correct a grammatical omission.

The deletion of paragraph (h) is necessary to ensure that there is no conflict of mandate between the Cabinet Secretary and the teachers Service Commission, since the regulation of the teaching profession is a constitutional mandate of the Teachers Service Commission.

CLAUSE 69

That, clause 69 of the Bill be deleted and substituted therefor the following new clause— General penalty. 69. A person who contravenes any provision of this Act for which no penalty is specifically provided commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand shillings or imprisonment for a term not exceeding one year, or to both.

Justification

The amendment seeks to ensure that the general penalty is not heavier than the specific penalties prescribed in the Bill.

SECOND SCHEDULE

That, the Second Schedule to the Bill be amended in paragraph 1—
(a) by deleting the word "two" appearing in sub-paragraph (1) and substituting therefor the word "three"; and
(b) by deleting the word "vice-chairman" appearing in sub-paragraph (4) and substituting therefor the word "vice-chairperson".

Justification

The amendment seeks to ensure that the meetings of the board of management of early childhood education centres conform to the general practice as regards to the frequency of meetings of boards.

The amendment also seeks to ensure uniformity in the use of the term "vice-chairperson" as used in the Second Schedule to the Bill.

2.2. Senate Comments on the National Assembly Amendments

The Senate Standing Committee on Education considered the amendments passed by the National Assembly and concurred with most of the amendments and rejected other amendments. The Committee further recommended that the Senate reject these amendments pursuant to standing order 159 of the Senate Standing Orders.

Consequently, the Senate considered the National Assembly's amendments on 30th June, 2020 and negatived some of the said amendments.

Below is a summary of the Senate's consideration of the National Assembly amendments to the Bill-

Clause 2

Clause of the Bill amended-

- (a) Referencing to the proper section of the law;
- (b) deleting of the term "pupil" to align the Bill with Kenyan Statute law; and
- (c) insertion of new definitions

Resolution: Agreed to

Clause 8

Deletion and redrafting of the clause.

The clause deleted the use of the term "pupil" and replaced it with the term "learner". The amendment also reduced the sentence from two years to one year.

Resolution: Agreed to

Clause 9

Deletion and redrafting of the clause.

The clause had been redrafted to deal with special needs and children with disabilities.

The clause also expanded the role of the relevant county executive committee member with regard to children with special needs and disabilities.

Resolution: Agreed to

Clause 15

- (a) The amendment deleted the expression “or is likely to me” to ensure certainty and clarity on provisional registration
- (b) The amendment deleted this paragraph as a consequential amendment to the amendment in sub clause (1)
- (c)

Resolution: Agreed to

Clause 16

- (a) The amendment empowers the county early childhood quality assurance committee to review any education centre provisionally registered under section 15.
- (b) The County Executive Committee Member may shorten the period of review.

The amendment delineates the functions of the county early childhood quality assurance committee and the County Executive Committee member.

Resolution: Agreed to

Clause 20

The amendment introduces the expression “board of management” in place of “head teacher”.

This amendment aligns this section to the Bill on the management of early childhood education centre.

Resolution: Agreed to

Clause 23

- (a) The paragraph was redrafted.

There is no substantial change. The amendment is the same as the earlier paragraph.

- (b) The amendment deletes the term “pupil” and replaces it with “learner”.

This is to align the paragraph to the provisions of the Bill and statute law.

Resolution: Agreed to

Clause 24

The amendment replaces the word “pupil” with “learners”.

This is to align the clause to the provisions of the Bill and statute law

Resolution: Agreed to

Clause 25

- (a) The amendment corrects a typing error
- (b) The amendment replaces the words "head teacher" with the words "board of management". This is to align the clause with the rest of the Bill

Resolution: Agreed to

Clause 27

amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

"(2) A public education centre shall not be converted to a private education centre or to any other private status without consultation with the County Education Board and approval by the County Executive Committee member."

This amendment deviates from the Senate Bill. Under the Senate Bill, public education centre shall not be converted to a private education centre.

Resolution: Negatived

This might cause many public institutions to be converted into private institutions. Institutions built using public funds should not be converted into private institutions.

Clause 28

amended by deleting sub-clause (4) and substituting therefor the following new sub-clause—

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

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

The amendment—

- (a) empowers a sponsor to make proposals and not recommendations for the review of syllabus, curriculum, books and other teaching aids; and
- (b) introduces spiritual support as a role of a sponsor.

Resolution: Negatived

The role of a sponsor should not include spiritual support. Further, Kenya is liberal country that enjoys freedom of conscience, religion, belief and opinion under Article 32 of the Constitution.

Clause 29

The amendment introduces another sub clause to read—

In the performance of its functions under subsection (2)(b) and (c), the board of management shall first seek the approval of the County Education Board.”

The amendment introduces accountability and transparency when board of management engages in—

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

Resolution: Agreed to

Clause 30

The amendment redrafts paragraph (a) of sub clause (1)

This is an amendment to replace the word “pupils” with the word “learners” and seeks to conform to the term “learner” as used in the various legislations within the education sector.

Resolution: Agreed to

Clause 33

The amendment deletes the clause on Parents Teachers Association.

The deletion of this clause is necessary to ensure that there is no duplication of duties between the parents’ teachers association and the board of management. Further, at the early childhood education level, the period is too short to warrant too many governance structures which will result in unnecessary cost implications

Resolution: Negatived

The Parents Teachers Association is a critical association in the management of a learning institution. There is no harm of including it in the Bill though it is included in another Act of Parliament.

Clause 35

The amendment replaces the word “pupil” with “learner”.

Resolution: Agreed to

Clause 36

amended in sub-clause (1) by—

- (a) deleting paragraph (a); and
- (b) deleting paragraph (c).

The amendment removes the requirements for an early childhood education teacher to—

- (a) hold at least a diploma in early childhood development and education from an institution recognized in Kenya;
- (b) hold a certificate of good conduct.

The amendment places responsibility on the Teachers' Service Commission (TSC) on the requirements for a person to qualify for employment as an early childhood education teacher and is in line with the provisions of Article 237(3) of the Constitution.

Resolution: Negatived

There is need to provide a detailed qualifications framework on the requirements for early childhood education teachers.

Clause 37

amended by inserting the following new sub-clause immediately after sub-clause (2) –

“(3) In the performance of the functions under this section, the County Education Board shall establish a County Early Childhood Education Committee, as a committee of the County Education Board, to oversee the implementation of early childhood education in each county.”

The amendment seeks to establish the Early Childhood Education Committee as a committee within the County Education Board which shall be responsible for overseeing the implementation of early childhood education in each county.

Resolution: Negatived

The County Education Board may create committees to deal with the implementation of the early childhood education in each county.

Clause 41

The amendment provides that a child shall not be denied admission in an early childhood education centre for lack of proof of age.” This is in line with Article 53 of the Constitution.

Resolution: Agreed to

Clause 43

The amendment seeks to replace the word “pupil” with the word “learner”.

Resolution: Agreed to

Clause 44

deleted and substituted with the following new clause—

Standards of education in a private education centre. 44. A private education centre shall comply with and follow the curriculum approved by the Kenya Institute of Curriculum Development.

The amendment seeks to ensure the use of certainty in regards to the standard of education to be offered in a private education centre. The amendment aligns to the provision on standards of education of a private basic education institution as contained in the Basic Education Act, No. 14 of 2013, which provides that a private institution shall comply with and follow the curriculum as approved by the Kenya Institute of Curriculum Development.

Resolution: Negatived

Kenya Institute of Curriculum Development is not the only curricula developer. There is need to have other bodies develop curricula.

The Kenya Institute of Curricula Development can them approve the curricula from different curricula development bodies for use in early childhood education.

Clause 46

The amendment seeks to replace the word “pupil” with the word “learner”.

(b) The amendment deletes sub-clause (3) and substituting it with the following new sub-clause—

“(3) A head teacher or a member of the board of management of a public education centre who imposes a charge or causes any parent or guardian to pay tuition fees commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding six months, or to both.”

Resolution: Agreed to

Clause 56

This amends sub-clause (1) by deleting paragraph (b) and substituting the following new paragraph—

“(b) reject the application and give written reasons for the rejection.”

This amendment seeks to align the provisions in the Bill to the constitutional requirement of fair administrative action under Article 47 of the Constitution.

Resolution: Agreed to

Clause 63

- (a) The amendment seeks to lower the number of years of experience required for one to be appointed as a Member of the Early Childhood Quality Assurance Committee;
- (b) The amendment seeks to give effect to the provision of Article 54(2) of the Constitution which provides that the State shall ensure the progressive implementation of the principle that at least 5 per cent of the members of the public in elective and appointive bodies are persons with disabilities; and
- (c) Further, the amendment seeks to ensure that there is continuity and no conflict of terms used in the Bill as well as in the Basic Education Act No. 14 of 2013.

