

**SPECIAL ISSUE**

*Nyamira County Gazette Supplement No. 5 (Acts No. 5)*



REPUBLIC OF KENYA

**NYAMIRA COUNTY GAZETTE  
SUPPLEMENT**

**ACTS, 2014**

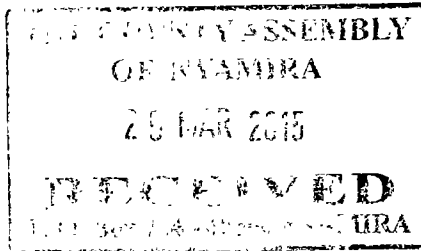
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**NAIROBI, 2nd January, 2015**  
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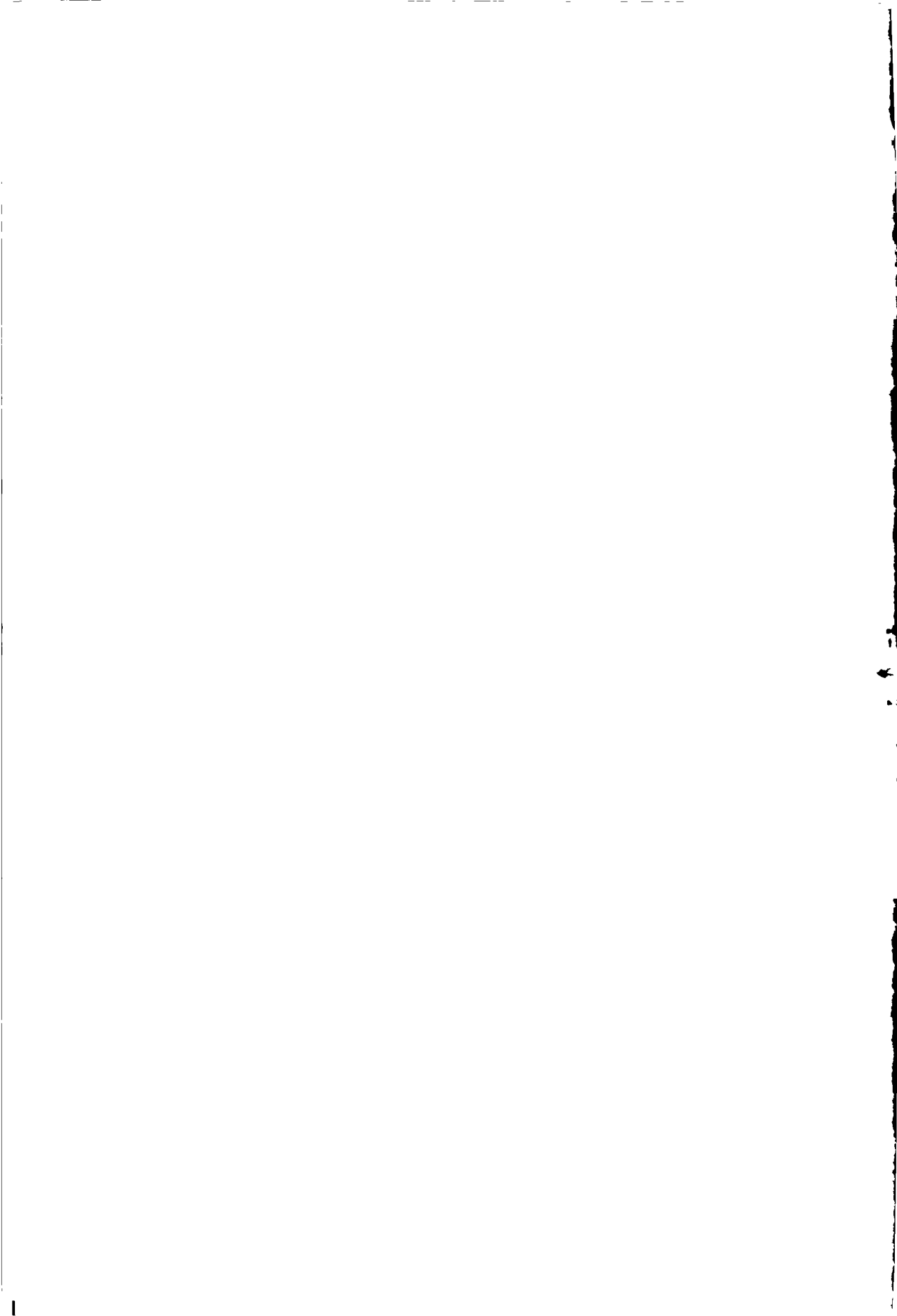
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**THE NYAMIRA COUNTY EARLY CHILDHOOD  
DEVELOPMENT EDUCATION ACT, 2014**

