

**THE BUSIA COUNTY EARLY CHILDHOOD EDUCATION BILL, 2020**

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**THE BUSIA COUNTY EARLY CHILDHOOD DEVELOPMENT BILL, 2020**

**A Bill for**

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

**ENACTED** by the County Assembly of Busia as follows-

**PART I—PRELIMINARY**

Short title	1. This Act may be cited as the Busia County Early Childhood Development Act, 2020.
Interpretation	2. In this Act, unless the context otherwise requires –  <b>‘Board of management’</b> means the Board of management established in every early childhood education centre pursuant to Section 29 of this Act;  <b>‘Child’</b> means a person who is at least three years of age and not more than six years of age or who meets such other criteria for admission to a child care facility or early childhood education centre as the County Executive Committee Member may, in consultation with the County Education Board, prescribe;  <b>‘Child day care facility’</b> means any premises in which child care services are offered during daytime to more than three children at any given time;  <b>‘Child day care services’</b> means the temporary care and

	<p>supervision of children below the age of four years during the day by a person or persons other than the children’s legal guardians or members of their immediate family;</p> <p><b>‘Children with special needs’</b> 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;</p> <p><b>‘County’</b> means Busia County;</p> <p><b>‘County Education Board’</b> means the County Education Board established under section 17 of the Basic Education Act in the county;</p> <p><b>‘County Early Childhood Development Quality Assurance Committee’</b> means the County Early Childhood Development Quality Assurance Committee established under Section 65 of the Act;</p> <p><b>‘Curriculum’</b> means all approved subjects taught or programmes offered in an education centre which are approved by the Kenya Institute of Curriculum Development;</p> <p><b>‘Department’</b> means the department of education headed by the County Executive Committee Member for the time being responsible for education in the county;</p> <p><b>‘Early Childhood Education’</b> means the pre-primary</p>
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	<p>educational programmes imparted to a child in an early childhood education education centre meant to develop a child holistically;</p> <p><b>‘Education Centre’</b> means a public or private early childhood Education Centre or facility used for conducting early childhood education and training;</p> <p><b>‘Education Standards and Quality Assurance Council’</b> means the Education Standards and Quality Assurance Council established under section 64 of the Basic Education Act; 2013</p> <p><b>“Executive Committee Member”</b> means the County Executive Committee Member for the time being responsible for matters relating to early childhood development;</p> <p><b>‘Facility administrator’</b> means the lead administrator in a child care facility</p> <p><b>‘Kenya Institute of Curriculum Development’</b> means the Kenya Institute of Curriculum Development established under section 3 of the Kenya Institute of Curriculum Development Act No.4 of 2013;</p> <p><b>‘Mobile School’</b> has the meaning assigned to it under the Basic Education Act 2013;</p> <p><b>‘Principal’</b> 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;</p> <p><b>‘Public Education Centre’</b> includes a sponsored public</p>
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	<p>education centre ;</p> <p>‘<b>Sponsor</b>’ has the meaning assigned to it under the Basic Education Act 2013;</p> <p>‘<b>Teacher</b>’ has the meaning assigned to it by the Teachers Service Commission Act, Cap 212.</p>
Objectives and purposes	<p><b>3.</b> The objects and purposes of this Bill are to-</p> <ul style="list-style-type: none"><li>a) provide a framework for the establishment of a comprehensive early childhood development and education system by the county governments;</li><li>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 the county;</li><li>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 county; and</li><li>d) provide a framework for the establishment of –<ul style="list-style-type: none"><li>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</li></ul></li></ul>

	<p>and best practices; and</p> <p>ii) a partnership between the National government, the county government, private persons and other relevant stakeholders with an interest or expertise in early childhood care and education.</p>
Guiding principles	<p><b>4.</b> All entities in this Act shall, in performing their functions under this Act, be guided by the following principles –</p> <p>a) the right to free and compulsory education enshrined under Article 53 of the Constitution;</p> <p>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;</p> <p>c) a holistic approach towards meeting the education and other development needs of the child to ensure that their full potential is realized;</p> <p>d) empowerment and capacity building as a means of facilitating the right to early childhood education;</p> <p>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</p>

	<p>system to the parents and an environment that ensures the realization of the right to early childhood education and development;</p> <p>f) equality, equity, access, retention and non-discrimination in the provision of early childhood education and the recognition of children with special needs;</p> <p>g) transparency in the implementation of programmes and activities relating to early childhood education and the allocation and utilization of public and private resources;</p> <p>h) ensuring that interventions are based on objective information 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;</p> <p>i) accountability through developmentally appropriate methods of measuring, reporting and tracking the growth and development of a child and the improvement of early childhood education systems and programs;</p> <p>j) collaboration and co-operation with the National government and relevant stakeholders in the</p>
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	<p>implementation of activities necessary for ensuring the actualization of the right to early childhood education; and</p> <p>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.</p>
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**PART II – RIGHT TO EARLY CHILDHOOD EDUCATION**

<p>Right to early childhood education</p>	<p><b>5.</b> (1) Every child has the right to free and compulsory early childhood education in a public education centre.</p> <p>(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.</p> <p>(3) For the enjoyment of the right to early childhood education, the county government shall –</p> <p>a) respect, protect, promote, monitor, supervise and evaluate the right to early childhood education and guarantee mechanisms for its enforcement;</p> <p>b) refrain from actions that undermine access to</p>
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	<p>early childhood education;</p> <p>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;</p> <p>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;</p> <p>e) ensure the development of skills and capacity building necessary for achieving an equitable and effective early childhood education system in the county; and</p> <p>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.</p>
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<p>Obligations of the County in promoting the right to early childhood education</p>	<p><b>6.</b> The county government shall, in promoting the right to early childhood education, –</p> <ul style="list-style-type: none"><li>a) provide free and compulsory early childhood education in public education centres within the county;</li><li>b) establish such public education centres as may be necessary for the provision of free and compulsory early childhood education within the county;</li><li>c) formulate programmes and plans and implement policies for the realization of the right to early childhood education;</li><li>d) implement, in consultation with the relevant stakeholders, curriculum programs that are secular in nature and that promote culture and the holistic development of the child;</li><li>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;</li><li>f) 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;</li></ul>
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	<ul style="list-style-type: none"><li data-bbox="740 260 1435 506">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;</li><li data-bbox="740 590 1435 730">h) carry out public awareness and advocacy programmes in relation to early childhood development and education;</li><li data-bbox="740 814 1435 1010">i) ensure the provision of, and support investment in human resource, infrastructural facilities and learning resources to facilitate the provision of early childhood education;</li><li data-bbox="740 1094 1435 1289">j) establish and maintain relationships with international, national and local institutions within the county involved in the provision of early childhood education;</li><li data-bbox="740 1373 1435 1514">k) promote the circulation of and access to up-to-date and timely information on early childhood education and development; and</li><li data-bbox="740 1598 1435 1793">l) develop model classroom for early childhood education centres within the sub counties in accordance with the specifications set out in the First Schedule.</li></ul>
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<p>Duty of parents or guardians</p>	<p><b>7.</b> (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.</p> <p>(2) Where a parent or guardian fails to comply with subsection (1) such person commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand shillings.</p> <p>(3) Where a person convicted of an offence under subsection (2) is unable to pay the fine, such person shall be liable to imprisonment for a term not exceeding two years or to such penalty including community service as the Court shall consider fit to impose.</p>
<p>Duty of principal</p>	<p><b>8.</b> (1) Where a child fails to attend an education centre, the principal shall, in collaboration with the village administrator, cause an investigation of the circumstances of the child's absence from school.</p> <p>(2) Where the principal finds there are no reasonable grounds for the child's failure to attend school, the principal shall-</p> <ul style="list-style-type: none"><li>a) issue a written notice to the parent of the child requiring that parent to comply with the provisions of this Act; and</li><li>b) submit a report on the child to the County Department of Education.</li></ul>

