LEGAL NOTICE NO. 1

THE PUBLIC FINANCE MANAGEMENT ACT
(No. 18 of 2012)

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THE PUBLIC FINANCE MANAGEMENT ACT
(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 116 of the Public Finance Management Act, 2012, the County Executive Committee Member responsible for Education makes the following Regulations:—

PART I—PRELIMINARY

1. These Regulations may be cited as the Nyamira County Education Bursary Regulations, 2017.

2. In these Regulations, unless the context otherwise requires—

“Administrator of the Fund” means a person designated as such under section (19) of the Regulations;

“Chief Officer” means the Officer for the time being responsible for matters relating to Education;

“Committee” means County Education Committee established under section (9) of this Regulations;

“County Assembly” means County Assembly for Nyamira County elected in accordance with Article 177 of the Constitution;

“Department” means department for the time being responsible for matters relating to Education;

“Executive Committee Member” means the County Executive Committee Member for the time being responsible for matters relating to Education;

“Fund” means the Nyamira County Education Bursary Fund established under section (3) of this Regulations;

“Member” means an elected or nominated Member of the County Assembly;

“Resident” means any person who resides or whose parents reside within the County of Nyamira at the time of application or any person whose national identification documents or his or her parent(s) identification documents indicates his or her affiliation to Nyamira County;

“Tertiary Institution” means an institution registered as University, College, Technical or other institution of further or post-Secondary and training;

“Vulnerable groups” means an orphan, a person living with disability or a person of low economic status;

“Ward” means one of the wards into which Nyamira County is divided.

PART II—ESTABLISHMENT OF FUND, MANAGEMENT BOARD AND COUNTY EDUCATION COMMITTEE

3. (1) There is established a fund to be known as the Nyamira County Education Bursary Fund.

(2) The Fund shall consist of—
(a) monies appropriated by County Assembly;
(b) grants and donations;
(c) income generated from the proceeds of the Fund.

(3) There shall be paid out of the Fund payments in respect of any expenses incurred in pursuance of the objects and purposes for which the Fund is established.

4. The objects and purposes for which the Fund is established are—

(a) to increase access to secondary schools and tertiary studies;
(b) to support needy student proceeding with secondary, tertiary and technical studies;
(c) to promote an integrated strategic approach in addressing education, training and skills development;
(d) to fulfill the Department’s social responsibility through funding secondary and tertiary studies of deserving students within Nyamira County;
(e) to reduce disparites and inequalities in provision of secondary school education and tertiary studies;
(f) to expand access to finances in promotion of education at County level; and
(g) to model an alternative framework in funding education and social programs.

5. (1) There is established a committee to be known as the County Education Committee.

(2) The County Education Committee shall consist of—

(a) chairperson appointed by the Governor;
(b) CEC Member responsible for Finance;
(c) CEC Member responsible for Education;
(d) Chief Officer for Education who will be the secretary;
(e) County Director of Education (National Government) who shall be an \textit{ex officio} member;
(3) The appointment of chairperson and members under subsection (1) (e) to (g) above shall be Gazetted in Nyamira County Gazette Notice within fourteen (14) days appointment.
(4) The appointment of chairperson and members under subsection (1) (f) and (g) shall be subject to such persons—

(a) being registered voters in Nyamira County;
(b) meeting the requirements of Chapter Six of the Constitution of Kenya;
(c) the chairperson shall be a holder of at least a bachelor’s degree from a recognized university in Kenya and with 5 years working experience in education sector or higher institution of higher learning;

(d) members appointed under subsection (1) (e) and (f) shall be holders of at least a diploma;

(e) the chairperson and members appointed under subsection (1) (e) to (h) shall be appointed for a term of three years and shall eligible for re-appointment for one further term.

(5) The Executive Committee Member shall cause the names of persons constituting the Committee to be published in the Kenya Gazette.

(6) The office of a member of the committee shall fall vacant if—

(a) he or she resigns in writing to CEC member in charge of education; and

(b) ICT through the secretary giving a one (1) month notice;

(c) if the committee is satisfied that such a member is by reason of his/ her physical mental infirmity unable to execute the functions of his/her office; or upon death.

(7) Where the office of a member becomes vacant under subsection (6), the secretary shall forthwith notify the appointing authority for appropriate action.

6. (1) The functions of the County Education Committee shall be the following—

(a) to oversee the Bursary distribution;

(b) to formulate policies for regulating the disbursement and management of bursaries, scholarships and loans;

(c) to advise the CEC member on bursary disbursements and scholarship awarding;

(d) to grant bursaries and scholarships;

(e) approve the list of beneficiaries to be granted loans as provided for.