**(No. 5 of 2015)**

*Date of Assent: 24th December, 2014*

*Commencement Date: 2nd January, 2015*

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

**ENACTED** by the County Assembly of Nyamira, as follows—

**PART I—PRELIMINARY**

**1.** This Act may be cited as the Nyamira County Early Childhood Development Education Act, 2014 and shall come into operation thirty (30) days after publication in the county gazette or Kenya gazette whichever comes first.

Short title.

**2.** In this Act, unless the context otherwise requires—

Interpretation.

“child” means a person who is at least three years of age and not more than eight years of age;

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

“County Education Board” means the County Education Board established under Section 17 of the Basic Education Act No. 14 of 2013;

No. 14 of 2013.

“County Executive Committee Member” means the County Executive Committee Member responsible for matters relating to education;

“Department” means the department responsible for education in the county.

3. The object and purposes of this Act are to— Object and purposes.

- (a) establish a comprehensive early childhood development and education system through an aligned continuum of county and private programs, including early intervention, child care, early childhood special education and family support;
- (b) provide for the establishment of the infrastructure necessary to support the provision of quality education in the early childhood education system;
- (c) promote the delivery of quality early childhood education and provide a framework that enhances the quality and efficiency of early childhood education; 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;
  - (ii) a partnership between the National government, the County and private individuals or institutions and other relevant stakeholders with an interest or expertise in early childhood care and education.

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

- (a) the right to free and compulsory education enshrined under Article 43(1)(f) and 53(1)(b) of the Constitution;
- (b) coordinated public participation in the formulation, implementation, monitoring and control of policies and plans related to the

implementation of early childhood development and education;

- (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 special needs;
- (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) ensure that interventions are based on objective information and methods, and 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 a child's growth and development and the improvement of the system's programmes; and
- (j) identification and prioritization of vulnerable communities most at risk while striving to make the system universally available to all those who wish to participate.

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

5. (1) Every child has the right to free, quality and compulsory early childhood education.

Right to early  
childhood  
education.

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

(3) For the enjoyment of the right to early childhood education, the County Government shall—

- (a) respect, protect, promote, prove, inform, 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 by making provision of 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 systems and protect the early childhood education from encroachment by any public authority or any person.
- (4) The County Government shall identify children with

special needs and put in place mechanisms to ensure that such children have access to, and are provided with early childhood education.

(5) The executive committee member may make regulations setting out the criteria for the identification of children with special needs under subsection (4) for the effective implementation of this Act.

6. The department responsible for education in the County shall, in promoting the right to early childhood education,—

- (a) formulate policy for the implementation of the right to early childhood education;
- (b) be responsible for the training, registration, staffing and supervision of the early childhood education and development personnel in the county;
- (c) develop, in consultation with the School Management Board and the County Education Board, local curriculum programs promoting traditional and other practices and technologies of food production that ensure the conservation of biodiversity;
- (d) identify and undertake an assessment of children with special needs in the county and put in place special programmes targeting such children in the provision of early childhood education;
- (e) carry out public awareness and advocacy programmes in relation to early childhood development and education;
- (f) ensure the provision of, and support investment in infrastructural facilities and learning resources to facilitate the provision of early childhood education;
- (g) establish and maintain relationships with international, national and local institutions within the county involved in the provision of early childhood education; and
- (h) promote the circulation of and access to up-to-

Obligations of the County in promoting the right to early childhood education.

date and timely information on early childhood education and development.