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	<p>(4) Any parent who without a reasonable cause and after a written notice from the principal, fails to comply with such notice commits an offence and shall be liable, on conviction, to a fine not exceeding ten thousand shillings or to imprisonment for a period not exceeding two years such penalty including community service as the Court shall consider fit to impose.</p>
Children with special needs	<p><b>9.</b> (1) The County Executive Committee Member shall establish a mechanism for the identification of children with special needs and put in place such infrastructure as may be necessary to ensure that such children have access to, and are provided with early childhood education.</p> <p>(2) In performing his or her functions under subsection (1), the county executive committee member shall–</p> <ul style="list-style-type: none"><li>a) put in place mechanisms and develop screening tools necessary for the early identification of children with disabilities or special needs;</li><li>b) set up structures that ensure that children with special needs are given the appropriate intervention as early as possible;</li><li>c) ensure that there are adequate and child friendly learning institutions, facilities and rehabilitation services for children with disabilities;</li></ul>

	<p>d) conduct training and capacity building programmes targeting caregivers, teachers and trainers who specialize in training and caring for children with special needs;</p> <p>e) conduct sensitization and awareness campaigns on learning disabilities and issues affecting children with special needs;</p> <p>f) ensure that there are adequate facilities and ensure that every education centre has support staff to assist children with special needs; and</p> <p>g) put in place the necessary facilities to ensure the production of and access to affordable assistive aids and devices for children with special needs.</p> <p>(3) The county executive committee member may make regulations setting out the criteria for the identification of children with special needs under subsection (2) and for the effective implementation of this Act.</p>
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**PART III – REGULATION OF CHILD DAY CARE FACILITIES**

<p>Application</p>	<p><b>10.</b> This part shall apply to all child day care facilities operating within the County.</p>
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Establishment of child day care facilities	<p><b>11.</b> (1) Child day care facilities established under this Part shall provide temporary care and supervision of children during the day and may also include the provision of non-academic children’s programmes.</p> <p>(2) Child day care facilities established under this Part may either be-</p> <ul style="list-style-type: none"><li>a) county child day care facilities; or</li><li>b) private child day care facilities.</li></ul> <p>(3) Private child day care facilities may be established and run by-</p> <ul style="list-style-type: none"><li>a) religious organizations;</li><li>b) private benefit organizations;</li><li>c) an individual or group of individuals; or</li><li>d) a body corporate.</li></ul>
Prohibition	<p><b>12.</b> No person shall establish, run a child day care facility or offer child day care services without a valid license issued under this Act.</p>
Licensing regulations	<p><b>13.</b> (1) The Executive Committee member shall make regulations providing for-</p> <ul style="list-style-type: none"><li>a) the licensing of child day care facilities;</li><li>b) the management, operation and control of facilities licensed under paragraph (a) above.</li></ul> <p>(2) Regulations made under sub section (1) may-</p>

	<p>a) prescribe standards relating to premises, programs of education, practices in relation to children’s learning and development., staffing, parental or guardian participation, adult to child ratios, health, safety and nutrition;</p> <p>b) provide for the grant, duration, expiry, renewal, suspension, transfer, re-classification and cancellation of licenses;</p> <p>c)</p>
<p>Facility administrator</p>	<p><b>14.</b> There shall be a facility administrator in each child care facility established under this Act who shall be responsible for the administration and overall management of the child care facility.</p>

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

<p>Establishment of public education centres</p>	<p><b>15.</b> Subject to the Constitution and the provisions of this Act, the county government shall establish and maintain such early childhood education centres including education centres for children with special needs as they may consider necessary to meet the obligation set out under Section 6 of this Act, within the county.</p>
<p>Register of education centres</p>	<p><b>16. (1)</b> The County Education Board shall keep a register of-</p> <p>a) all persons registered to provide early childhood education services within the county;</p>

	<p>b) all education centres within the county;</p> <p>c) all education centres whose registration has been cancelled; and</p> <p>d) such other particulars as the County Education Board may from time to time determine to be necessary.</p> <p>(2) Any person may inspect the register and obtain a copy of, or an extract from the County Education Board.</p>
<p>Requirement for registration of education centres</p>	<p><b>17.</b> A person shall not offer early childhood education services or establish or maintain an education centre unless such person is registered in accordance with this Part.</p>
<p>Application for registration</p>	<p><b>18.</b> (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.</p> <p>(2) An applicant under subsection (1) shall submit together with the application, -</p> <p>a) a certificate of registration or in the case of a company, a copy of the memorandum and articles of association of the company;</p>

	<ul style="list-style-type: none"><li>b) duly completed and signed forms for the management of the Institution in the prescribed form;</li><li>c) duly completed and signed application forms for the principal of the institution in the prescribed form;</li><li>d) a public health or sanitary assessment report;</li><li>e) the institution's quality assessment report issued by the Department;</li><li>f) the Title Deed, allotment letter or a valid lease agreement covering a period of not less than eight years;</li><li>g) certified copies of professional and academic certificates of all teachers and the principal;</li><li>h) certified copies of registration certificates issued to the teachers in the education centre by the Teachers Service Commission;</li><li>i) supporting records signed by the relevant authorities including site plans showing existing facilities and future development or extension plans where applicable; and</li><li>j) the prescribed fees.</li></ul>
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<p>Registration of existing education centers</p>	<p><b>19.</b> Where a person or organization who is registered to offer basic education under the Basic Education Act intends to offer early childhood education, such person shall apply, subject to section 71, for re-registration to offer early childhood education in the prescribed manner.</p>
<p>Provisional registration</p>	<p><b>20.</b> (1) The County Education Board shall where an applicant under section 13 meets the criteria for registration, provisionally register the applicant if it is satisfied that the education centre or proposed education centre meets or is likely to meet the criteria for registration as an education centre.</p> <p>(2) Provisional registration of an education centre or proposed education centre shall be for a period of eighteen months, unless earlier revoked or such other period as the County Education Board may specify.</p> <p>(3) The County Education Board and county department of education may renew the provisional registration of an education centre only once, for such period as it may specify, if it is satisfied that—</p> <ul style="list-style-type: none"> <li>a) exceptional circumstances exist in relation to the education centre; and</li> <li>b) the education centre is likely to meet the criteria for registration as an education centre in that period.</li> </ul> <p>(4) The County Education Board may undertake further</p>

