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**THE MANDERA COUNTY PRE-PRIMARY AND EARLY
CHILDHOOD EDUCATION ACT, 2014**

No. 15 of 2014

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Date of Commencement: 5th December, 2014

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THE MANDERA COUNTY PRE-PRIMARY AND EARLY CHILDHOOD EDUCATION ACT, 2014

AN ACT of the County Assembly of Mandera to give effect to paragraph 9 of part 2 of the Fourth Schedule of the Constitution, to provide for Pre-Primary and Early Childhood Education and for other connected purposes

ENACTED by the County Assembly of Mandera of as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Mandera County Pre-primary and Early Childhood Education Act, 2014.

Citation.

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

Interpretation

“early childhood” means the age between zero to eight years of a child;

“County Education Board” means the County Education Board established under the Basic Education Act, 2013;

“Department” means the Department of Pre-primary and Early Childhood Education established under section (5);

“inspector” means inspector of schools appointed under the Basic Education Act, 2013;

“Pre-primary Education” basic education offered to children between the age of zero to six years including Dugsi and Mobile schooling.

“Quality assurance officer” means quality assurance under the Education Act, 2013.

“Executive Member” means County Executive Committee member responsible for education.

PART II—ESTABLISHMENT, POWERS AND FUNCTIONS OF MANDERA COUNTY EDUCATION BOARD

3. (1) There is established a Board to be known as the Mandera County. The functions of the Board shall be to advise the CEC member of education and related departments on policy matters in respect to—

Establishment and Functions of the Board

- (a) Collaboration with the Quality Assurance and Standards Council, County Public Service Board in Pre-primary and Early Childhood Education and training;

Working with all relevant authorities and

- (b) agencies to ensure that all the barriers to the right to quality education are removed and that the County governments facilitate the realization of the right to education by all Kenyans;
- (c) The initiation of guidelines for approval by the CEC on the establishment of Pre-primary and Early Childhood Education institutions;
- (d) Putting measures in place to ensure all children attend and remain in school to complete Pre-primary and Early Childhood Education requirements;
- (e) Putting measures in place to ensure, where applicable, transition to the next level of education, especially for the vulnerable and marginalized children;
- (f) Any other matter as shall be from time to time be referred to the Board by the CEC

2 The County Education Board shall generate and cause to be published an annual report on the state of education and service delivery in the County.

4. (1) The conduct and regulation of the business and Conduct of Business and affairs of the Board shall be as provided in the First Schedule

Conduct of the
Business and
Affairs of the
Board.

(2) Except as provided under the First Schedule, the Board may regulate its own procedure

5. (1) The Board shall consist of a Chairperson and composition of the Board eight other members appointed by the CEC in accordance with the provisions of this Act.

Composition of
the Board

(2) The Chairperson shall serve for a term of five years and shall be eligible for reappointment of one future term of five years.

(3) The members shall serve for a term of three years and shall be eligible for reappointment for on further term of three years

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6. (1) A person shall be qualified for appointment as the chairperson of the Board if such person—

Qualification for Appointment as a Chairperson or a member of the Board.

- (a) holds a degree in education from a university recognized in Kenya;
- (b) has knowledge and at least five years experience in matters relating to Pre-Primary and Early Childhood Education;
- (c) has had a distinguished carrier in their respective fields; and
- (d) meets the requirements of Chapter Six of the Constitution.

(2) A person shall be qualified for appointment as a member of the Board if such person—

- (a) holds a degree from a recognized university;
- (b) has knowledge and at least five years experience in matters relating to any of the following fields—
 - (i) Education;
 - (ii) Management;
 - (iii) Finance;
 - (iv) Governance
 - (v) Human rights;
 - (vi) Public administration;
 - (vii) Law;
 - (viii) Economic; and
 - (ix) Meets the requirements of Chapter Six of the Constitution.
- (c) has had distinguished carrier in their respective fields; and
- (d) meets the requirements of Chapter Six of the Constitution

7. A person shall not be qualified for appointment as the Chairperson or a member of the Board if such person —

Disqualifications from appointment

- (a) is a member of Parliament or a County Assembly;
- (b) is a member of a local authority;
- (c) is adjudged, bankrupt; or
- (d) has been removed from office for contravening the provisions of the Constitution or any other written law.