7. (1) A person shall not act in a manner which—
- (a) is incompatible with or affects the enjoyment of the right to early childhood education under this Act; or
  - (b) would impede the implementation of activities carried out for the implementation of early childhood education under this Act.

Prohibition against the infringement of the right early childhood education.

(2) A person who contravenes the provisions of subsection (1) commits an offence and shall be liable on conviction, to imprisonment for a term not exceeding three years or to a fine not exceeding two hundred thousand shillings or to both.

8. A person shall not discriminate another person in the provision of early childhood education as well as to means and rights to its access, on the basis of race, ethnic origin, colour, sex, language, age, religion, public opinion or other social status, aimed at annulling or obstructing equality in the enjoyment or exercise of the right to early childhood education.

Prohibition of discrimination.

9. (1) Subject to Article 24 of the Constitution, the right to early childhood education may be limited for the purpose of safeguarding overriding legitimate interests of the public and is compatible with the nature of the right to early childhood education.

Limitation of the right to early childhood education.

(2) Limitation of the right to early childhood education shall be to the extent that it is done —

- (a) in the interest of national security, public safety, public order or public health;
- (b) in the interest of promoting the general welfare of the society.
- (c) in the interest of promoting the welfare of a child.

### **PART III—OFFICE OF EDUCATION CHIEF OFFICER**

10. There is established the office of the Education

Establishment of office of Education



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Chief Officer which shall be an office within the County Public Service. Chief Officer

**11. (1)** The functions of the Education Chief Officer shall be to— Functions of the Chief Officer

- (a) make recommendations to the county department responsible for education on the most efficient and effective way to leverage funding for early childhood care and education, including on grant applications made by the department to benefit the fund;
- (b) make recommendations to the county department responsible for education on how to coordinate and align an early childhood care and education system to include child care, home schooling, early childhood special education, early intervention and family support and to provide families within the County with consistent access to appropriate care and education services; and
- (c) be responsible for the implementation of policy on early childhood education within the county.

(2) In formulating recommendations under subsection (1), the Board shall—

- (a) consider how to consolidate and coordinate resources and public funding streams for early childhood care and education and ensure the accountability and coordinated development of all early childhood care and education services;
- (b) consider a system of seamless transition from parental to early childhood programmes;
- (c) take into account a parent's decisive role in the planning, operation and evaluation of programmes that aid families in the care and education of children;
- (d) examine ways to provide consumer education and accessibility to early childhood care and

education resources;

- (e) consider the advancement of quality early childhood care and education programmes in order to support the healthy development of children and preparation for their success in school;
- (f) consider the development of a seamless service delivery system with local points of entry for early childhood care and education programmes administered by local and state agencies;
- (g) ensure effective collaboration with county and local child welfare programs and early childhood health and behavioral health programs;
- (h) consider how to develop and manage effective data collection systems to support the necessary functions of a coordinated system of early childhood care and education and track children through the education system from prenatal to early childhood to kindergarten to higher education, in order to enable accurate evaluation of the impact of early childhood care and education;
- (i) focus on the diversity, cultural heritage and strengths of the families and communities of the state;
- (j) consider the development of an aligned system of professional development for professionals providing early childhood care and education; and
- (k) consider the establishment of an administrative framework to promote the development of high quality early childhood care and education services that are staffed by well-qualified professionals and are available in every community for all families that express a need for them.

**PART IV—ESTABLISHMENT AND  
REGISTRATION OF EARLY CHILDHOOD  
DEVELOPMENT AND EDUCATION CENTRES**

12. A person shall not offer an early childhood development and education services or establish or maintain an education centre unless it is registered in accordance with this Part.

Registration of  
early childhood  
education centres.