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	<p>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 (2).</p>
Review of registration	<p><b>21.</b> (1) As soon as practicable after provisionally registering an education centre under section 15, the County Education Board shall inform the department responsible for early childhood education in the County of the provisional registration.</p> <p>(2) The department shall review any education centre that is provisionally registered under section 15 either-</p> <ul style="list-style-type: none"><li>a) between six and eighteen months after the provisional registration of the education centre or proposed education centre; or</li><li>b) a period earlier than that specified under paragraph (a) with the consent of its principal.</li></ul> <p>(3) The department shall conduct a further review of the education centre that has had its provisional registration renewed under section 15, upon a request of the review by the County Education Board.</p> <p>(4) The county department of education 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 County Education Board, and to the principal of the education centre.</p>

	<p>(5) A written report submitted under subsection (4) on a review under this section shall include—</p> <ul style="list-style-type: none"><li>a) information as to whether the education centre meets the criteria for registration as a private education centre; and</li><li>b) information as to the areas in which improvement is required, if it does not meet the criteria.</li></ul>
Criteria for registration as a private education centre	<p><b>22.</b> The County Education Board shall not approve an application of an education centre unless such centre —</p> <ul style="list-style-type: none"><li>a) is situated in premises that meet the requirements of suitable premises under section 20 and the First Schedule;</li><li>b) has the capacity to care and provide early childhood education to at least ten children;</li><li>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;</li><li>d) has equipment that is suitable for the curriculum being delivered or to be delivered at the education centre;</li></ul>

	<ul style="list-style-type: none"> <li>e) meets the education standards prescribed under this Act or any other relevant Act; and</li> <li>f) has a principal who meets the qualifications and criteria prescribed under this Act and any other Act.</li> </ul>
Registration	<p><b>23.</b> 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.</p>
Obligations of a private education centre	<p><b>24.</b> A private early childhood education provider registered under this Act shall –</p> <ul style="list-style-type: none"> <li>a) establish the structures necessary for the management and administration of education within the centre;</li> <li>b) recruit persons who are qualified and registered to provide services of a teacher to the early childhood education curriculum in the centre;</li> <li>c) administer a curriculum that adheres to the competency based curriculum and this Act;</li> <li>d) maintain premises in a manner that ensures that it meets the requirements of the occupational</li> </ul>

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	<p>health, safety regulations and building standards;</p> <p>e) maintain necessary child care and learning materials and equipment;</p> <p>f) maintain a data bank on pupils undertaking education in the education centre and submit to the County Executive Committee Member; and</p> <p>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.</p>
<p>Suitable premises</p>	<p><b>25.</b> (1) In determining whether the premises of an education centre are suitable for the administration of early childhood education, the county department of education shall take into account the criteria specified under the First Schedule to this Act.</p> <p>(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.</p> <p>(3)The county executive committee member shall, in consultation with the County Education Board,</p>

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	<p>prescribe the minimum acreage of the compound in which an education centre is situated and the minimum standards required to be met in relation to a premises prior to the registration of an education centre under this Act.</p>
<p>Mobile schools</p>	<p><b>26.</b> (1) The County Government may establish such mobile schools as it considers necessary to facilitate access to early childhood education within the county.</p> <p>(2) The provisions of this Section shall, subject to subsection (3), apply with necessary modifications to the registration of mobile schools.</p> <p>(3) The Executive Committee Member may, in consultation with the County Education Board prescribe the requirements for the establishment of a mobile school within the county.</p>
<p>Changes of premises</p>	<p><b>27.</b> The principal of an education centre registered under section 18 shall notify the County Education Board of any change in the location of the education centre including-</p> <ul style="list-style-type: none"> <li>a) the acquisition of premises that are in addition to its current premises; or</li> <li>b) the relocation of the education centre to different premises from that currently occupied by the education centre.</li> </ul> <p>(2) The principal of an education centre under subsection (1) shall not change the location of the centre nor</p>

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	<p>acquire additional premises for the purpose of running the education centre unless he or she has applied to, and obtained the approval of the County Education Board.</p> <p>(3) In determining whether to grant approval of premises under subsection (1), the Board shall take into account the criteria specified under section 17.</p>
<p>Action by the Board where an education centre fails to comply with Act</p>	<p><b>28.</b> (1) The Board may take any action specified under sub section (2) with regard to a private education centre where—</p> <ul style="list-style-type: none"> <li>a) it considers that the education centre has not met any or all of the criteria for registration as an education centre;</li> <li>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;</li> <li>c) the principal 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; or</li> <li>d) it has reasonable grounds to believe that serious criminal activity has or is occurring in the education centre.</li> </ul> <p>(2) Where the Board is satisfied that any ground specified under subsection (1) exists in relation to an education centre registered under section 18, it may take one or</p>

	<p>more of the following action –</p> <ul style="list-style-type: none"> <li>a) issue the principal of the education centre with a notice to comply in the prescribed form;</li> <li>b) require the principal of the education centre to inform parents of the children in the centre that the centre is not meeting the criteria for registration as an education centre;</li> <li>c) impose conditions on the continued registration of the education centre;</li> <li>d) take any action specified under paragraphs (a) to(c), and suspend the education centre’ s registration; or</li> <li>e) cancel the education centre’s registration in accordance with section 25.</li> </ul> <p>(3) Any action taken by the Board under subsection (2) –</p> <ul style="list-style-type: none"> <li>a) shall be proportionate to the seriousness of the action or inaction by the education centre; and</li> <li>b) shall be in addition to any fine incurred or other penalty imposed under this Act, or under any other written law.</li> </ul>
<p>Suspension of registration where welfare of children is at risk</p>	<p><b>29.</b>(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 children at the education</p>