Resolution: Agreed to

Clause 64

The amendments seek to replace the word “pupil” with the word “learner”.

Resolution: Agreed to

Clause 66

This is an amendment for correction of grammatical errors.

Resolution: Agreed to

Clause 68

amended in sub-clause (3)—

- (a) in paragraph (c) by inserting the word “one” immediately after the expression “registration certificates of”; and
- (b) by deleting paragraph (h).

Resolution: The amendment to correct the grammatical error is agreed to. However, **deletion of paragraph (h)** is negatived.

There is need to clarify the role of Teachers Service Commission and Cabinet Secretary for Education on the regulation of early childhood education teachers.

Second Schedule

Amendments to the Second Schedule to the Bill in Paragraph 1 by–

- (a) deleting the word “two” appearing in sub-paragraph (1) and substituting therefor the word “three”; and
- (b) deleting the word “vice-chairman” appearing in sub-paragraph (4) and substituting therefor the word “vice-chairperson”.

This amendment seeks to ensure that the meetings of the Board of Management of Early Childhood Education Centres conform to the general practices as regards the frequency of meetings of boards. It also seeks to ensure uniformity in the use of the term “vice-chairperson” as used in the Second Schedule of the Bill.

Resolution: Agreed to

CHAPTER THREE

3. RESOLUTIONS OF THE MEDIATION COMMITTEE

The Mediation Committee considered the seven contentious clauses of the Early Childhood Education Bill, 2018 (Senate Bill No. 26 of 2018) and unanimously resolved as follows-

Clause 27

That, clause 27 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause -

“(2) A public education centre shall not be converted to a private education centre or to any other private status without consultation with the County Education Board and approval by the County Executive Committee member.”

Resolution: The Mediation Committee **resolved to adopt the National Assembly amendments.**

Rationale:

The amendment seeks to allow the conversion of early childhood education centres from public status to private status, but only after the consultation with the County Education Board and the Approval of the county executive committee member.

The amendment by the National Assembly would align the Bill with the provisions of section 43(2) of the Basic Education Act, No. 14 of 2013, which provides that a public basic education institution shall not be converted to a private basic education institution or to any other private status without consultation with the National Education Board and approval by the Cabinet Secretary.

Clause 28

That, clause 28 of the Bill be amended by deleting sub-clause (4) and substituting therefor the following new sub-clause—

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

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

Resolution: The Mediation Committee **resolved to retain clause (4) (a) as contained in the Bill and adopt the National Assembly amendments to clause (4) (b).**

The Mediation Committee therefore resolved that clause 28 of the Bill be amended in sub-clause (4) by deleting paragraph (b) and substituting therefore the following new paragraph—

“(b) offer financial, infrastructural and spiritual support to the education centre.”

Rationale: The Mediation Committee concurred that making recommendations is similar to making proposals for the review of the curriculum books and other teaching aids and therefore it does not conflict with the mandate of the Kenya Institute of Curriculum Development.

The Mediation Committee further noted that the definition of the sponsor as contained in the Bill relates to the meaning of the sponsor as contained in the Basic Education Act, No. 14 of 2013 hence the need to include financial, spiritual and infrastructural support as the role of the sponsor.

Clause 33

THAT, clause 33 of the Bill be deleted.

Resolution: The Mediation Committee **resolved to retain clause 33 as proposed by the Senate.**

Rationale: The role and functions of the Parents Teachers Associations and the Board of Management are distinct. There are some ECDE centers that are stand alone and not domiciled under a primary school. Further, the role of the PTA at an ECDE center is to specifically address the unique and dynamic needs of the ECDE learners.

The Committee further noted that section 55 (2) and (3) of the Basic Education Act, No. 14 of 2013 provides that every school have a parents association, and further that every private school shall establish a parents’ teachers association.

Clause 36

That, clause 36 of the Bill be amended in sub-clause (1) by—

- (a) deleting paragraph (a); and
- (b) deleting paragraph (c).

Resolution: The Mediation Committee **resolved to adopt the National Assembly amendments.**

Rationale: The Teachers Service Commission (TSC) is mandated under Article 237 (2) (a) to register trained teachers and Article 237 (3) (a) to review the standards of education and training of persons entering the teaching service **including the ECDE teachers.**

Further, the amendment avoids duplication of the provisions of the TSC Act on the mandate of the TSC in registration of teachers. Currently, the TSC requires an ECDE teacher to hold a diploma in Early Childhood Education before being registered.

Clause 37

That, clause 37 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2) -

“(3) In the performance of the functions under this section, the County Education Board shall establish a County Early Childhood Education Committee, as a committee of the County Education Board, to oversee the implementation of early childhood education in each county.”

Resolution: The Mediation Committee **resolved to retain clause 37 as proposed by the Senate.**

Rationale: There is already an established County Education Board, which may create committees to deal with the implementation of the early childhood education in each county **including other sub-committees.**

Further, sub-clause (2) as contained in the Bill provides for consultation between the county executive committee member and the County Education Board in the determination of early childhood education resource and infrastructure requirements within the county.

Clause 44

That, clause 44 of the Bill be deleted and substituted with the following new clause—

Standards of 44. A private education centre shall comply with and follow the curriculum approved by the Kenya Institute of Curriculum Development.

education in a private education centre.

Resolution: The Mediation Committee **resolved to adopt the National Assembly amendments.**

Rationale: The amendment seeks to ensure the use of certainty in regards to the standard of education to be offered in a private education centre. The amendment aligns to the provision on standards of education of a private basic education institution as contained in the Basic Education Act, No. 14 of 2013, which provides that a private institution shall comply with and follow the curriculum as approved by the Kenya Institute of Curriculum Development.

Clause 68

That, clause 68 of the Bill be amended in sub-clause (3)—
(c) in paragraph (c) by inserting the word “one” immediately after the expression “registration certificates of”; and
(d) by deleting paragraph (h).

Resolution: The Mediation Committee **resolved to adopt the National Assembly amendments.**

Rationale:

The amendment in paragraph (c) is necessary to correct a grammatical omission.

The deletion of paragraph (h) is necessary to ensure that the provisions of the Bill are in line with Article 237 (3) of the Constitution on the functions of the Teachers Service Commission.

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MINUTES OF THE 1st SITTING OF THE MEDIATION COMMITTEE ON THE CONSIDERATION OF THE EARLY CHILDHOOD DEVELOPMENT BILL, 2018 HELD ON TUESDAY, 10TH NOVEMBER, 2020 AT THE PARLIAMENTARY SERVICE COMMISSION (PSC) BOARDROOM, COUNTY HALL, PARLIAMENT BUILDINGS AT 10:00 AM

PRESENT

- | | |
|---|-----------------|
| 1. Hon. Sen. Okong'o Omogeni, SC, MP | - Member |
| 2. Hon (Dr.) Daniel Kamuren Tuitoek, MP | - Member |
| 3. Hon. John Paul Mwirigi, MP | - Member |
| 4. Hon. Sen. Mary Seneta, MP | - Member |
| 5. Hon. (Dr.) Pamela Ochieng, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|--|-----------------|
| 1. Hon. Wambugu Ngunjiri, MP | - Member |
| 2. Hon. Sen. Mwangi Githiomi, MP | - Member |
| 3. Hon. Sen. (Dr.) Agnes Zani, CBS, MP | - Member |
| 4. Hon. Falhada Dekow, MP | Member |
| 5. Hon. Eve Akinyi Obara, MP | - Member |

SECRETARIAT

- | | |
|-----------------------|-----------------------------------|
| 1. Daniel Mutunga | - Principal Clerk Assistant (N.A) |
| 2. Elizabeth Muhia | - Legal Counsel (Senate) |
| 3. Christine Odhiambo | - Legal Counsel (N.A) |
| 4. Philip Lekarkar | - Clerk Assistant II (N.A) |
| 5. Humphrey Ringera | - Research Officer/Clerk (Senate) |
| 6. Winnie Atieno | - Audio Officer |

MIN. NO./ECD/MED-COM/01/2020 PRELIMINARIES

The Clerk of the Committee, Mr. Daniel Mutunga, being the presiding officer at the inaugural Sitting, called the meeting to order at 10:25a.m. The meeting began with a word of prayer said by Hon. (Dr.) Daniel Kamuren Tuitoek, MP.

MIN. NO./ECD/MED-COM/02/2020 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Hon. (Dr.) Pamela Ochieng' MP and seconded by Sen. Mary Senate, MP as follows:

1. Preliminaries
2. Adoption of agenda
3. Election of the Chairperson
4. Election of the Vice-Chairperson
5. Remarks by the Chairperson
6. Remarks by the Vice-Chairperson

7. Any other business
8. Adjournment/Date of the next meeting

MIN. NO./ECD/MED-COM/03/2020

**ELECTION OF THE
CHAIRPERSON**

The Clerk welcomed Members to the Sitting and informed them that the main agenda of the meeting was to elect the Chairperson and the Vice-Chairperson of the Committee.