13. (1) A public education centre that undertakes or offers early childhood and development services shall submit an application for registration to the County Education Board in Form 1 in the Second Schedule.

Registration of  
education centres

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

- (a) a certificate of registration or incorporation and 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 Institution in the prescribed form;
- (c) duly completed and signed application forms for the manager of the institution in the prescribed form;
- (d) a full Institution 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 licensed agreement covering a period not less than five years;
- (g) certified copies of professional and academic certificates of all teachers and managers.
- (h) certified copies of registration certificates of the teachers with county department

responsible for education;

- (i) supporting Sub-County minutes signed by the relevant authorities showing existing facilities and future development or extension plans where applicable; and
- (j) registration fees as set by relevant county department payable to the County Executive Committee Member to the Treasury.

14. An education Centre shall not be registered unless it is situated in a piece of land which is 0.5 acres in the case of a Centre in the urban area or 1 acre in the case of a Centre in the rural area.

Conditions for registration.

15. (1) A private education Centre shall not offer or provide early childhood education services unless it is registered under this Act.

Registration of private education centres

(2) The manager of a private education Centre that which intends to offer or render early childhood education services shall make an application to the County Education Board for registration in form 2 in the Second Schedule.

(3) The Board shall, where the applicant meets the criteria for registration, provisionally register the school in respect of which an application is made under subsection (1) as a school of the description or descriptions concerned if it is satisfied that the school or proposed school meets the criteria for registration as a private school.

(4) Provisional registration of a school or proposed school shall be for a period of twelve months, unless earlier revoked or such other period as the Board may specify.

(5) The Board may renew the provisional registration of a school only once, for such period as the Board may specify, if it is satisfied that—

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

(6) The Board may undertake a further review of the education Centre, in addition to the review required under section 19(2), of an education Centre that has its provisional registration renewed under subsection (4).

(7) The Board shall fully register an education Centre as a private education Centre if it is satisfied, having considered any report under section 13(2) (d) in relation to a review under section 19(2) as the case may be, a provisionally registered education Centre meets the criteria for registration as a private education Centre.

**16.** The Board shall not register an education Centre as a private education Centre under section 18, unless such Centre—

Criteria for registration as a private education Centre

- (a) has premises that are suitable, as described in section 20;
- (b) usually cares and provides early childhood education to at least nine learners who are at least three years and not more than eight years of age;
- (c) has staffing that is suitable to the age range and level of its learners, the curriculum taught at the education Centre , and the size of the school;
- (d) has equipment that is suitable for the curriculum being delivered or to be delivered at the education Centre;
- (e) has a curriculum for teaching, learning, and assessment and makes details of the curriculum and its program for delivery available for parents;
- (f) meets the education standards prescribed under section 41 of this Act; and
- (g) has managers who meets relevant qualifications to be managers of a private education Centre.

**17. (1)** In determining whether the premises of an education Centre are suitable in relation to a private school, the Board shall take into account the number of

Suitable premises

leaners at the education Centre and the curriculum that is to be delivered to leaners at the Centre.

(2) Subsection (1) shall apply to all premises used by the education Centre for the regular delivery of courses, whether or not the managers of the Centre own or lease the premises for the school.

**18.** (1) The managers of a school registered under section 18 shall notify the Board of any change in the location of the education Centre including—

Change of premises.

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

(2) The managers of an education Centre under subsection (1) shall not change the location of the Centre nor acquire additional premises unless it has notified the Board and obtained its approval.

(3) In determining whether to grant approval of premises under subsection (1), the Board shall take into account the criteria specified under Section 17.

**19.** (1) As soon as practicable after provisionally registering an education centre under section 15(3), the Board shall inform the department responsible for education within the County of the provisional registration.

Review of registration.

(2) The department shall review any education centre that is provisionally registered under section 15(3) either—

- (a) between six and twelve months after the provisional registration of the school or proposed school; or
- (b) earlier, by agreement with its managers.