8. (1) Upon commencement of this Act or whenever there is a vacancy in the Board of a chairperson and member, the CEC for education shall within fourteen days of the occurrence of the vacancy, appoint a Selection Panel for the purpose of selecting suitable candidates for appointment as the Chairperson or Member of the Board.

Appointment of the Chairperson and Members.

(2) The Selection Panel appointed under sub-section (1) shall consist of a Chairperson—

- (a) two persons to represent registered Schools Heads Association
- (b) A representative of County executive responsible for matters relating to Education who be the Secretary to the Selection Panel;
- (c) one person to represent the County Public Service Board
- (d) One person representing persons with disabilities
- (e) One person representing religious groups
- (f) One person to represent the County Private Sector Alliance
- (g) One to represent organizations dealing with Children’s Rights” and
- (h) One person to represent an Association of Parents

9. The office of the Chairperson or a member of he Board shall become vacant if the holder—

Vacation and removal from office

- (a) dies;
- (b) resigns from office, by a notice in writing addressed to the CEC member for Education
- (c) is absent from three consecutive meetings of the Board without reasonable cause; or

(d) is removed from office in accordance with subsection(2).

(2) The Chairperson or a member of a Board may be removed from office for—

- (a) contravention of Chapter Six of the Constitution
- (b) serious violation of this Act or any other law;
- (c) gross misconduct, whether in performance of the Chairperson's, members' or office holder's functions or otherwise;
- (d) physical or mental incapacity to perform the functions of office;
- (e) incompetence; or
- (f) if adjusted bankrupt.

PART III— RESPONSIBILITIES RELATING TO PRE-PRIMARY AND EARLY CHILDHOOD EDUCATION

10. (1) The Governor shall promote the establishment of Pre-PPrimary and Early Childhood Schools, Centres and institutions in the County to ensure pre-primary education and development for all children below the age of six years before they proceed to the compulsory basic primary education.

Responsibilities of
the Governor.

(2) The Governor shall organize the pre-primary and early childhood education system in the County and be responsible for the general progress, development and co-ordination of the system and its activities in accordance with the Basic Education Act, 2013.

11. The County Executive Committee shall, in consultation with the County Education Board established under the Basic Education Act—

Executive
Committee to
issue guidelines
on minimum
standards

- (a) provide the curriculum, guidelines on minimum standards for school buildings, equipment and other relevant facilities for pre- primary and early childhood schools, centres and institutions with guidance from Kenya Institute of Education (KIE);

- (b) provide the curriculum for the training of pre-primary and early childhood teachers and ensure that the teachers who teach in the schools, centres and institutions have the necessary qualifications; and
- (c) ensure that all pre-primary and early childhood schools, centres and institutions are licensed, registered and regularly inspected by Government Education Inspectors.

12. (1) There shall be a Pre-Primary and Early Childhood Education Department within the Directorate responsible for Education in the public service.

Department of
Pre-primary and
Early Childhood
Education.

(2) The principal functions of the Department of Pre-primary and Early Childhood Education shall be to—

- (a) advise the Governor and the Executive Committee on all matters relating to pre-primary and early childhood education;
- (b) initiate guidelines on the establishment of pre-primary and early childhood schools, centres and institutions for approval by the Executive Committee;
- (c) register pre-primary and early childhood schools, centres and institutions;
- (d) carry out any other function for the effective provision of pre-primary and early childhood education.

13. (1) The Department of Pre-Primary and Early Childhood Education shall be headed by a public officer competitively appointed by the County Public Service Board.

Head of
Department of
pre-primary
education.