He then invited nominations for the positions of the Chairperson. Sen. Okong'o Omogeni, MP was proposed for the position of the Chairperson by Sen. Mary Seneta, MP, and seconded by Hon. (Dr.) Pamela Ochieng', MP.

There being no other proposal, Sen Okong'o Omogeni, MP was unanimously elected unopposed as the Chairperson of the Committee.

MIN.NO.ECD/MED-COM/04/2020

**ELECTION OF THE VICE
CHAIRPERSON**

Hon. Wambugu Ngunjiri, MP was proposed for the position of the Vice-chairperson by Hon. (Dr.) Daniel Tuitoek, MP and seconded by Hon. John Paul Mwirigi, MP.

There being no other proposal, Hon. Wambugu Ngunjiri, MP was unanimously elected unopposed as the Vice-Chairperson of the Committee.

MIN.NO.ECD/MED-COM/05/2020

**REMARKS BY THE
CHAIRPERSON**

The Chairperson thanked the Members for the confidence and honour bestowed upon him and undertook to ensure that the Committee would expeditiously address the issues under mediation through his participatory leadership.

MIN. NO.ECD/MED-COM/06/2020

**REMARKS BY THE VICE-
CHAIRPERSON**

The remarks by the Vice-chairperson would be made in the next sitting when the Vice chairperson would be available.

MIN.NO.ECD/MED-COM/07/2020


ANY OTHER BUSINESS

- i. The Committee resolved to combine both physical and virtual meetings during the consideration of the Bill; and,
- ii. The Secretariat was tasked to update the matrix on the contentious clauses and circulate it to the Members for advance reading before the next meeting.

MIN. NO.ECD/MED-COM/08/2020

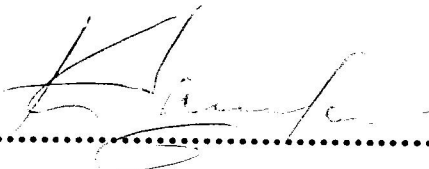
**ADJOURNMENT AND
DATE OF THE NEXT
MEETING**

The meeting was adjourned at 11:30 a.m. the next meeting would be held via the Zoom meeting platform on Tuesday, 10th November, 2020 at 10:00.

SIGNED 

CHAIRPERSON: SEN OKONG'O OMOGENI, SC, MP

DATE:

SIGNED 

VICE-CHAIRPERSON: HON. WAMBUGU NGUNJIRI, MP

DATE

MINUTES OF THE 2nd SITTING OF THE MEDIATION COMMITTEE ON THE EARLY CHILDHOOD DEVELOPMENT BILL, 2018 HELD ON THURSDAY, 12TH NOVEMBER, 2020 ON ZOOM ONLINE MEETING PLATFORM

PRESENT

- | | |
|---|-----------------------------|
| 1. Hon. Sen. Okong'o Omogeni, SC, MP | - Chairperson |
| 2. Hon. Wambugu Ngunjiri, MP | - Vice - Chairperson |
| 3. Hon (Dr.) Daniel Kamuren Tuitoek, MP | - Member |
| 4. Hon. Sen. (Dr.) Agnes Zani, MP | - Member |
| 5. Hon. John Paul Mwirigi, MP | - Member |
| 6. Hon. (Dr.) Pamela Ochieng', MP | - Member |
| 7. Hon. Eve Akinyi Obara, MP | - Member |
| 8. Hon. Falhada Dekow, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|----------------------------------|----------|
| 1. Hon. Sen. Mwangi Githiomi, MP | - Member |
| 2. Hon. Sen. Mary Seneta, MP | - Member |

SECRETARIAT

- | | |
|-----------------------|-----------------------------------|
| 1. Malcom Ngugi | - Legal Counsel (Senate) |
| 2. Christine Odhiambo | - Legal Counsel (N.A) |
| 3. Philip Lekarkar | - Clerk Assistant II (N.A) |
| 4. Humphrey Ringera | - Research Officer/Clerk (Senate) |
| 5. Winnie Atieno | - Audio Officer |

MIN. NO./ECD/MED-COM/09/2020 PRELIMINARIES

The Chairperson called the meeting to order at 10:15 a.m. The proceedings were opened with a word of prayer by Hon. (Dr.) Pamela Ochieng', MP.

MIN. NO./ECD/MED-COM/10/2020 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. (Dr.) Agnes Zani, MP and seconded by Hon. (Dr.) Daniel Kamuren Tuitoek, MP as follows:

1. Preliminaries
2. Adoption of agenda
3. Remarks by the Vice-Chairperson
4. Briefing on the Early Childhood Development Bill, 2018
5. Consideration of the Contentious Clauses of the ECD Bill, 2018
6. Any other business
7. Adjournment/Date of the next meeting

MIN. NO./ECD/MED-COM/11/2020

REMARKS BY THE VICE-CHAIRPERSON

The remarks by the Vice-chairperson would be conveyed in the next sitting of the Committee.

MIN.NO.ECD/MED-COM/12/2020

BRIEF ON EARLY CHILDHOOD DEVELOPMENT (ECD) BILL, 2018

1. The Committee Secretariat presented a brief synopsis of the Early Childhood Development Bill, 2018. The Committee observed that the ECD, Bill, 2018 was passed by the Senate, with amendments, on 22nd May, 2019 and thereafter referred to the National Assembly for consideration. The National Assembly passed the Bill, with amendments, on 5th December, 2019. The Senate thereafter considered the National Assembly's amendments on 30th June, 2020 and negated amendments on clauses 27, 28, 33, 36, 37, 44 and 68.
2. In view of the above and pursuant to Articles 112 and 113 of the Constitution, the Early Childhood Education Bill, 2018 was referred to a Mediation Committee with the sole objective of negotiating an agreed version of the Bill that would be presented to both Houses of Parliament for approval.

MIN.NO.ECD/MED-COM/13/2020

CONSIDERATION OF THE CONTENTIOUS CLAUSES OF THE ECD BILL, 2018

1. The Chairperson invited Members to consider the contentious clauses that had been negated by the Senate;
2. It was observed that deliberations on the contentious clauses could not be undertaken effectively in a virtual meeting;
3. The Committee resolved that consideration and resolution of the contentious clauses should be conducted in a physical meeting preferably at a Committee retreat.
4. The Committee resolved to hold the retreat in Machakos County on 26th to 28th November, 2020.
5. The Secretariat was tasked to commence the necessary arrangements for the retreat.

MIN.NO.ECD/MED-COM/14/2020

ANY OTHER BUSINESS

There was no other business.

MIN. NO.ECD/MED-COM/15/2020

**ADJOURNMENT AND
DATE OF THE NEXT
MEETING**

The meeting was adjourned at 12:00 noon. The next meeting will be held on notice.