(f) to fundraise in support of the county education revolving fund;

(g) to receive any gifts, donations, grants or endowments made to the committee and to make legitimate disbursements there from;

(h) to determine the maximum number of eligible students to be granted bursaries and scholarships in a particular year;

(i) to perform any other functions for implementation of the Act;

(2) The County Education Committee may, by resolution either generally or in any particular case delegate to any committee or to any
member, officer, employee or agent of the County Government, the exercise of any of the powers or the performance of any of the functions or duties of the County Education Committee under these Regulations or under any other written law.

7. (1) The business and affairs of the Committee shall be conducted in accordance with the First Schedule.

(2) Except as provided in the Second Schedule, the Committee may regulate its own affairs.

(3) The Committee may invite any person to attend any of its meetings and to participate in its deliberations, but that person shall not vote on any matter requiring decision of the Board.

8. (1) A person shall cease to be a member of the Committee if such person—

(a) is unable to perform the functions of his/her office by reason of mental or physical infirmity;

(b) is adjudged bankrupt;

(c) is convicted of a criminal offence and sentenced to a term of imprisonment of not more than six months;

(d) is absent from two consecutive meetings of the Committee without the permission of the County Education Committee;

(e) resigns in writing, addressed to the Chairperson;

(f) fails to declare his interest in any matter being considered or to be considered by the Committee; or

(g) Violates Chapter Six of the Constitution.

9. The chairperson and members of the Committees shall be paid such allowances as stipulated in government circulars. In accordance with the Salaries and Remuneration Commission guidelines.

PART III—FUND ALLOCATION, MANAGEMENT AND ELIGIBILITY CRITERIA

10. The Beneficiaries of the Fund are—

(a) deserving Candidates joining or proceeding with secondary school education;

(b) applicants joining or proceeding with courses deemed critical to the County’s needs may be given first preference;

(c) bursaries shall be awarded for studies at recognized institutions;

(d) Students in post primary institutions.

11. The budgetary allocation of the Fund shall be appropriated by the County Assembly in every financial year’s County budget and be equally disbursed in all the 20 wards.
12. The initial capital of the Fund shall be allocated as follows—

(a) three per cent administration fee shall be charged on the total fund allocated and shall be retained by the Board for purposes of facilitating administrative functions;

(b) the ninety seven per cent of the Fund shall be disbursed to beneficiaries in Secondary Schools and tertiary institutions.

13. (1) The Expenditure incurred on the Fund shall be on the basis of and limited to annual work programmes and cost estimates which shall be prepared by the administrator of the Fund and submitted to the County Treasury and County Assembly as per the PFM Act.

14. (1) The Chief Officer for time being responsible for matters relating to Education shall be designated as the administrator of the Fund.

(2) the administrator of the Fund shall—

(a) open and operate the Fund bank account;

(b) supervise and control the administration of the Fund;

(c) consult with the Executive Committee Member on matters relating to the administration of the Fund;

(d) cause to be kept proper books of account and other books and records in relation to the Fund, of all activities and undertakings financed from the Fund; and

(e) in accordance with Section 167 of the Public Finance Management Act prepare and submit for each quarter, a report on the receipt into and issues out of the Fund to the County Treasury and copy to the Controller of Budget.

(3) The bank account mentioned in sub-section 2(a) shall be operated by a minimum of three signatories, of whom the accounting officer of the Department of Education and Chief officer shall be mandatory signatories to all bank accounts.

15. Funds shall be disbursed from the Fund under the following conditions—

(a) all disbursements from the fund shall be approved and minuted by the Committee;

(b) all disbursements from the Fund shall be to the successful candidates who meet the criteria set by the Committee in accordance with provisions of this Regulations;

(c) all disbursements from the Fund shall be made through the bank account maintained by the learning institutions;

(d) the for release of funds, to ensure efficient and effective management of the resources.

16. Students shall be awarded education bursary based on the following criteria—
(a) be a resident of Nyamira County;
(b) financial background of the applicant;
(c) good Academic performance of the applicant;
(d) applications from vulnerable groups will be given special preferences.

17. (1) Payments of bursaries may cover the following—
(a) tuition fees;
(b) examination fees where applicable;
(c) accommodation and meals where applicable; and
(d) book or library fees where applicable.
(2) payments of Bursaries shall not cover—
(a) subsistence;
(b) traveling; and
(c) subjects or modules that are repeated.

18. The Committee shall annually consider applications for bursaries taking into consideration the availability of resources.