(2) A person is qualified for appointment as head of Department of Pre-Primary and Early Childhood Education if that person—

- (a) is a citizen of Kenya;
- (b) holds a degree in education from a recognized university;
- (c) has knowledge and relevant experience in primary or pre-primary education or social work; and

- (d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.
- (3) A person shall not be qualified for appointment as the head of Department of Pre-Primary and Early Childhood Education under sub-section (2) if that person—
- (a) is a member of Parliament or the County Assembly;
 - (b) is declared to be of unsound mind;
 - (c) is an un-discharged bankrupt; or
- has been removed from office for contravening the provisions of the Constitution or any other written law.

14. (1) The County Public Service Board may appoint other officers, technical staff and other employees as may be necessary for the proper discharge of the functions of the Department under this Act, and upon such terms and conditions of service as the County Public Service Board may determine.

Other officers and staff of the Department.

(2) The Department may have such consultants or experts as may be necessary for the discharge of its functions.

15. (1) The Department shall prepare and submit an annual report to the Governor and the County Education Board including the number of schools, centers or institutions established and registered in that year and the general status of the pre-primary and early childhood education system in the County.

Annual and other reports

(2) Notwithstanding sub-section (1), the Governor or County Education Board may at any time, require a report from the Department on any particular matter under the responsibility of the Department.

(3) A report submitted under sub-section (1) or (2) shall be tabled in the County Assembly.

PART IV— REGISTRATION OF SCHOOLS, CENTRES INSTITUTIONS AND FUNDING

16. (1) A person shall not operate a pre-primary or early childhood school, centre or institution unless it is registered under this Act.

School, Centre or Institution to be registered.

(2) A person shall not use any premises or facility to provide pre-primary or early childhood education unless the premises or facility of the school, centre or institution has undergone a quality review and approved in accordance with the guidelines and standards issued under section 4 of this Act.

(3) Any person who operates a pre-primary or early childhood school, centre or institution which is not registered under this Act commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand Kenya Shillings or one year jail term or both.

17. (1) An application for registration of a school, centre of institution under this Act shall be in a form prescribed by the Executive Committee Member responsible for Education.

Application for
registration

(2) An application for registration of a school, centre of institution under this Act shall be submitted to the Department.

(3) Within seven working days after receipt of an application under sub-section (1), the Department shall forward a copy of the application to the County Education Board.

(4) The County Education Board shall, within fifteen working days after receiving the application under sub-section (3)–

- (a) visit and conduct an inspection of the proposed premises for the school, centre or institution; and
- (b) conduct an interview with the applicant to assess the suitability of the equipment and the persons proposed to be employed in the school, centre or institution.

(5) The County Education Board shall within a reasonable period after the inspection and interview forward its recommendation to the Department for the registration of the school, centre or institution or to take such other action as the Department may deem fit.

18. Any person making an application for registration of a pre-primary or early childhood school, centre or institution shall pay the prescribed fees to the Department.

Applicant to pay
prescribed fee

19. (1) The department shall register a pre-primary or early childhood school, centre or institution if the department is satisfied, based upon the written report of the County Education Board, that—

Registration of a school, centre or institution.

- (a) the applicant is an adult and a fit and proper person to operate the school, centre or institution;
- (b) the applicant has not been convicted of an offence relating to or connected with, unlawful activities involving narcotic drugs and psychotropic substances, or the Children's Act, or an offence involving fraud, dishonesty or moral turpitude, consideration given to reformed applicants with proper certification documents. Also applies to Section (2) (c) (d);
- (c) where the applicant is a company, firm or other organization, none of its directors or members, has been convicted of an offence mentioned in paragraph (b);
- (d) none of the persons to be employed by the applicant in the operation of the institution has been convicted of an offence mentioned in paragraph (b).
- (e) the applicant or a person to be employed by the applicant in the operation of the institution is not, by reason of any infirmity of mind or body or otherwise, incapable of operating or being employed in the institution.

(2) Any person aggrieved by the decision of the Department under this section may, within thirty days of being notified of the decision, appeal against the decision to the Education Appeals Tribunal established under the Basic Education Act.

20. (1) The Department may, upon recommendation by the County Education Board, issue to the applicant for registration of a school, centre or institution, a permit to operate pending the fulfilment of the conditions required by the Board for the determination of the application.

Permit to operate prior to registration.