SIGNED

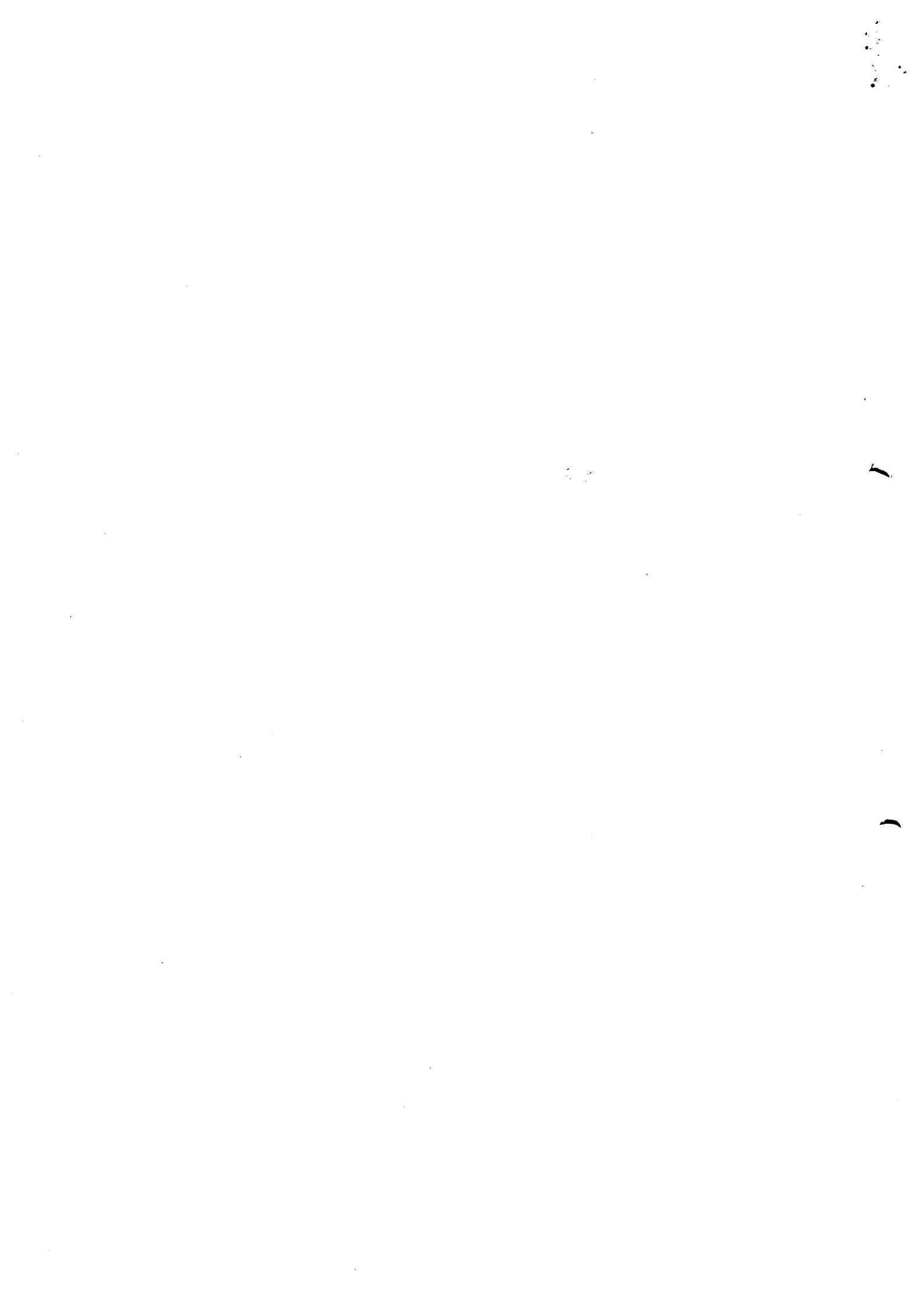
CHAIRPERSON: SEN OKONG'O OMOGENI, SC, MP

DATE.....

SIGNED

VICE-CHAIRPERSON: HON. NGUNJIRI WAMBUGU, MP

DATE:



**MINUTES OF THE 4TH SITTING OF THE MEDIATION COMMITTEE ON
THE CONSIDERATION OF THE EARLY CHILDHOOD DEVELOPMENT
BILL, 2018 HELD ON WEDNESDAY, 2ND DECEMBER, 2020 AT THE
COUNTY HALL (MINI-CHAMBER), PARLIAMENT BUILDINGS**

PRESENT

- | | |
|-----------------------------------|----------------------|
| 1. Hon. Sen. Okong'o Omogeni, MP | - Chairperson |
| 2. Hon. Sen. (Dr.) Agnes Zani, MP | - Member |
| 3. Hon. (Dr.) Pamela Ochieng', MP | - Member |
| 4. Hon. Eve Akinyi Obara, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|---|-----------------------------|
| 1. Hon. Wambugu Ngunjiri, MP | - Vice – Chairperson |
| 2. Hon (Dr.) Daniel Kamuren Tuitoek, MP | - Member |
| 3. Hon. John Paul Mwirigi, MP | - Member |
| 4. Hon. Sen. Mary Seneta, MP | - Member |
| 5. Hon. Falhada Dekow, MP | - Member |
| 6. Hon. Sen. Mwangi Githiomi, MP | - Member |

SECRETARIAT

- | | |
|-----------------------|------------------------------------|
| 1. Daniel Mutunga | - Principal Clerk Assistant (N.A.) |
| 2. Malcom Ngugi | - Legal Counsel (Senate) |
| 3. Christine Odhiambo | - Legal Counsel (N.A.) |
| 4. Philip Lekarkar | - Clerk Assistant II (N.A.) |
| 5. Humphrey Ringera | - Research Officer/Clerk (Senate) |

MIN. NO./ECD/MED-COM/22/2020 PRELIMINARIES

The meeting was called to order at 2:25 p.m. The proceedings were opened with a word of prayer by Sen. (Dr.) Agnes Zani, MP.

MIN. NO./ECD/MED-COM/23/2020 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Hon. (Dr.) Pamela Ochieng', MP and seconded by Hon. Eve Akinyi Obara, MP as follows:

1. Preliminaries
2. Adoption of agenda
3. Consideration of the Contentious Clauses of the ECD Bill, 2018
4. Any other business
5. Adjournment/Date of the next meeting

The Committee unanimously resolved the contentious clauses **27, 28, 33, 36, 37, 44 and 68** as follows in relation to the National Assembly amendments—

CLAUSE 27

THAT, clause 27 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) A public education centre shall not be converted to a private education centre or to any other private status without consultation with the County Education Board and approval by the County Executive Committee member.”

The Committee agreed to the proposed amendment.

Justification

The amendment seeks to allow the conversion of early childhood education centres from public status to private status, but only after the consultation with the County Education Board and the Approval of the county executive committee member.

This seeks to align the Bill with the provisions of section 43(2) of the Basic Education Act, No. 14 of 2013, which provides that a public basic education institution shall not be converted to a private basic education institution or to any other private status without consultation with the National Education Board and approval by the Cabinet Secretary.

CLAUSE 28

THAT, clause 28 of the Bill be amended by deleting sub-clause (4) and substituting therefor the following new sub-clause—

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

(a) participate and make proposals for the review of syllabus, curriculum, books and other teaching aids; and



REPUBLIC OF KENYA

PARLIAMENT

SENATE BILLS

(Bill No. 26 of 2018)

**THE EARLY CHILDHOOD EDUCATION BILL,
2018**

(A version of the Early Childhood Education Bill, 2018 (Senate Bills No. 26 of 2017) as agreed on 10th December, 2020, by a mediation committee appointed pursuant to Article 113 of the Constitution.)

THE EARLY CHILDHOOD EDUCATION BILL, 2018

ARRANGEMENT OF CLAUSES

Clause

PART I – PRELIMINARY

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

PART II – RIGHT TO EARLY CHILDHOOD EDUCATION

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

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

- 10 — Establishment of public education centres.
- 11 — Register of education centres.
- 12 — Requirement for registration of education centres.

- 13 — Application for registration.
- 14 — Registration of existing schools to offer early childhood education.
- 15 — Provisional registration.
- 16 — Review of registration.
- 17 — Criteria for registration as a private education centre.
- 18 — Registration.
- 19 — Suitable premises.
- 20 — Changes of premises.
- 21 — Mobile schools.
- 22 — Obligations of a private education centre
- 23 — Action by the County Education Board where centre fails to comply with Act.
- 24 — Suspension of registration where welfare of learners is at risk.
- 25 — Cancellation of registration.
- 26 — Appeal from decision of the County Education Board.
- 27 — Categories of education centres.
- 28 — Sponsors.

PART IV — MANAGEMENT OF EARLY CHILDHOOD EDUCATION CENTRES

- 29 — Management board of an early childhood education centre.
- 30 — Composition of board of management.
- 31 — Functions of the board of management.
- 32 — Committees of the board of management.

- 33 — Parents teachers association.
- 34 — Annual report on governance.
- 35 — Record keeping requirements.
- 36 — Teaching staff.

**PART V – ADMINISTRATION OF THE EARLY CHILDHOOD EDUCATION
SYSTEM**

- 37 — Management of early childhood education within a county.
- 38 — Recruitment of early childhood teachers.
- 39 — Free admission into public education centre.
- 40 — Period of admission.
- 41 — Age of admission.
- 42 — Prohibition of administration of exams for purposes of admission.
- 43 — Prohibition from holding back and expulsion.
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**FIRST SCHEDULE — CRITERIA FOR DETERMINING THE SUITABILITY OF
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**SECOND SCHEDULE — CONDUCT OF AFFAIRS OF BOARD OF
MANAGEMENT OF EARLY CHILDHOOD EDUCATION CENTRE**

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

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

“Education Appeals Tribunal” means the Appeals Tribunal established under section 93 of the Basic Education Act;

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

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

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

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

No. 4 of 2013. “Kenya Institute of Curriculum Development” means the Kenya Institute of Curriculum Development established under section 3 of the Kenya Institute of Curriculum Development Act;

No. 20 of 2012.

“learner” has the meaning assigned to it in the Teachers Service Commission Act;

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

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

“special needs education” has the meaning assigned to it in the Basic Education Act

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

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

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

No. 17 of 2012. “village administrator” means the office of a village administrator established in section 52 of the County Governments Act.

Objects.

3. The objects of this Act are to —

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

relevant stakeholders with an interest or expertise in early childhood care and education.

Guiding principles.