(3) The department shall conduct a further review of the education Centre that has had its provisional registration renewed under section 15(5), when the further review is requested by the Board under section 15(6).

(4) The department shall, upon conducting a review under subsection (2) or (3) prepare a written report in

relation to the review and submit a copy to the Board and to the manager of the education Centre.

(5) The department shall ensure that a school, while registered under section 15(7), is reviewed in accordance with Part IV of this Act.

(6) A written report submitted under subsection (4) on a review under this section shall include—

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

20. (1) The Board may take any action specified under subsection (2) with regard to a private education Centre where—

Revocation of registration.

- (a) it considers that the education centre has not met any or all of the criteria for registration as a private education centre;
- (b) a review conducted under section 19 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 ; or
- (c) the managers of the education centre have breached or are breaching their statutory duties in relation to the education centre under this or any other enactment; or
- (d) it has reasonable grounds to believe that serious criminal activity is occurring in the education centre .

(2) Where the Board is satisfied that any ground specified under subsection (1) exist in relation to an education centre registered under section 15, it may take one or more of the following actions—

- (a) issue the education centre 's managers with a notice to comply;
- (b) require the managers of the education centre to inform parents of the students at the centre that

the centre is not meeting the criteria for registration as a private education centre;

- (c) impose conditions on the education centre's registration; or
  - (d) take any action specified under paragraphs (a) to (c), and suspend the education centre's registration;
  - (e) cancel the education centre's registration under Section 22
- (3) Any action taken by the 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 section 7 or under any other written law.

**21.** (1) The Board may at any time suspend the registration of an education Centre registered under section 15 if it has reasonable grounds to believe that the welfare of the learners at the education Centre is at risk, and—

Suspension of registration where welfare of students is at risk.

- (a) that it is unlikely that the risk can be managed by any practicable means other than by suspension of the registration; or
  - (b) that, although the risk could be managed by means other than by suspension of the registration, the amount of time necessary to do so is likely, in the opinion of the Board, to be excessive.
- (2) An education Centre shall remain suspended under subsection (1) until the Board—
- (a) is satisfied that the managers of the Centre have complied with all requirements imposed by it under section 20; or
  - (b) cancels the school's registration under section 22
- (3) A suspension under subsection 1 shall continue in force until the Board—



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- (a) is satisfied that the welfare of the students at the school is no longer at risk; or
- (b) cancels the school's registration under section 22, after taking action under section 22 (2)

**22. (1)** The Board may cancel the registration of an education centre if, following an action by it taken under any of paragraphs (a) to (d) of section 20,

Cancellation of registration

- (a) the education centre;—
  - (i) does not improve sufficiently to meet the criteria for registration under section 15; and
  - (ii) is not likely to do so, in the opinion of the Board, within a further reasonable time;
- (b) the managers of the education centre are continuing in breach of their statutory duties in relation to the centre;
- (c) serious criminal activity continues to occur in the education Centre .

(2) Before cancelling an education Centre's registration under subsection (1) , the Board shall—

- (a) take reasonable steps to obtain and consider any relevant information, including any report by a review officer;
- (b) give written notice to the managers of the school that it is considering cancelling the school's registration, and give reasons; and
- (c) give the managers of the school 21days to respond to the notice.

**23. (1)** Tuition of a suitable standard at a school registered under section 15 must include giving learners tuition of a standard no lower than that of the tuition given to learners enrolled at county schools of the same class levels.

Standards of education in a private education centre

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

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(1) An education centre that offers boarding facilities shall not require to be registered under this Act. Boarding education centres.

(2) Notwithstanding subsection (1), an education centre that offers boarding facilities and is a children's home or offers early childhood education shall be registered under this Act.