(2) A permit under sub-section (1) shall cease to operate upon—

- (a) the delivery of a certificate of registration to the applicant; or
- (b) the expiry of twenty-four hours after receipt of the notice of refusal of registration or such longer period as the Department may specify in the notice.

(3) As a condition of the grant of a permit under this section, the Department may prescribe a period within which the applicant must fulfill the conditions required by the Board for the improvements of the operation or the premises of the school, centre or institution.

(4) A permit issued under this section shall be in the form prescribed by the Executive Committee Member responsible for Education.

(5) The holder of a permit under this section shall allow an inspector to enter the premises of the school, centre or institution, at all reasonable hours, for the purpose of carrying out any inspection to ascertain whether or not the school, centre or institution is in compliance with the conditions of the permit.

21. (1) The Department shall, on registration of a pre-primary or early childhood school, centre or institution, issue a registration certificate to the applicant.

Registration certificate

(2) A registration certificate shall be valid for a period of two years from the date of issue and may be renewed on application by the operator of the pre-primary or early childhood school, centre or institution, in accordance with this Act.

22. The registration certificate issued under section 13 shall be displayed, by the operator, in a conspicuous place on the premises of the pre-primary or early childhood school, centre or institution.

Registration certificate to be displayed

23. The Department shall keep a register of all pre-primary and early childhood schools, centres and institutions operating in the County and shall include in the register name of the schools, centres or institution and such other particulars as the executive committee member responsible for education may be prescribed.

Register of schools to be Kept.

24. In each year, out of the money appropriated by the County Assembly— ^{Funding.}

- (a) the service provider for every licensed early childhood service—
 - (i) May be paid general grants; and
 - (ii) May be paid one or more discretionary grants; and
 - (b) the service provider who operates a certificated playgroup—
 - (i) May be paid general grants; and
 - (ii) May be paid one or more discretionary grants; and
 - c) the management of anybody corporate may be paid a discretionary grant for the purpose of establishing a licensed early childhood service or certificated play group.
- (2) the amount of every grant must be determined by the Executive Member.
- (3) the Executive Member may from time to time determine the means by which the amounts of grants may be calculated or ascertained ; and-
- (a) different means may be determined in respect of—
 - i. Grants from different classes or descriptions; and
 - ii. Licensed early childhood services of different classes or descriptions and certificated playgroups; and
 - (b) the amount of any grant may be determined accordingly; but
 - (c) nothing in this sub-section limits or affects the executive member’s power under subsection (2) to determine the amount of any grant.
- (4) without limiting sub-section (3), the Executive Member may determine that no grant is payable in respect to any foreign student attending a licensed early childhood service.
- (5) any grant—

- (a) may be paid unconditionally, or subject to any conditions the executive member specifies in writing when the grant is paid or earlier; and
- (b) may be paid to be used for any purpose the service provider considers appropriate, or for only such purposes as the executive specifies in writing when the grant is paid or earlier; and
- (c) may be withheld in whole or in part if the service provider fails to comply with any regulations made under section 10 or section 11

Or any conditions of the licenses or certificate.

- (6) the service provider must ensure that—
 - (a) where grant has been paid subject to conditions, the conditions are complied with; and
 - (b) if a grant has been paid to be used only for purposes specified by the executive member under sub-section (5) (b), the grant is used for the purposes.

PART V—MISCELLANEOUS PROVISIONS

25. The annual estimates of the Directorate of Education in the County Government shall, in accordance with the Public Finance Management Act, 2012, make provision for the administrative and technical costs of the Department.

Administrative and technical costs.

26. (1) A person may make a complaint in writing to the Department if that person has reason to believe that—

Public may institute complaint

- (a) a pre-primary or early childhood school, centre or institution is operating illegally or is contravening any provision of this Act; or
- (b) a child at any pre-primary or early childhood school, centre or institution has been abused or has suffered injury or harm as a result of the act or negligence of the operator, a person acting as an agent, or any person employed in the school, centre or institution.

(2) Upon receiving a complaint under sub-section (1), the Department shall refer the complaint to Executive Member and notify the County Education Board of the complaint.