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

- (a) the right to free and compulsory basic education enshrined under Article 53 of the Constitution;
- (b) coordinated public participation in the implementation, monitoring and evaluation of policies and plans related to the implementation of early childhood development and education in the county;
- (c) a holistic approach towards meeting the education and other development needs of the child to ensure that their full potential is realised;
- (d) empowerment and capacity building as a means of facilitating the right to early childhood education;
- (e) recognition of the parents and family of the child as the primary care givers and the role of the community in providing an alternative support system to the parents and an environment that ensures the realization of the right to early childhood education and development;
- (f) equality, equity and non-discrimination in the provision of early childhood education and the recognition of children with disabilities;
- (g) transparency in the implementation of programmes and activities relating to early childhood education and the allocation and utilization of public and private resources;
- (h) ensuring that interventions are based on objective information and methods and that monitoring mechanisms and regular evaluations are established, thus ensuring transparency in the public management, social audit and taking into account the needs of the population;

- (i) accountability through developmentally appropriate methods of measuring, reporting and tracking the growth and development of a child and the improvement of the early childhood education systems and programs;
- (j) collaboration and co-operation with the National government and relevant stakeholders in the implementation of activities necessary for ensuring the actualization of the right to early childhood education; and
- (k) the identification and prioritization of communities most at risk while striving to make the system universally available to all those who wish to participate.

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

Right to early
childhood
education.

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

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

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

- (a) respect, protect, promote, monitor, supervise and evaluate the right to early childhood education and guarantee mechanisms for its enforcement;
- (b) refrain from actions that undermine access to early childhood education;
- (c) ensure the availability and accessibility of early childhood education by all children within the county irrespective of their economic, social or religious

background by making provision for sufficient access to resources, funding and support and maintaining an enabling environment in which children can attain early childhood education;

- (d) provide an opportunity for the public to develop their understanding on the need to support the implementation of early childhood education and for public participation in the formulation and implementation of any service or programme interventions towards early childhood education;
- (e) ensure the development of skills and capacity building necessary for achieving an equitable and effective early childhood education system in the county; and
- (f) provide and maintain a sustainable early childhood education system and protect the right to early childhood education from encroachment by any public authority or any person.

Obligations of county governments in promoting the right to early childhood education.

6. Each county government shall, in promoting the right to early childhood education, –

- (a) provide free and compulsory early childhood education in public education centres within the county;
- (b) establish such public education centres as may be necessary for the provision of free and compulsory early childhood education within the county;
- (c) formulate programmes and plans and implement policies for the realisation of the right to early childhood education;
- (d) implement, in consultation with the relevant stakeholders, curriculum programs that promote positive culture and the holistic development of the child;
- (e) provide the necessary infrastructure and funds necessary for the development of education centres and for the

administration of early childhood education within the county;

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

Duty of parents or guardians.

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

(2) A parent or guardian who fails to comply with subsection (1) commits an offence and is liable on conviction, to a fine not exceeding ten thousand shillings.

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

Duty of head teacher.

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

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

(a) issue a written notice to the parent of the learner requiring that parent to comply with the provisions of this Act; and

(b) submit a report on the learner to the County Education Board.

(3) A parent who without reasonable cause and after a written notice from the head teacher, fails to comply with a notice under subsection (2) commits an offence and shall be liable, on conviction, to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding one year, or to both.

Children with special needs.

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

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

(a) ensure that screening tools for early identification of children with special needs and disabilities are developed and distributed for use;

- (b) ensure early identification, assessment and interventions of children with special needs and disabilities;
- (c) ensure training of personnel working with children with special needs and disabilities on use of screening tools for early interventions;
- (d) facilitate development of programmes for training and professional development for all pre-primary education providers and personnel in special needs education;
- (e) ensure that children with special needs and disabilities have equal access to recreational sporting facilities within and outside pre-primary school programmes to nurture talents;
- (f) ensure that teachers and other staff in integrated pre-primary schools plan and implement an integrated individualized education programme for the purpose of monitoring the progress of an individual child with special needs and disabilities;
- (g) liaise with other professionals and stakeholders to provide psychosocial support to learners with special needs and disabilities;
- (h) facilitate provision of teacher aids to pre-primary schools to support teachers handling children with special needs and disabilities; and
- (i) ensure that children with disabilities are provided with any other necessary support.

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

Establishment of public education centres.

10. Subject to the Constitution and this Act, the county governments shall establish and maintain such early childhood education centres as they may consider necessary to meet the obligation set out under Article 53 of the Constitution.

Register of education centres.

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

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

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

Requirement for registration of education centres.

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

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

Application for registration.

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

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

- (a) a certificate of registration or in the case of a company, a copy of the memorandum and articles of association of the company;

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

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

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

Provisional registration.

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

centre or proposed education centre meets the criteria for registration as an education centre.

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

(3) The County Education Board may renew the provisional registration of an education centre only once, for such period as it may specify, if it is satisfied that exceptional circumstances exist in relation to the education centre.

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

Review of
registration.

16. (1) As soon as practicable after provisionally registering an education centre under section 15, the County Education Board shall inform the county executive committee member of the provisional registration.

(2) The county executive committee member shall cause the county early childhood quality assurance committee to review any education centre that is provisionally registered under section 15 either—

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

a period earlier than that specified in paragraph (a) if in the opinion of the county executive committee member, a shorter time is necessary.

(3) The county executive committee member shall cause a further review of an education centre to be conducted upon the request of the County Education Board.

(4) The county executive committee member shall submit the findings of a review under this section to the County Education Board and to the head teacher of the education centre for implementation.

(5) The findings submitted under subsection (4) shall include—

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

Criteria for registration as a private education centre.

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

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

- (f) has a head teacher who meets the qualifications and criteria prescribed under this Act.

Registration.

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

Suitable premises.

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

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

- (3) The compound in which an education centre is situated shall not be less than one acre in measurement.

Change of premises.

20. (1) The board of management shall not change the location of the centre nor acquire additional premises for the purpose of running the education centre unless it has applied to, and obtained the approval of the County Education Board.

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

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

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

Mobile schools.

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

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

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

Obligations of a private education centre.

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

- (a) establish the structures necessary for the management and administration of education within the centre;
- (b) recruit persons who are qualified and registered by the Teachers Service Commission to administer the early childhood education curriculum in the education centre;
- (c) administer a curriculum that adheres to the early childhood education policy and this Act;
- (d) maintain premises in a manner that ensures that it meets the requirements of the occupational health, safety regulations and building standards;
- (e) maintain necessary teaching and learning materials and equipment;
- (f) maintain a data bank on learners admitted in the education centre and submit to the county executive committee member; and
- (g) meet such other requirements as the county executive committee member, in consultation with the County Education Board, may consider necessary for the

delivery of quality early childhood education services within the county.

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

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

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

(2) Where the County Education Board is satisfied that any ground specified under subsection (1) exists in relation to an education centre registered under section 18, it may —

- (a) issue the head teacher of the education centre with a notice to comply in the prescribed form;
- (b) require the head teacher of the education centre to inform parents of the learner in the centre that the centre is not meeting the criteria for registration as a private education centre;
- (c) impose conditions on the continued registration of the education centre;

(d) take any action specified under paragraphs (a) to (c), and suspend the education centre's registration; or

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

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

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

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

Suspension of registration where welfare of learners is at risk.

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

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

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

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

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

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

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

- (a) is satisfied that the welfare of the learners in the education centre is no longer at risk; or
- (b) cancels the registration of the education centre in accordance with section 25, after issuing the head teacher of the education centre with a notice to comply in accordance with section 23.

Cancellation of registration.

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

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

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

- (a) take reasonable steps to obtain and consider any relevant information, including any report by a review committee appointed by the County Education Board for that purpose;

- (b) give written notice to the board of management of the education centre that it is considering cancelling the registration of the education centre, and give reasons; and
- (c) give the board of management of the education centre a reasonable opportunity to respond to the notice.

Appeal from
decision of the
County Education
Board.

No. 14 of 2013.

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

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

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

Categories of
education centres.

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

- (a) private education centres established, owned or operated by private persons; and
- (b) public education centres established, owned or operated by the county government.

(2) A public education centre shall not be converted to a private education centre or to any other private status without consultation with the County Education Board and approval by the county executive committee member.

Sponsors.

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

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

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

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

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

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

PART IV—MANAGEMENT OF EARLY CHILDHOOD EDUCATION CENTRES

Management board of an early childhood education centre.

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

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

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing money;
- (d) entering into contracts; and

(e) doing or performing all other things or acts for the proper performance of its functions under this Act which may be lawfully done or performed by a body corporate.

(3) In the performance of its functions under paragraphs (b) and (c) of subsection (2), the board of management shall first seek the approval of the County Education Board.