**PART V—MANAGEMENT OF EDUCATION CENTRES**

**24.** There is established in every public education centre, a Board of Management Early Childhood Education Boards.

**25.** (1) The Board shall consist of— Composition of the Board.

- (a) three persons elected from amongst the parents from each level within the school to represent parents of pupils in the school;
- (b) the officer in charge of early childhood education in the county who shall be the secretary to the Committee;
- (c) one person with knowledge and experience in matters relating to early childhood development education within the county appointed by the Executive Committee Member;
- (d) one person with knowledge and experience in matters related to children with special needs nominated by the Executive Committee Member on the recommendations of the County Education Board;
- (e) two providers of early childhood development and education, at least one of whom shall represent a privately owned provider, nominated by the Executive Committee Member on the recommendations of the County Education Board; and
- (f) one representative of the county department responsible for children's health or mental health

(2) The persons nominated under subsection (2)(b), (c)

and (d) shall be appointed by the Executive Committee Member by notice in the gazette.

(3) The members of the Board shall appoint from amongst themselves, a person who shall be the chairperson of the Board.

(4) In the case of a public school sponsored by faith-based organisations, the chairperson of the Board shall be appointed by the County Education Board in consultation with the sponsor.

(5) The Board may co-opt such persons not exceeding one to sit in the Board, whose knowledge and skills are found necessary for the performance of the functions of the Committee.

**26. The functions of the Board shall be to—**

Functions of the Board.

- (a) identify the needs of early childhood education and development services within their local communities and development viable strategies for meeting;
- (b) mobilize the parents and local communities to initiate and sustain education centres and support early education programmes;
- (c) manage the early education programmes in centres to ensure the provision of quality early childhood education;
- (d) recruit casual support staff within the education centres;
- (e) identifying the local resources to equip the education centres and identify sources for, and undertake fundraising activities for the education centres;
- (f) ensure the provision of quality early education services in the centres;
- (g) ensure that the facilities within the education centres are well maintained;
- (h) carry out advocacy in relation to the needs and the rights of children in relation to early childhood education; and

- (i) such other functions as may be necessary for the implementation of this Act.

**27.** (1) The board of management of an institution of early childhood education may establish such committees as the Board may consider appropriate to perform such functions and discharge such responsibilities as the Board may deem necessary.

Committees of the Board

(2) Without prejudice to the provisions of subsection (1), the board of management shall establish the following committees—

- (a) finance, procurement and general purposes committee;
- (b) academic standards, quality and environment committee;
- (c) discipline, ethics and integrity committee;
- (d) audit committee; and
- (e) student welfare committee.

**28.** The early childhood institution shall keep, and make available to the Committee or County Education Board on request,—

Record keeping requirements

- (a) a register of the children who attend or have attended the service, specifying the date of birth of each; and
- (b) a record of the attendance of children at the service; and
- (c) a record of all fees and other charges paid in respect of children's attendance at the service; and
- (d) evidence that parents of children attending the service have regularly examined the attendance record; and
- (e) any other records that are necessary to enable the service's performance to be monitored adequately.

**29.** (1) The County Executive Committee Member in consultation with the County Education Board may,

Framework of curriculum

prescribe a curriculum framework for all licensed early childhood services:

(2) The County Executive Committee Member shall not prescribe a curriculum framework or amend any prescribed curriculum framework, unless he or she has consulted with those organizations that are mandated to be representative of persons likely to be substantially affected by the curriculum framework or the amendment, as the case may be.

(3) As soon as practicable after prescribing or amending a curriculum framework, the County Education Board shall publish by notice in the Gazette —

(a) the curriculum framework that has been prescribed or amended, as the case may be, 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.

(4) Without limiting the generality of subsection (1), a notice under subsection (3) may—

(a) specify different commencement dates for different provisions of the curriculum framework or for different purposes; and

(b) specify a transitional period during which service providers may elect to comply with another specified curriculum requirement and specify a date on which service providers must comply with the curriculum framework.

(5) If a curriculum framework is prescribed under this section, every licensed early childhood service provider and to whom that curriculum framework applies, shall implement that curriculum framework in accordance with any requirements prescribed in regulations made under this Act.

**30.** (1) An education Centre shall not employ an early childhood education teacher or care giver unless such

Teaching staff.