(3) The Executive Member shall, subject to

subsection (4), make such inquiries as may be appropriate and may conduct discussions with the complaining party, the operator of the school, centre or institution and any employee involved in the complaint.

(4) The Executive Member shall submit to the department a report containing the following information—

- (a) the grounds of the complaint, noting any facts in dispute between the relevant parties;
- (b) whether, in the opinion of the Executive Member, the matter can be remedied;
- (c) if the Executive Member is of the opinion that the matter can be remedied, the measures recommended by the Executive Member to effect the remedy; and
- (d) the time period that the Executive Member considers to be reasonably sufficient to effect the remedy.

(5) Upon receiving a report under subsection (4), the Department shall constitute a committee to consider the report and shall-

- (a) give notice in writing to the operator, the complaining party and any other party referred to in the report, of the constitution of a committee to consider the report;
- (b) specify the date, being not less than seven days from the date on which the parties receive the notice, when the parties may attend before the committee to make representations on the complaint.

(7) After consideration of the report, the committee shall submit its recommendation to the head of the Department who, taking the recommendation into consideration, may—

- (a) dismiss the complaint; or
- (b) direct the implementation of the recommendations in the report, subject to such variations as he or she may deem appropriate;
- (c) inform the County Education Board of the decision made.

(8) Any person aggrieved by the decision of the Head of Department under this section may, within thirty days of being notified of the decision, appeal against the decision to the Education Appeals Tribunal established under the Basic Education Act.

(9) This section is without prejudice to any other proceedings that may be lawfully instituted against the operator, employee or other relevant party.

27. The Department shall cause any matter of concern to the community in the county relating to pre-primary and early childhood schools, centres and institutions to be published –

Publication of matters of concern to the community.

- (a) by fixing a copy of the document comprising the matter in a conspicuous place on or near the outer door of its offices;
- (b) by including the document comprising the matter as a supplement to an official local publication, if any; or
- (c) in any other manner as is customary published in the area.

28. The executive committee member responsible for education may make regulations generally for the better carrying out of the purposes and provisions of this Act.

Regulations.

FIRST SCHEDULE

CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNTY EDUCATION BOARD

1. *Filling of Vacancy:* A vacancy in the office of a member under Section 1 shall be filled by a person appointed by the CEC in accordance with the provisions of this Schedule.

2. *Deputy-Chairperson:* The Board shall, at its first meeting, elect a Deputy Chairperson from amongst the persons appointed under Section 10 of this Act.

3. *Meetings of the Board:* The Board shall meet at least three times in each year

4. *Special meetings:* The Chairperson may at any time convene a special meeting of the Board and shall do so within fifteen days of a written requisition for the meeting signed by at least three members.

5. (1) The Chairperson shall preside at all meetings of the Board, in which the Chairperson is present and in the case of his or her absence, the Deputy Chairperson shall preside;

(2) At a meeting of the Board at which neither the Chairperson or Deputy Chairperson is present, the members of the Board present shall elect one of their members to preside, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted thereat.

6. *Quorum :* The quorum for the conduct of the business of the Board shall be five members.

7. *Votes :* The decisions of the Board shall be by a majority of voting procedure, and the Chairperson of the meeting shall have an Original and a casting vote.

8. *Validity of proceedings:* The validity of any proceedings of the Board shall not be affected by any vacancy among the membership thereof, or by reason of a defect in the appointment of a member.

9. *Minutes of the meeting:* Minutes of the proceedings at meetings of the Board shall be kept in such a manner as the Board directs, and, on the written request of the Cabinet secretary, shall be made available to him or her or any person nominated by him or her.

10. *Committees of the Board:* The Board may establish such committee as may be necessary for the performance of the functions of the Board and may, subject to the provisions of this Act, delegate powers conferred on it to any such committee.

11. *Power of the Board to Regulate own procedure:* Subject to the provisions of this Schedule, the Board shall regulate its own procedure.

12. (1) *Disclosure of interest:* If a member of the Board is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, he or she shall at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under this Paragraph shall be recorded in the minutes of the meeting at which it is made.