Composition of
board of
management.

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

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

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

(3) The head teacher to the education centre shall be the secretary to the board of management.

(4) The board of management shall report to the County Education Board on the performance of its functions under this Act.

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

(6) The board of management may co-opt such persons not exceeding two in number to sit in the committee of the board, whose knowledge and skills are found necessary for the performance of the functions of the board.

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

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

Functions of the
board of
management.

31. The functions of the board of management are to –

- (a) identify the needs of early childhood education and development services within their local communities and develop viable strategies for meeting these needs;
- (b) mobilize the parents and local communities to initiate and sustain education centres and support early education programmes;
- (c) manage the early education programme in the centre in ensuring the provision of quality early childhood education;
- (d) identify local resources necessary to equip the education centre and identify sources for, and undertake fundraising activities to raise funds for the education centre;

- (e) ensure the provision of quality early education services in the education centre in accordance with the standards prescribed under this Act and by the County Education Board;
- (f) ensure the provision of adequate equipment and facilities within the education centre that such equipment and facilities are well maintained;
- (g) carry out advocacy in relation to the needs and the rights of the child in relation to early childhood education; and
- (h) carry out such other functions as may be necessary for the implementation of this Act within the education centre.

Committees of
the board of
management.

32. The board of management of an early childhood education centre may establish such committees as the board of management may consider appropriate to perform the functions and discharge the responsibilities as the board of management may deem necessary.

Parents Teachers
Association.

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

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

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

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

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

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

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

(7) The functions of the Parents Teachers Association are to –

(a) promote quality care, nutritional and health status of the learners;

(b) maintain good working relationship between teachers and parents;

(c) discuss, explore and advise the parents on ways to raise funds for the physical development and maintenance;

(d) explore ways to motivate the teachers and learners to improve their performance in academic and co-curricular activities;

(e) discuss and approve charges to be levied on learners or parents;

(f) assist the school management in the monitoring, guidance, counselling and disciplining of learners; and

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

Annual report on governance.

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

Record keeping requirements.

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

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

Teaching staff.

36. (1) A person is qualified for employment as an early childhood education teacher if the person is registered as a teacher by the Teachers Service Commission.

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

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

**PART V—ADMINISTRATION OF THE EARLY
CHILDHOOD EDUCATION SYSTEM**

Management of early childhood education within a county.

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

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

Recruitment of early childhood teachers

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

(a) recruitment and professional development of early childhood education teachers in public education centres within the county; and

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

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

Free admission into public education centre.

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

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

Period of admission.

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

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

Age of admission.

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

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

(3) For purposes of subsection (1), the head teacher of an education centre may, in determining the age of a child, use the immunization card or birth certificate, passport or any other recognized identification document of the child.

(4) A child shall not be denied admission in an early childhood education centre for lack of proof of age.

Prohibition of administration of exams for purposes of admission.

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

Prohibition from holding back and expulsion.

43. A learner admitted in an education centre shall not be held back in any class or expelled from the centre without the approval of the County Education Board.

Standards of education in a private education centre.

44. A private education centre shall comply with and follow the curriculum approved by the Kenya Institute of Curriculum Development

Framework of curriculum.

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

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

(a) within a period of five years after the development of the curriculum under subsection (1); and

(b) subsequently every five years after each review.

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

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

No. 14 of 2013.

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

(a) the curriculum framework that has been prescribed or, as the case may be, reviewed; and

(b) the curriculum framework or the amendment to the curriculum framework in its entirety, or a notice as to the manner in which a copy of the curriculum framework or the amendment to the curriculum framework can be obtained by members of the public.

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

Free tuition.

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

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

(3) A head teacher or a member of the board of management of a public education centre who imposes a charge or causes any parent or guardian to pay tuition fees commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding six months, or to both.

Education centre programmes.

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

- (a) provide appropriate and adequate learning and play materials;
- (b) emphasize and carry out activities aimed at enhancing creativity amongst the children and use of learning materials; and
- (c) emphasize the child centred approach in individual learning for the development of each individual child.

Prohibition of holiday tuition.

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

Cap.110.

Teacher to child ratio.

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

Prohibition from offering boarding facilities.

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

PART VI — ACCREDITATION

Accreditation of education centres offering foreign curriculums.

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

Application for accreditation.

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

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

Consideration of application.

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

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

Evaluation of applicant for accreditation.

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

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

Interim accreditation.

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

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

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

Grant of accreditation.

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

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

(b) reject the application and give written reasons for the rejection.

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

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

Renewal of accreditation.

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

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

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

Adherence to conditions for accreditation.

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

(a) adhere to the standards and conditions for accreditation; and

- (b) ensure that the curriculum administered in the centre meets the standards as may be determined under this Act.

Suspension of a certificate of accreditation.

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

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

Revocation of accreditation.

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

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

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

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

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

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

Register of accredited education centres.

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

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

PART VII—QUALITY ASSURANCE

Quality
assurance.

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

- (a) two persons of either gender, not being public officers, appointed by the Governor by notice in the County Gazette and who have knowledge and at least ten years' experience in matters relating to early childhood education or education quality assurance;
- (b) the county executive committee member responsible for education or a representative nominated by the county executive committee member in writing;
- (c) one public officer in the department responsible for health, nominated by the respective county executive committee member responsible for matters relating to health;
- (d) one representative of the quality assurance body established under the Basic Education Act;
- (e) one person with knowledge and experience in matters relating to education nominated by the County Education Board; and
- (f) one person representing persons with disabilities nominated by the National Council for Persons with Disabilities.

(2) The appointments under subsections 1(a) and 1(e) shall be for a term of three years renewable for one further term.

(3) The Committee shall at its first meeting elect a chairperson.

(4) The county executive committee member responsible for education shall establish a secretariat to support the Committee.

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

- (a) ensure the implementation and adherence to standards and guidelines on quality assurance in education centres in the County in accordance with the national standards developed by the Education, Standards and Quality Assurance Council;
- (b) ensure that the standards and quality of education offered in education centres under this Act and under any other written law are adhered to and maintained; and
- (c) monitor and evaluate and where appropriate, make proposals for and review of the standards and guidelines on quality assurance in the county..

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

Safety equipment.

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

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

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

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

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

Prohibition of corporal punishment.

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

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

(3) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand or to imprisonment for a term not exceeding four years, or to both.

PART IX—TRANSITIONAL PROVISIONS

Existing education centres.

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

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

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

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

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

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

(5) The County Education Board may, despite the fact that the centre concerned does not meet the minimum requirements for registration under section 13 or 17, issue to the service provider operating the centre a transitional certificate in such manner as the county executive committee member may prescribe and subject to such conditions as he or she may impose.

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

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

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

Qualified persons.

67. A person employed as an early childhood teacher at the commencement of this Act and does not possess the minimum requirements as stated under section 36(1) shall continue to qualify for employment as an early childhood teacher if that person obtains the necessary qualifications within four years of the commencement of this Act.

PART X - MISCELLANEOUS PROVISIONS

Regulations.

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

(2) The Cabinet Secretary shall, in consultation with the Teachers Service Commission and the Council of County Governors, prescribe minimum standards relating to schemes of service for early childhood teachers within one year of enactment of this Act.

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

- (a) prescribe minimum standards relating to the following matters —
 - (i) premises and facilities;
 - (ii) programmes of education;
 - (iii) practices in relation to children's learning and development;
 - (iv) staffing and parental or caregiver participation;
 - (v) health and safety;

- (vi) implementation of the curriculum framework;
 - (vii) communication and consultation with parents;
 - (viii) the operation or administration of early childhood education services in a manner that ensures the health, comfort, care, education, and safety of children attending licensed early childhood services;
- (b) limit or regulate the numbers of children who may attend a registered education centre;
 - (c) provide for the grant, duration, expiry, renewal, suspension, transfer, reclassification, and cancellation of registration certificates of one or more specified kinds for service providers for each kind of early childhood service;
 - (d) prescribe the conditions subject to which such registration certificates may be granted, renewed or transferred and the fees payable in respect of the grant, renewal, and transfer of such certificates;
 - (e) prescribe conditions governing, or that may be imposed in respect of, registered education centres and the duties of their service providers;
 - (f) prescribe the records to be kept by education centres in respect of children attending registered centres; and
 - (g) prescribe fees required to be paid under this Act.

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

(a) for early childhood services of different types or descriptions; and

(b) in respect of different kinds of registrations.

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

(a) the authority of the Cabinet Secretary to make regulations shall be limited to bringing into effect the provisions of this Act and the fulfilment of the objectives specified under subsection (1); and

(b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act in relation to subsidiary legislation shall apply to regulations made under this Act.

Cap. 2.
No. 23 of 2013.

General penalty.

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

Amendments to
No. 14 of 2013.