PART IV — FINANCIAL PROVISIONS

19. (1) Applications for bursaries must be submitted on the prescribed application forms for consideration.

(2) Education bursary is awarded based on an academic year, not a financial year.

(3) Payment of a bursary, which is due for study fees, shall be made directly to the relevant institution after receiving the fee structures and statements of accounts.

(4) Bursary holders shall not receive any financial assistance before they submit results or letter of admission and/or proof of registration to the Committee.

(5) Money shall be paid for needy and bright students.

(6) The access by bursary applicants, shall be on a first come first served basis, subject to assessment and approval of the applications;

(7) A confirmation letter to pay the bursary may be forwarded to the applicant and the institution.

(8) The Committee shall publish the list of beneficiaries in—
(a) the office of the Member of County Assembly;
(b) the office of the Administrator;
(c) the office of the national government officer responsible for coordination of national government functions in the ward; and
(d) notice boards, electronic means or other appropriate media as the Executive Member may determine.
20. (1) Before the commencement of each financial year, the Chief Officer for the time being responsible for Education shall cause to be prepared estimates of the revenue and expenditure of the Fund for that year.

21. (1) The Chief Officer shall cause to be kept proper books and records of account of the income and expenditure, assets and liabilities of the Fund.

(2) Within a period of three months after the end of each financial year, the Chief Officer for the time being responsible for education shall submit to the County Auditor and Auditor General the accounts of the Fund in respect of that year together with a—

(a) statement of the income and expenditure of the Bursary Committees during that year; and

(b) statement of the assets and liabilities of the Bursary Committees on the last day of that financial year.

(3) The annual accounts of the Fund shall be prepared, audited and reported upon in accordance with the law on auditing of public funds.

PART V— MISCELLANEOUS

22. In fulfilling the Regulations’ mandate, the Executive Committee Member and the County Education Committee must act in accordance with the values and principles set out in the Constitution and any other written law.

23. (1) The Administrator of the fund shall cause to be kept proper books and records of account of the income, expenditure, assets and liabilities of the Fund.

(2) Within a period of three months after the end of each financial year, the Chief Officer for the time being responsible for education shall submit to the County Auditor and Auditor General the accounts of the Fund in respect of that year together with a—

(c) statement of the income and expenditure of the Bursary Committees during that year; and

(d) statement of the assets and liabilities of the Bursary Committees on the last day of that financial year.

(3) The annual accounts of the Fund shall be prepared, audited and reported upon in accordance with the law on auditing of public funds.

24. In fulfilling the Regulations’ mandate, the Executive Committee Member and the County Education Committee must act in accordance with the values and principles set out in the Constitution and any other written law.
FIRST SCHEDULE (s.11)

MEETINGS AND PROCEDURE FOR THE COMMITTEE

1. The Committee Chairperson shall convene the first meeting of the Committee.

2. The Committee shall decide when and where it meets and the meetings shall be convened by the chairperson.

3. The Committee shall meet only three times in every financial year.

4. Unless three quarters of the members otherwise agree, at least seven days’ notice in writing of a meeting shall be given to every member.

5. A meeting shall be presided over by the chairperson or in his or her absence, by the vice-chairperson or in both their absence, by a member of the County Education Committee elected by the members present from among their number.

6. The members of the Committee shall elect a vice-chairperson from among themselves—
   (a) at the first sitting of the Committee; and
   (b) whenever it is necessary to fill the vacancy in the office of the vice-chairperson.

7. The chairperson and vice-chairperson shall not be of the same gender.

8. If any person has a personal or fiduciary interest in any matter before the Committee, and is present at a meeting of the Committee or any committee at which any matter is the subject of consideration, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not take part in any consideration or discussion of, or vote on any question touching such matter.

9. A disclosure of interest made under paragraph 8 shall be recorded in the minutes of the meeting at which it is made.

10. A person who contravenes paragraph 8 commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding Six months, or to both.

11. No member of the Committee shall transact any business or trade with the Committee.

12. The quorum of the meeting shall not be less than half of the members.

13. Where there is a vacancy in the Committee, the quorum of the meeting shall not be less than three members.

14. Matters before the Committee shall be decided by a majority of the members present and voting and in the event of equality of votes, the person presiding shall have a casting vote. A question before the meeting shall be decided with a supporting vote of at least two thirds of the members present.

15. The Committee shall keep minutes of proceedings of its meetings and decisions taken.

Dated the 20th May, 2016.

JONES MOKO OMWENGA,
County Executive Committee Member for Education.