	<p>centre is at risk, and—</p> <ul style="list-style-type: none"> <li>a) that it is unlikely that the risk can be managed by any practicable means other than by suspension of the registration; or</li> <li>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.</li> </ul> <p>(2) An education centre shall remain suspended under subsection (1) until the County Education Board—</p> <ul style="list-style-type: none"> <li>a) is satisfied that the principal of the centre has complied with all requirements imposed by it; or</li> <li>b) cancels the registration of the education centre in accordance with section 25.</li> </ul> <p>(3) A suspension under sub section (1) shall continue in force until the Board-</p> <ul style="list-style-type: none"> <li>a) is satisfied that the welfare of the children in the education centre is no longer at risk; or</li> <li>b) cancels the registration of the education centre in accordance with section 25, after issuing the principal of the education centre with a notice to comply in accordance with section 23.</li> </ul>
Cancellation of registration	<p><b>30.</b> (1) The County Education Board may cancel the registration of an education centre if, following an action taken by it under paragraphs (a) to (d) of section 23(2),—</p>

	<ul style="list-style-type: none"><li>a) the education centre-<ul style="list-style-type: none"><li>i) does not improve sufficiently to meet the criteria for registration under section 17; and</li><li>ii) is not, in the opinion of the County Education Board likely to meet the criteria, within a further reasonable time;</li></ul></li> <li>b) the principal of the education centre is continuing in breach of their statutory duties in relation to the centre; or</li> <li>c) serious criminal activity has or continues to occur in the education centre.</li></ul> <p>(2) Before cancelling the registration certificate of an education centre under subsection (1), the County Education Board shall—</p> <ul style="list-style-type: none"><li>a) take reasonable steps to obtain and consider any relevant information, including any report by a review officer appointed by the Board for that purpose;</li> <li>b) give written notice to the principal of the education centre that it is considering cancelling the registration of the education centre, and give reasons; and</li> <li>c) give the principal of the education centre a maximum of 14 days to respond to the notice.</li></ul>
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Appeal from decision of the Board	<p><b>31.</b> (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.</p> <p>(2) The Appeal shall be in such form as the County Education Board may prescribe.</p>
Categories of education centres	<p><b>32.</b> (1) Education centres shall be categorized as—</p> <ul style="list-style-type: none"><li>a) private education centres established, owned or operated by private persons; and</li><li>b) public education centres established, owned or operated by the county government.</li></ul> <p>(2) A public education centre shall not be converted to a private education centre or to any other private status unless the county executive committee member has consulted with the County Education Board and has approved such conversion.</p> <p>(3) The County executive committee member shall, in consultation with the County Education Board, make regulations for the conversion of a public education centre into a private education centre.</p>
Sponsors	<p><b>33.</b> (1) A public education centre may be sponsored by a private person or religious institution.</p>

	<p>(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.</p> <p>(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 childhood education centre.</p> <p>(4) Notwithstanding the generality of subsection (2), the role of the sponsor under subsection (1) shall be—</p> <ul style="list-style-type: none"><li>a) to participate and make recommendations of review of syllabus, curriculum, books and other teaching aids;</li><li>b) to offer financial and infrastructural support to the education centre.</li></ul> <p>(5) Notwithstanding the fact that the sponsor of an education centre is a faith based institution, the curriculum in the education centre shall be secular.</p>
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**PART IV – MANAGEMENT OF EARLY CHILDHOOD EDUCATION CENTERS**

<p>Management Board of an early childhood education centre</p>	<p><b>34.</b> (1) There is established in every education centre, a board of management.</p> <p>(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-</p> <ul style="list-style-type: none"><li>a) suing and being sued;</li><li>b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;</li><li>c) borrowing money;</li><li>d) entering into contracts; and</li><li>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.</li></ul> <p>(3) Where an education centre exists or is established in an existing institution of basic education, the board of management of the education centre shall comprise of the principal of the early childhood education centre in addition to the members set out under section 56(1) of the Basic Education Act 2013.</p>
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Composition of management Board	<p><b>35. (1)</b> The board of management shall consist of –</p> <ul style="list-style-type: none"><li>a) one person elected from amongst the parents from each level within the education centre to represent parents of children in the education centre;</li><li>b) one representative of the teaching staff in the education centre nominated by the teachers;</li><li>c) two providers of early childhood development and education nominated by the ward administrator in the ward;</li><li>d) The sub county Early Childhood Development and Education co-ordinator nominated by the county executive committee member within the sub-county;</li><li>e) in the case of a sponsored education centre, one person nominated by the sponsor.</li></ul> <p>(2) A person shall qualify for nomination to the board of management if such person holds at least a Kenya Certificate of Secondary Education.</p> <p>(3) The principal to the education centre shall be the secretary to the board of management and shall report to the County Education Board in the performance of his</p>
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	<p>or her functions under this Act.</p> <p>(4) The members of the Board shall, at their first meeting, appoint from amongst themselves, a person who shall be the chairperson and vice chairperson of the Board of management.</p> <p>(5) The board of management may co-opt such persons not exceeding two in number to sit in the board of management, whose knowledge and skills are found necessary for the performance of the functions of the Board.</p> <p>(6) The board of management shall conduct its affairs in accordance with the provisions of the Second Schedule.</p>
<p>Functions of the Board of Management</p>	<p><b>36.</b> The functions of the Board of Management shall be to –</p> <p>a) identify the needs of early childhood education and development services within their local communities and develop viable strategies for meeting the said needs;</p> <p>b) mobilize the parents and local communities to initiate and sustain education centres and support early childhood education programmes;</p> <p>c) manage the early childhood education programme in the centre in ensuring the</p>

	<p>provision of quality early childhood education;</p> <p>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;</p> <p>e) ensure the provision of quality early childhood education services in the education centre in accordance with the standards prescribed under this Act and by the County Education Board;</p> <p>f) ensure the provision of adequate equipment and facilities within the education centre and ensure that such equipment and facilities are well maintained;</p> <p>g) carry out advocacy in relation to the needs and the rights of the child in relation to early childhood education; and</p> <p>h) carry out such other functions as may be necessary for the implementation of this Act within the education centre.</p>
<p>Committees of the Board of Management</p>	<p><b>37.</b> The board of management of an early childhood education centre may establish such committees as it may consider appropriate to perform such functions and discharge such responsibilities as it may deem</p>

	necessary.
Parents – teachers association	<p><b>38.</b> (1) Every education centre shall establish a parent - teachers association which shall be constituted and carry out its affairs in such manner as the executive committee member may, in consultation with the County Education Board, prescribe.</p> <p>(2) The functions of the parents -teachers association shall be to-</p> <ul style="list-style-type: none"><li>a) promote quality care, nutritional and health status of the children;</li><li>b) maintain good working relationship between teachers and parents;</li><li>c) discuss, explore and advise the parents on ways to raise funds for the physical development and maintenance of the education Centre;</li><li>d) explore ways to motivate the teachers and students to improve their performance in academic and co- curricular activities;</li><li>e) discuss and recommend charges to be levied on children or parents;</li><li>f) assist the school management in the monitoring, guidance, counselling and disciplining of children; and</li></ul>

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	<p>g) discuss and recommend measures for the improvement of welfare of staff and children.</p>
Annual report on governance	<p><b>39.</b> Every education centre shall submit an annual report to the County Education Board and the county department of education.</p>
Record keeping requirements	<p><b>40.</b> Every education centre shall keep, and make available to the County Education Board and the department on request—</p> <ul style="list-style-type: none"><li>a) a register of the children who attend or have attended the early childhood education centre, specifying the date of birth of each child;</li><li>b) a record of the attendance of children at the education centre;</li><li>c) a record of all fees and other charges paid in respect of children’s attendance at the education centre;</li><li>d) academic progress assessment reports in relation to each child who is registered in the education centre;</li><li>e) a record of the immunizations administered with respect to each child who is registered in the education centre;</li></ul>

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	<p>f) evidence that parents of children attending the education centre, and who so desire, have regularly examined the attendance record; and</p> <p>g) such other records that are necessary to enable the centre's performance to be monitored adequately.</p>
Teaching staff	<p><b>41.</b> (1) An education centre shall not employ an early childhood teacher unless such person –</p> <ul style="list-style-type: none"><li>a) is at least eighteen years of age;</li><li>b) holds at least a certificate in early childhood development and education from an institution recognized in Kenya;</li><li>c) is registered as a teacher by TSC;</li><li>d) holds a certificate of good conduct and a medical certificate evidencing soundness of mind.</li></ul> <p>(2) An education centre shall not employ a person as a principal in an education centre unless such person –</p> <ul style="list-style-type: none"><li>a) holds at least a diploma in early childhood education and development; and</li><li>b) is registered as a teacher by TSC.</li></ul> <p>(3) The county government shall be responsible for the remuneration of early childhood education teacher in public education centres within the county.</p>

	<p>(4) 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.</p>
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**PART V- ADMINISTRATION OF THE EARLY CHILDHOOD DEVELOPMENT SYSTEM**

<p>Management of early childhood education within the county</p>	<p><b>42.</b> (1) The county government shall be responsible for the overall governance and management of early childhood education within the county.</p> <p>(2) The county executive committee member shall, in consultation with the County Education Board, determine the early childhood education resource and infrastructure requirements within the County.</p>
<p>Recruitment of early childhood education teachers</p>	<p><b>43.</b> The County Public Service Board shall, in consultation with the Department, be responsible for the-</p> <p>a) recruitment, training and discipline of early childhood education teachers ; and</p> <p>b) maintenance of a register of early childhood education teachers recruited by it under paragraph (a).</p>
<p>Free admission into public</p>	<p><b>44.</b> (1) A person shall not charge or collect any fee for the purpose of admitting a child into any public education</p>

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education centres	<p>centre.</p> <p>(2) Notwithstanding subsection (1) —</p> <p>a) admission fees may be payable by persons who are not Kenyan citizens;</p> <p>b) other charges may be imposed in a public education centre with the approval of the county executive committee member in consultation with the County Education Board and the respective Parents-Teachers Association provided that no child shall be refused to attend school because of failure to pay such charges; and</p> <p>(3) Where a public education centre levies any charges under this section, such centre shall issue an official receipt to the person making such payments.</p>
Period of admission	<p><b>45.</b> (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.</p> <p>(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.</p>

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<p>Age of admission</p>	<p><b>46.</b> (1) A child who has attained the age of four years and who is not more than six years of age shall be eligible for admission in an early childhood education centre.</p> <p>(2) Notwithstanding the provisions of subsection (1), the principal of an education centre may, where the principal considers it appropriate, admit a child who is more than six years of age.</p> <p>(3) For purposes of subsection (1), the principal of an education centre may, in determining the age of a child, use the immunization card or birth certificate of the child.</p> <p>(4) Entry into an early education centre may be determined using the County Assessment Tools prescribed by the department responsible for education within the county.</p>
<p>Prohibition of administration of exams for purposes of admission</p>	<p><b>47.</b> An education centre under this Act shall not administer examinations for the purpose of determining admission into the education centre.</p>
<p>Grouping of children on admission</p>	<p><b>48.</b> The children shall, upon admission into an education centre under this Act, be grouped according to age, interest and ability for learning purposes which shall be based on activities and not the administration of subjects, and through play.</p>
<p>Incentives and prohibition from holding back and expulsion</p>	<p><b>49.</b> (1) Children shall be given appropriate incentives to learn and complete early childhood education.</p>

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	<p>(2) No child admitted in an education centre shall be held back in any class or expelled from the centre.</p>
<p>Standards of education in a private education centre</p>	<p><b>50.</b> (1) The education administered in a private education centre registered under this Act shall be of a suitable standard and not of a lower standard than that administered to children enrolled in a public education centre of the same class levels.</p> <p>(2) In assessing the standard of tuition, the mode of curriculum delivery and the regularity of instruction shall be considered.</p>
<p>Framework of curriculum</p>	<p><b>51.</b> (1) The Kenya Institute of Curriculum Development shall be responsible for the development of the competency based curriculum to be applied in education centres within the county.</p> <p>(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 County Education Board-</p> <ul style="list-style-type: none"> <li>a) within a period of five years after the development of the curriculum under subsection (1); and</li> <li>b) subsequently every five years after each review.</li> </ul> <p>(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 county.</p>

	<p>(4) In reviewing the curriculum under subsection (1), the County Education Board shall ensure that the curriculum adheres to the policy and guidelines on curriculum developed by the Kenya Institute of Curriculum Development under the Basic Education Act.</p> <p>(5) A review of the curriculum under subsection (2) shall not be carried out unless the Kenya Institute of Curriculum Development has consulted with those organizations that appear to it to be representative of persons likely to be substantially affected by the curriculum framework or the amendment, as the case may be.</p> <p>(6) As soon as practicable after reviewing the curriculum framework, the County Executive Committee Member shall publish by notice in the Gazette —</p> <ul style="list-style-type: none"><li>a) the curriculum framework that has been prescribed or, as the case may be, reviewed; and</li><li>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.</li></ul>
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	<p>(7) If a curriculum framework is reviewed under this section, every service provider for a registered education centre to whom that curriculum framework applies, shall implement that curriculum framework in accordance with any requirements prescribed in regulations made under this Act.</p>
Standards for curriculum	<p><b>52.</b> In developing or reviewing the curriculum of early childhood education within the county under section 46, the Kenya Institute of Curriculum Development shall ensure that-</p> <ul style="list-style-type: none"> <li>a) the curriculum does not require the children in the education centre to be subjected to written examinations;</li> <li>b) the curriculum incorporates holistic learning including basic life skills;</li> <li>c) learning is activity based;</li> <li>d) child centred teaching methodologies are incorporated in imparting education; and</li> <li>e) it incorporates strategies to ensure creativity and ensure support to the learning of every child in the institution.</li> </ul>
Free tuition	<p><b>53. (1)</b> A public education centre shall not charge or cause any parent or guardian to pay tuition fee for or on behalf of any</p>

	<p>pupil in the education centre.</p> <p>(2) Notwithstanding subsection (1), a public education centre-</p> <ul style="list-style-type: none"> <li>a) may charge tuition fees for the education of children who are not citizens of Kenya; and</li> <li>b) may, with the approval of the county executive committee member and in consultation with the County Education Board and the respective Parents Teachers- Association, impose such other charges as it may consider necessary for the management of the education centre.</li> </ul> <p>(3) Notwithstanding subsection (2)(b), a public education centre shall not refrain a child from attending the education centre only for the reason that the charges imposed have not been paid by the parent or guardian of the child.</p> <p>(4) Where a public education centre levies any charges under this section, such centre shall issue an official receipt to the person making such payments.</p>
<p>Education centre programmes</p>	<p><b>54. (1)</b> In administering early childhood education, an education centre shall –</p> <ul style="list-style-type: none"> <li>a) provide appropriate and adequate learning and play materials; and</li> <li>b) emphasize and carry out activities aimed at enhancing creativity amongst the children and use of learning materials;</li> </ul>

	<p>c) emphasize the need for the child centered approach in individual learning for the development of each individual child; and</p> <p>d) emphasize on involving children in community services.</p> <p>(2) An education centre may offer any of the following programmes during a weekday –</p> <p>a) a half-day programme which commences at 8.00 a.m. and ends at 12 noon; or</p> <p>b) a full-day programme which commences as 8.00 a.m. and ends at 3:00 p.m.</p> <p>(3) Where an education centre offers the programme specified under subsection (2) (b), the children shall be afforded an opportunity to rest during the afternoon period commencing at 2:00 p.m.</p> <p>(4) An education centre shall not, in offering the programmes specified under subsection (2), exceed the time period specified therein.</p>
<p>Prohibition of holiday tuition</p>	<p><b>55.</b> 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.</p>

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<p>Feeding programmes in education centres</p>	<p><b>56.</b> The County Executive Committee Member shall, in consultation with the County Education Board, implement school feeding programmes in early childhood education centres within the respective county and shall for this purpose-</p> <ul style="list-style-type: none"> <li>a) issue guidelines and facilitate the implementation of the feeding programmes; and</li> <li>b) provide adequate nutritious foods taking into account the physiological and regional demands of children in the early childhood centre within the county.</li> </ul>
<p>Teacher to child ratio</p>	<p><b>57.</b> (1) The teacher to child ratio in an education centre under this Act shall be as prescribed by the county executive committee member in consultation with the County Education Board.</p> <p>(2) The teacher to child ration in an education centre may be varied in accordance with such other guidelines as may be adopted from time to time.</p>
<p>Prohibition from offering boarding facilities</p>	<p><b>58.</b> An education centre under this Act shall not offer boarding facilities.</p>

**PART VI – ACCREDITATION**

<p>Accreditation of education centres offering foreign curriculums</p>	<p><b>59.</b> An education centre administering or intending to administer a foreign curriculum shall apply to the County</p>
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	<p>Education Board and the County Executive Committee Member for accreditation in the manner specified under this Part.</p>
Application for accreditation	<p><b>60.</b> (1) An education centre which intends to apply for accreditation shall make an application to the County Education Board and the County Executive Committee Member in the prescribed form.</p> <p>(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.</p> <p>(3) The County Education Board may, in consultation with the executive committee member grant to an applicant full accreditation or interim accreditation for the purpose of enabling the education centre address any areas of non-compliance with the accreditation standards prior to issuing to the education centre, a certificate of full accreditation.</p> <p>(4) An education centre to which a certificate of interim accreditation is issued under subsection (2) shall address any areas of non-compliance within such period as may be specified by the County Education Board not exceeding six months from the date on which the certificate is issued.</p> <p>(5) Full accreditation shall be for a period of five years and shall be renewable subject to the education centre meeting the conditions prescribed by the County</p>

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	<p>Education Board in consultation with the executive committee member.</p> <p>(6) Where an education centre under subsection (3) fails to meet the accreditation standards within the period specified by the County education Board, the certificate shall be deemed to have expired.</p>
<p>Renewal of accreditation</p>	<p><b>61.</b> (1) An education centre may make an application for renewal of its accreditation to the County Education Board.</p> <p>(2) An application for renewal of accreditation shall be made at least ninety days before the expiry of the certificate of accreditation.</p>
<p>Consideration of application</p>	<p><b>62.</b> Upon receipt of an application under section 55 or 56, the County Education Board shall –</p> <ul style="list-style-type: none"> <li>a) acknowledge receipt within a period of seven days of such receipt;</li> <li>b) consider the application to determine if the applicant has submitted the required information; and</li> <li>c) carry out a site visit to the education centre.</li> </ul>
<p>Evaluation of applicant for accreditation</p>	<p><b>63.</b> (1) The County Education Board shall carry out a site visit of the education centre within a period of thirty days from the date of the application for accreditation.</p> <p>(2) The County Education Board in collaboration with the county department of education shall, in carrying out a site</p>

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	<p>visit, authenticate the information submitted by the education centre and evaluate the institution to determine whether it meets the requirements for accreditation under this Part.</p>
<p>Grant of accreditation</p>	<p><b>64.</b> (1) The County Education Board in collaboration with the county department of education shall, upon considering an application for accreditation or renewal under section 55 and 56, conduct a site visit under section 58 and upon being satisfied that the education centre meets the requirements under this Act –</p> <ul style="list-style-type: none"> <li>a) grant the applicant a certificate of full accreditation or renewal as the case may be; or</li> <li>b) reject the application for the grant of or renewal of accreditation.</li> </ul> <p>(2) The County Education Board may defer its decision to grant or renew an application for accreditation and require the education centre to submit to it such additional information or take such corrective measures as it may consider necessary.</p>
<p>Adherence to conditions for accreditation</p>	<p><b>65.</b> An education centre to which a certificate of accreditation is issued under section 59 shall –</p> <ul style="list-style-type: none"> <li>a) adhere to the standards and conditions for accreditation throughout the period of accreditation;</li> <li>b) ensure that the curriculum administered in the centre meets the standards set out under section 47</li> </ul>

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	<p>and such further standards as may be determined by the Kenya Institute of Curriculum Development in consultation with the County Education Board.</p>
<p>Certificate to remain property of the board</p>	<p><b>66.</b> A certificate of accreditation issued by the County Education Board under this Act shall remain the property of the County Education Board and shall, upon revocation or expiry, be surrendered to the County Education Board.</p>
<p>Revocation of accreditation</p>	<p><b>67.</b> 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 –</p> <ul style="list-style-type: none"> <li>a) fails to comply with a standard of accreditation; or</li> <li>b) fails to correct any deficiency noted and communicated to the institution by the County Education Board.</li> </ul> <p>(2) An education centre shall, upon the revocation of the certificate of accreditation, surrender the certificate to the County Education Board within seven days of the revocation.</p> <p>(3) The County Education Board shall not revoke a certificate of accreditation unless it grants the education center a right to be heard on the revocation.</p>

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	(4) 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 board to revoke accreditation	<b>68.</b> 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 centers.	<b>69.</b> The County Education Board and the county department of education shall maintain a register of accredited institution and shall publish such register annually in one newspaper of national circulation and on its website or such other media as it may consider appropriate.

**PART VII – QUALITY ASSURANCE AND STANDARS OF EDUCATION**

Quality assurance	<p><b>70.</b> (1) There is established a committee known as the County Early Childhood Quality Assurance Committee which shall consist of –</p> <ul style="list-style-type: none"> <li>a) two persons, not being public officers, appointed by the Governor by notice in the County Gazette in consultation with the Executive Committee Member who have knowledge and at least fifteen years experience in matters relating to early childhood education or education quality assurance;</li> <li>b) two public officers in the department responsible for education, nominated by the Executive</li> </ul>
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	<p>committee member; and</p> <p>c) one representative from the <b>directorate of quality assurance and standards</b>;</p> <p>(2) The quality assurance committee shall –</p> <p>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 <b>directorate of quality assurance and standards</b>;</p> <p>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;</p> <p>c) monitor and evaluate and where appropriate, review the standards and guidelines on quality assurance in the county; and</p> <p>d) in consultation with the <b>Directorate of Quality Assurance and Standards</b>, ensure-</p> <p>i) the implementation of the policies formulated by the <b>Directorate</b>; and</p> <p>ii) monitor the implementation of such standards.</p>
<p>Decentralization of quality assurance services</p>	<p><b>71.</b> The county early childhood quality assurance committee may establish such offices in such decentralized units of the county established pursuant to the County</p>

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	<p>Governments Act as it may consider necessary for the effective and efficient performance of its functions under this Act.</p>
Power of entry and assessment	<p><b>72.</b> (1) The county early childhood education quality assurance committee may, in consultation with the County Education Board, authorize in writing such quality assurance officers as it may consider necessary to exercise the powers specified under subsection (2).</p> <p>(2) The quality assurance officers under subsection (2) shall be competitively recruited and appointed by the county public service Board.</p> <p>(3) Any person holding an authorization under subsection (1) may, at any reasonable time,—</p> <ul style="list-style-type: none"><li>a) enter and assess any registered education centre;</li><li>b) assess, photocopy, print out, or copy onto disk any documents, whether held in electronic or paper form, that the person believes on reasonable grounds to be those of the board of management of the education centre; or</li><li>c) remove any document specified in paragraph (b), whether in its original form or as an electronic or paper copy.</li></ul> <p>(4) Where any original documents are removed from an education centre under subsection (3)(c), the person who removes the documents shall—</p>

	<p>a) leave at the education centre a list of the documents removed; and</p> <p>b) return the documents, or a copy of them, to the centre as soon as practicable unless to do so would prejudice any investigation being or to be carried out by the department.</p> <p>(5) Every written authorization under subsection (1) shall contain-</p> <p>a) a reference to this section;</p> <p>b) the full name of the person authorized; and</p> <p>c) a statement of the powers conferred on that person by this section.</p> <p>(6) Every person exercising any power under subsection (1) shall, at the time of assessment, possess the appropriate written authorization, and evidence of identity, and shall produce them to the person in charge of the premises concerned or, as the case may be, the person having possession or control of the books, records, or accounts concerned—</p> <p>a) on first entering the premises; and</p> <p>b) whenever subsequently reasonably required to do so by the person in charge.</p> <p>(7) For the purposes of this section, assessment, in relation to</p>
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	<p>any education centre, includes—</p> <ul style="list-style-type: none"> <li>a) access to the written and recorded work of the children enrolled there; and</li> <li>b) meeting and talking with children enrolled there.</li> </ul>
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**PART VIII – SAFETY AND PROTECTION OF CHILDREN IN AN EDUCATION CENTRE**

<p>Safety equipment</p>	<p><b>73.</b> The board of management in each education centre registered under this Act shall –</p> <ul style="list-style-type: none"> <li>a) maintain premises that meet the requirements of the occupational health, safety regulations and building standards;</li> <li>b) ensure the welfare and safety of the pupils, teachers, non-teaching staff and other persons within the institution;</li> <li>c) put in place fire fighting equipment, first aid and other emergency equipment and non-prescription medicine as the executive committee member may prescribe;</li> <li>d) implement emergency response capacity building programmes for all members of staff working in education centres within the county; and</li> </ul>
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	<p>e) have a list of the contacts of emergency service providers including hospitals, readily available to all members of staff.</p> <p>(2) In providing the equipment specified under subsection (1) (c), the centre shall ensure that such equipment is accessible during an emergency.</p> <p>(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.</p> <p>(4) The Executive Committee Member shall prescribe minimum standards for the health and safety of pupils and for a satisfactory environment for education.</p>
<p>Prohibition of corporal punishment</p>	<p><b>74.</b> (1) No teacher or staff of an education centre shall administer corporal punishment.</p> <p>(2) A child in an education centre shall not be subjected to emotional or psychological abuse.</p> <p>(3) A person who contravenes subsection (1) and (2) commits an offence and shall be liable, on conviction, to a fine not exceeding five hundred thousand or to imprisonment for a term not exceeding four years, or to both.</p>

**PART IX – MISCELLANEOUS PROVISIONS**

<p>Transitional clause</p>	<p><b>75.</b> (1) Subject to subsections (2), (3), and (6), every education centre that, immediately before the commencement of this</p>
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	<p>Act, was registered as an education centre shall be deemed to be registered as an education centre under this Act, and shall continue to be so registered 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.</p> <p>(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 13 or 14 within three months of the date of that notice, and-</p> <ul style="list-style-type: none"><li>a) if that service provider fails to make such an application within the specified period, the centre ceases to be registered under subsection (1) at the end of that period; or</li><li>b) if that service provider makes such an application within the required period, the centre continues to be registered under subsection (1) until that application has been determined.</li></ul> <p>(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 takes effect accordingly.</p>
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	<p>(4) The county education department in collaboration with the County Education Board may give a notice under subsection (3) only if it is satisfied that the service provider or the centre—</p> <ul style="list-style-type: none"><li>a) has failed to comply with this Act on the requirements of registration; or</li><li>b) fails to comply with any conditions for registration.</li></ul> <p>(5) The county department of education in collaboration with the County Education Board may, despite the fact that the centre concerned does not meet the minimum requirements for registration under section 13 or 14, issue to the service provider operating the centre a provisional certificate in such manner as the executive committee member may prescribe and subject to such conditions as he or she may impose.</p> <p>(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 Board in collaboration with the department may, by written notice to the service provider operating the centre, cancel the certificate.</p> <p>(7) Every notice under subsection (3) or subsection (6) shall set out the reasons for the action taken.</p>
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	<p>(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 executive committee member.</p>
<p>Regulations</p>	<p><b>76. (1)</b> The executive committee member may make regulations generally for the better carrying out of the provisions of this Act.</p> <p>(2) Without prejudice to the generality of subsection (1), the executive committee member may, taking into account any policies, standards or regulations applying to all education centres prescribed by the County Education Board and other National Government Agencies-</p> <p>a) prescribe minimum standards relating to the following matters –</p> <ul style="list-style-type: none"> <li>i) premises and facilities;</li> <li>ii) programmes of education;</li> <li>iii) practices in relation to children’s learning and development;</li> <li>iv) staffing and parental or caregiver participation;</li> <li>v) health and safety;</li> <li>vi) implementation of the curriculum framework;</li> <li>vii) communication and consultation with parents;</li> <li>viii) the operation or administration of early childhood education services in a manner that ensures the health, comfort, care,</li> </ul>

	<p>education, and safety of children attending registered early childhood education centres;</p> <p>(b) limit or regulate the numbers of children who may attend a registered education centre;</p> <p>(c) provide for the grant, duration, expiry, renewal, suspension, transfer, reclassification, and cancellation of registration certificates of one or more specified kinds of service providers for each kind of early childhood development service;</p> <p>(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;</p> <p>(e) prescribe conditions governing, or that may be imposed in respect of, registered education centres and the duties of their service providers;</p> <p>(f) prescribe the records to be kept by education centres in respect of children attending registered centres;</p> <p>(g) regulate the qualifications to be held by persons managing, care giving or offering any care services in an education centre.</p>
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	<p>(3) Regulations made under subsection (2) may prescribe different standards and other requirements—</p> <ul style="list-style-type: none"><li>a) for early childhood services of different types or descriptions; and</li><li>b) in respect of different kinds of registrations.</li></ul> <p>(4) For the purposes of Article 94(6) of the Constitution –</p> <ul style="list-style-type: none"><li>a) the authority of the County executive committee member 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</li><li>b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013 in relation to subsidiary legislation shall apply to regulations made under this Act.</li></ul>
General penalty	<p><b>77.</b> A person who contravenes any provision of this Act for which no penalty is specifically provided commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding two years, or to both.</p>

**FIRST SCHEDULE**

***Section 25 (1)***

**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.
9. Classrooms shall provide for ramps for persons living with disabilities.

## **SECOND SCHEDULE**

### ***Section 35 (6)***

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

##### **Meetings of the Board**

1. (1) The board of management shall meet at least once in every two months and no more than six meetings in a year to conduct its business.  
  
(2) The first meeting of the board of management shall be convened by the secretary 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 three members of the Board of management, convene a special meeting of the board of management at any time where he considers it expedient for the transaction of the business of the board of management.  
  
(4) The members of the board of management shall elect a chairperson and a vice chairperson from among themselves at the first sitting of the board; and whenever it is necessary to fill the vacancy in the office of the chairperson and the vice chairperson.

- (5) A meeting shall be presided over by the chairperson or in his absence by the vice-chairperson and in the absence of both, the members shall nominate one member to preside over the meeting.
- (6) The board of management 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 of management.
- (7) The proceedings of the board of management 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 of the Board of management shall not be less than half of the members.  
  
(2) Where there is a vacancy in the board of management, 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 of management 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 of management who has a direct or indirect personal interest in any matter being considered or to be considered by the board of management shall, upon the relevant facts concerning the matter having come to his knowledge, disclose the nature of his interest to the board of management.  
  
(2) A disclosure of interest made by a member of the board of management under sub-

section (1) shall be recorded in the minutes of the meeting of the board of management and the member shall not, unless the Board of management otherwise determines-

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

(3)A member of the board of management who makes a disclosure under sub-section (1) shall not be present in the meeting of the board of management held to determine whether or not the member should take part in the deliberations or decision of the Board of management in relation to the matter; or influence any other member of the board of management in arriving at a particular decision in relation to the matter.

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

#### **Rules of procedure and minutes**

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

(2) The board of management 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 of management at the next meeting of the board of management and signed by the chairperson or the person presiding at the meeting.

## **MEMORANDUM OF OBJECTS AND REASONS**

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

**Part 1** of the Bill deals with the preliminary matters and sets out the objects and purposes of the Bill and the principles that are to guide the county and other actors in the implementation of this Bill.

**Part II** of the Bill elaborates on the right to early education as articulated under article 53 of the constitution. It also confers various obligations to the county government, parents or guardians and head teachers in ensuring that the right to early childhood education is realized. This part also makes provision for children with special needs and confers an obligation on the county government to ensure that there are in place facilities and education centres that ensure that the early childhood education needs of children with special needs are met.

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

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

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

**Part VI** of the Bill sets out the quality of education and standards required to be maintained in an early childhood education centre. This part provides for the establishment of the county early childhood quality assurance committee to ensure the implementation of the policies and standards of education formulated by the County Government in the county and for the appointment of inspectors who are conferred with the powers to enter and carry out inspections of this Act.

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

**Part VIII** sets out transitional provisions in relation to existing education centres of schools that offer early childhood education services.

**Part IX** provides for the formulation of regulations by the county Executive committee member for the better implementation of this Act. It also sets out amendments to the Basic Education Act to align it with the Act with regard to the provision of early childhood education services by the county government in line with the Fourth Schedule to the Constitution.

**Statement on the delegation of legislative powers and limitation of fundamental rights and freedom.**

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

**Statement on how the Bill concerns county governments**

The Fourth Schedule to the Constitution confers an obligation on the counties to implement early childhood education. The Bill provides the framework for the implementation

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of early childhood education by the county governments and therefore concerns county governments.

**Statement that the Bills is not a money Bill, within the meaning of Article 114 of the constitution**

This Bill is not a money Bill within the meaning of Article 114 of the constitution. However, pursuant to Section 5 of the Bill, the Bill in invoking the right to free and compulsory early childhood education, contemplates occasioning further expenditure of public funds whose budget must be considered in the subsequent financial year following the passing of this Bill.

Dated the ..... Day of ..... 2020

**Hon. Novena Ndaliro,**  
**Chairperson,**  
**Committee on Children, Early childhood Education & vocational Training**