70. The Basic Education Act is amended —

(a) in section 2 by —

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

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

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

- (iii) deleting the definition of “pre-primary education”;
- (iv) deleting the words “pre-primary education and substituting therefor the words “early childhood education” in the definition of “primary education”;
- (b) in section 4(g) by deleting the word “pre-primary” and substituting therefor the words “early childhood”;
- (c) in section 18(1) by deleting the word “pre-primary” and substituting therefor the words “early childhood”;
- (d) in section 26(1) by deleting the word “pre-primary” and substituting therefor the words “early childhood”;
- (e) by deleting the word “pre-primary” appearing in section 28(2) (a) and substituting therefor the words “early childhood”;
- (f) in section 41(1) by deleting the word “pre-primary” and substituting therefor the words “early childhood”;
- (g) by deleting the word “pre-primary,” appearing in section 44(2) and substituting therefor the words “early childhood”;
- (h) by deleting paragraph (a) of section 55(1);
- (i) by repealing section 58; and
- (j) by deleting the word “pre-primary” appearing in section 76(4).

FIRST SCHEDULE

(s. 6, 19)

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

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

SECOND SCHEDULE

(s. 30)

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

Meeting of the
Board.

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

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

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

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

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

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

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

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

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

Quorum.

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

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

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

Conflict of interest.

3. (1) A member of the board who has a direct or indirect personal interest in any matter being considered or to be considered by the board shall, upon the relevant facts concerning the matter having come to his knowledge, disclose the nature of his interest to the board.

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

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

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

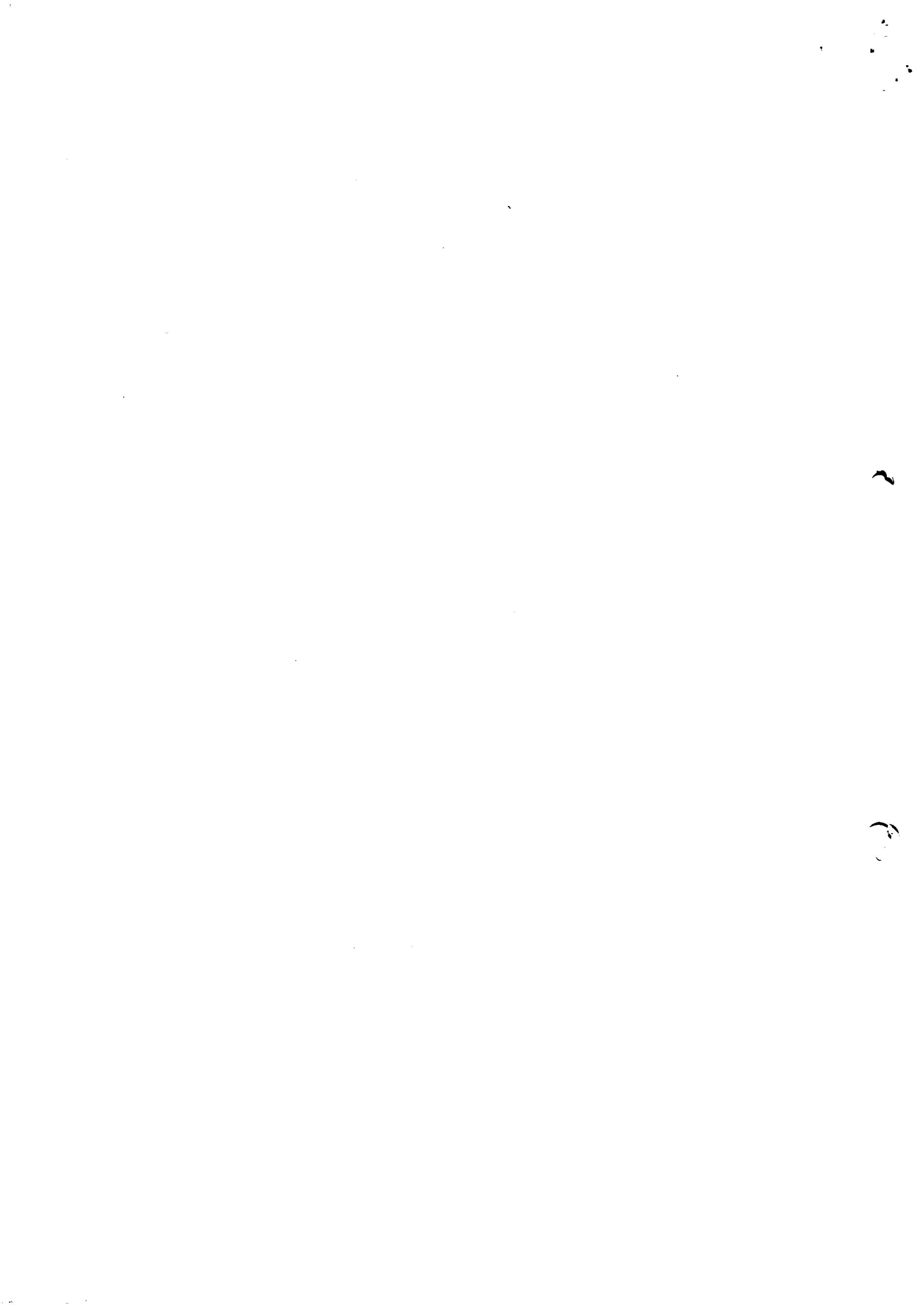
- (a) be present in the meeting of the board held to determine whether or not the member should take part in the deliberations or decision of the board in relation to the matter; or
- (b) influence any other member of the board in arriving at a particular decision in relation to the matter.

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

Rules of Procedure and minutes.

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

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



**MINUTES OF THE 5TH SITTING OF THE MEDIATION COMMITTEE ON
THE CONSIDERATION OF THE EARLY CHILDHOOD DEVELOPMENT
BILL, 2018 HELD ON TUESDAY, 8TH DECEMBER, 2020 VIA ZOOM
ONLINE MEETING PLATFORM**

PRESENT

- | | |
|---|----------------------|
| 1. Hon. Sen. Okong'o Omogeni, SC, MP | - Chairperson |
| 2. Hon. Sen. (Dr.) Agnes Zani, MP | - Member |
| 3. Hon. Sen. Falhada Dekow, MP | - Member |
| 4. Hon (Dr.) Daniel Kamuren Tuitoek, MP | - Member |
| 5. Hon. (Dr.) Pamela Ochieng', MP | - Member |
| 6. Hon. Eve Akinyi Obara, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|----------------------------------|-----------------------------|
| 1. Hon. Wambugu Ngunjiri, MP | - Vice - Chairperson |
| 2. Hon. John Paul Mwirigi, MP | - Member |
| 3. Hon. Sen. Mary Seneta, MP | - Member |
| 4. Hon. Sen. Mwangi Githiomi, MP | - Member |

SECRETARIAT

- | | |
|-----------------------|-----------------------------------|
| 1. Daniel Mutunga | - Principal Clerk Assistant (N.A) |
| 2. Malcom Ngugi | - Legal Counsel (Senate) |
| 3. Christine Odhiambo | - Legal Counsel (N.A) |
| 4. Philip Lekarkar | - Clerk Assistant II (N.A) |
| 5. Humphrey Ringera | - Research Officer/Clerk (Senate) |

MIN. NO./ECD/MED-COM/27/ 2020 PRELIMINARIES

The meeting was called to order at 12:20 p.m. and the proceedings were opened with a word of prayer by Hon (Dr.) Daniel Kamuren Tuitoek, MP.

MIN. NO./ECD/MED-COM/28/2020 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Hon. Sen. (Dr.) Agnes Zani and seconded by Hon (Dr.) Daniel Kamuren Tuitoek, MP as follows:

1. Preliminaries
2. Adoption of agenda
3. Consideration of the Clauses 28 of the ECD Bill, 2018
4. Adoption of the Committee Report
5. Any other business
6. Adjournment/Date of the next meeting

MIN. NO./ECD/MED-COM/29/2020

**CONSIDERATION OF THE
CONTENTIOUS CLAUSE
No. 28 OF THE ECD BILL,
2018**

1) CLAUSE 28

That, clause 28 of the Bill be amended by deleting sub-clause (4) and substituting therefor the following new sub-clause—

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

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

2) Committee Resolution

The Committee **resolved to retain clause (4) (a) as contained in the Bill and adopt the National Assembly amendments to clause (4) (b).**

The Mediation Committee therefore resolved that clause 28 of the Bill be amended in sub-clause (4) by deleting paragraph (b) and substituting therefore the following new paragraph—

“(b) offer financial, infrastructural and spiritual support to the education centre.”

Justification

The amendment seeks to ensure that the role of the sponsor of an education centre shall not be to make recommendations for curriculum review, but to make proposals for the review of curriculum, this is to ensure that the role of the sponsor does not conflict with the mandate of the Kenya Institute of Curriculum Development which is responsible for curriculum review and provided for the role of the sponsor as provided for in the definitions of sponsor in the Basic Education Act

MIN.NO.ECD/MED-COM/30/2020:

**ADOPTION OF THE
COMMITTEE REPORT**

The Committee unanimously adopted the Committee Report on the Early Childhood Development Bill, 2018 having been proposed by Hon. Dr. Pamela Ochieng', MP and seconded by Sen. Dr. Agnes Zani, MP.

(b) offer financial, infrastructural and spiritual support to the education centre.”

The Committee pended resolution of clause 28 to the next Committee meeting.

CLAUSE 33

THAT, clause 33 of the Bill be deleted.

The Committee rejected the proposed amendment.

Justification

The Committee noted that section 55(2) and (3) of the Basic Education Act, No. 14 of 2013 provides that every school shall have a parents association, and further that every private school shall establish a parents’ teachers association.

There is therefore need to retain clause 33 of the Bill as it will align the Bill with the provisions of the Basic Education Act, No. 14 of 2013.

CLAUSE 36

THAT, clause 36 of the Bill be amended in sub-clause (1) by—
(a) deleting paragraph (a); and
(b) deleting paragraph (c).

The Committee agreed to the proposed amendment.

Justification

The amendment will ensure that it shall be the responsibility of the Teachers Service Commission to set the requirements for a person to qualify for employment as an early childhood education teacher. This is in line with the provisions of Article 237(3)(a) of the Constitution which provide that the Teachers Service Commission shall review the standards of education and training of persons entering the teaching service.

CLAUSE 37

THAT, clause 37 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2) –

“(3) In the performance of the functions under this section, the County Education Board shall establish a County Early Childhood Education Committee, as a committee of the County Education Board, to oversee the implementation of early childhood education in each county.”

The Committee rejected the proposed amendment.

Justification

The proposed new sub-clause (3) is not necessary as it attempts to over-legislate on the powers granted to the county executive committee member in relation to the management of early childhood education. Further, sub-clause (2) as contained in the Bill provides for consultation between the county executive committee member and the County Education Board in the determination of early childhood education resource and infrastructure requirements within the county.

CLAUSE 44

THAT, clause 44 of the Bill be deleted and substituted with the following new clause—

Standards of education in a private education centre. **44.** A private education centre shall comply with and follow the curriculum approved by the Kenya Institute of Curriculum Development.

The Committee agreed to the proposed amendment.

Justification

The amendment seeks to ensure the use of certainty in regards to the standard of education to be offered in a private education centre. The amendment aligns to the provision on standards of education of a private basic education institution as contained in the Basic Education Act, No. 14 of 2013, which provides that a private institution shall comply with and follow the curriculum as approved by the Kenya Institute of Curriculum Development.

MIN.NO.ECD/MED-COM/31/2020: ANY OTHER BUSINESS

The Chairperson thanked all the Members of the Committee for their contribution during consideration of the contentious clauses of the Bill and preparation of the Report within the thirty days of referral as provided for in the Standing Orders.

MIN. NO.ECD/MED-COM/32/2020

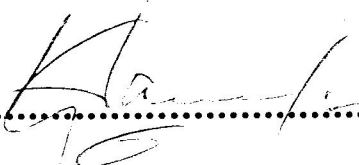
**ADJOURNMENT AND
DATE OF THE NEXT
MEETING**

The meeting was adjourned at 1:35 p.m. and having concluded its mandate, the Chairperson informed that there will be further sitting of the Committee.

SIGNED 

CHAIRPERSON: SEN OKONG'O OMOGENI, SC, MP

DATE:

SIGNED 

VICE-CHAIRPERSON: HON. NGUNJIRI WAMBUGU, MP

DATE:

**MINUTES OF THE 3rd SITTING OF THE MEDIATION COMMITTEE ON
THE EARLY CHILDHOOD DEVELOPMENT BILL, 2018 HELD ON
TUESDAY, 24TH NOVEMBER, 2020 ON ZOOM ONLINE MEETING
PLATFORM**

PRESENT

- | | |
|-----------------------------------|------------------------------|
| 1. Hon. Sen. (Dr.) Agnes Zani, MP | - Member |
| 2. Hon. John Paul Mwirigi, MP | - Member |
| 3. Hon. (Dr.) Pamela Ochieng', MP | - Member (Chairing) |
| 4. Hon. Eve Akinyi Obara, MP | - Member |
| 5. Hon. Sen. Mary Seneta, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|---|-----------------------------|
| 1. Hon. Sen. Okong'o Omogeni, SC, MP | - Chairperson |
| 2. Hon. Wambugu Ngunjiri, MP | - Vice - Chairperson |
| 3. Hon (Dr.) Daniel Kamuren Tuitoek, MP | - Member |
| 4. Hon. Falhada Dekow, MP | - Member |
| 5. Hon. Sen. Mwangi Githiomi, MP | - Member |

SECRETARIAT

- | | |
|-----------------------|------------------------------------|
| 1. Daniel Mutunga | - Principal Clerk Assistant (N.A.) |
| 2. Malcom Ngugi | - Legal Counsel (Senate) |
| 3. Christine Odhiambo | - Legal Counsel (N.A.) |
| 4. Philip Lekarkar | - Clerk (N.A.) |
| 5. Humphrey Ringera | - Research Officer/Clerk (Senate) |
| 6. Winnie Atieno | - Audio Officer |

MIN. NO./ECD/MED-COM/16/2020 PRELIMINARIES

The Committee appointed Hon. (Dr.) Pamela Ochieng, MP to chair the meeting. The meeting was called to order at 12:25 p.m. with a word of prayer by Sen. (Dr.) Agnes Zani, MP.

MIN. NO./ECD/MED-COM/17/2020 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. (Dr.) Agnes Zani, MP and seconded by Hon. John Paul Mwirigi, MP as follows:

1. Preliminaries
2. Adoption of agenda
3. Update on Committee Retreat
4. Consideration of the Contentious Clauses of the ECD Bill, 2018
5. Any other business
6. Adjournment/Date of the next meeting

MIN. NO./ECD/MED-COM/18/2020

**UPDATE ON COMMITTEE
RETREAT**

1. The Committee was informed that the proposed Committee Retreat scheduled to be held in Machakos County on 26th to 28th November, 2020 had not been approved by the Speaker of the Senate;
2. The Committee resolved that the contentious clauses could be considered at a physical meeting of the Committee in absence of an approval to hold a retreat.
3. The Committee resolved to hold a physical meeting on Wednesday, 2nd December, 2020, from 2:00 p.m. at the precincts of the Parliament.

MIN.NO.ECD/MED-COM/19/2020

**CONSIDERATION OF THE
CONTENTIOUS CLAUSES
OF THE ECD BILL, 2018**

This agenda was pended until the proposed Committee retreat on 26th to 28th November, 2020.

MIN.NO.ECD/MED-COM/20/2020

ANY OTHER BUSINESS

The Secretariat was tasked with notifying all the Members of the scheduled physical meeting and especially the Committee leadership for expeditious consideration of the contentious clauses.

MIN. NO.ECD/MED-COM/21/2020

**ADJOURNMENT AND
DATE OF THE NEXT
MEETING**

The meeting was adjourned at 12:35 p.m. the next meeting will be on notice.



SIGNED

CHAIRPERSON: SEN OKONG'O OMOGENI, SC, MP

DATE:

SIGNED 

VICE-CHAIRPERSON: HON. NGUNJIRI WAMBUGU, MP

DATE:

CLAUSE 68

THAT, clause 68 of the Bill be amended in sub-clause (3)—

(a) in paragraph (c) by inserting the word “one” immediately after the expression “registration certificates of”; and

(b) by deleting paragraph (h).

The Committee agreed to the proposed amendment.

Justification

The amendment is necessary to correct a grammatical omission.

Further, the deletion of paragraph (h) is necessary to ensure that there is no conflict of mandate between the Cabinet Secretary and the Teachers Service Commission, since the regulation of the teaching profession is a constitutional mandate of the Teachers Service Commission.

MIN.NO.ECD/MED-COM/25/2020

ANY OTHER BUSINESS

The Committee to convene on Tuesday 8th December, 2020 to resolve the contentious issues on **Clause 28** and **consider** and **adopt** the Committee Report.

MIN. NO.ECD/MED-COM/26/2020

ADJOURNMENT AND DATE OF THE NEXT MEETING

The meeting was adjourned at 5:00 p.m. the next meeting will be on notice

SIGNED

CHAIRPERSON: SEN OKONG'O OMOGENI, SC, MP

DATE:

SIGNED

VICE-CHAIRPERSON: HON. NGUNJIRI WAMBUGU, MP

DATE: