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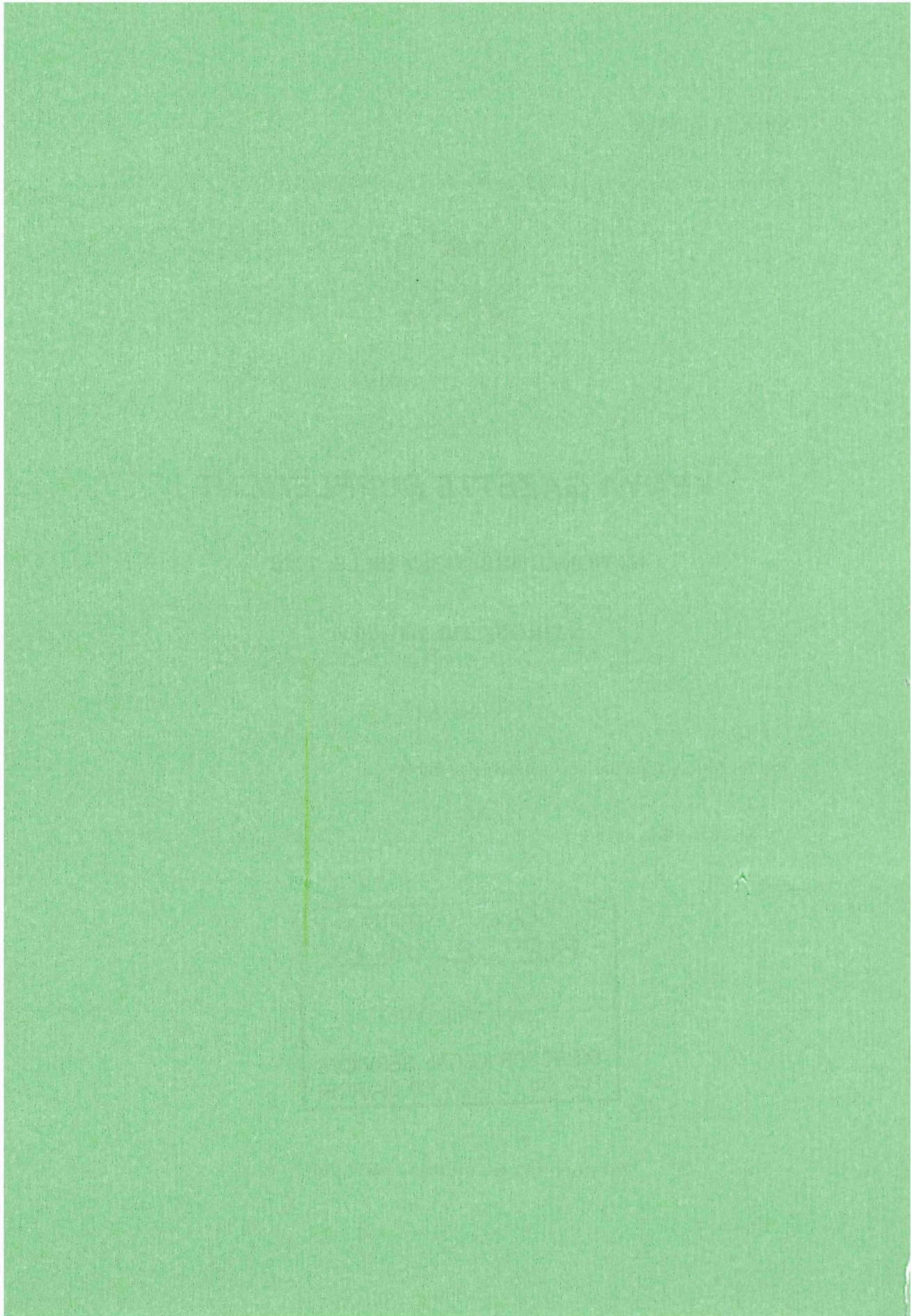
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Affairs of The Boards of
The Institute and The
Council

THE BASIC EDUCATION BILL, 2026

A Bill for

AN ACT of Parliament to give effect to Article 53(1)(b) of the Constitution; to provide for the system and structure of basic education; to provide for the administration of primary and secondary education; to provide for quality assurance standards in basic education; to provide for the coordinated provision of scholarships and bursaries in basic education; to provide for the establishment of Kenya Education Management System, the Kenya Institute of Special Education and the National Council for Education in Marginalized Communities; and for connected purposes

ENACTED by the Parliament of Kenya as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Basic Education Act, 2026.

Short title.

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

Interpretation.

“adult and continuing education” means the learning processes within the perspective of lifelong learning in which an adult or out-of-school youth is granted an opportunity in an institution for purposes of developing abilities, enriching knowledge and improving skills;

“alternative provision of basic education” means an organized form of learning for the delivery of basic education and training to persons who cannot access institutions;

“basic education” means a programme offered at pre-primary, primary, junior school and senior school and includes a program offered at adult and continuing education centres;

“bursary” means the non-repayable financial aid allocated to learners by the Ministry responsible for basic education, in collaboration with other stakeholders, on the basis of financial need in accordance with section 69;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to education;

“community” means persons residing in the neighbourhood where a basic education institution is located;

“comprehensive school” means an institution registered under this Act offering basic education where primary and junior school are housed within a unified compound;

“County Education Board” means a Board established under section 30; Cap. 212.

“Council” means the National Council for Education in Marginalized Communities established under section 97;

“county executive committee member” means the county executive committee member for the time being responsible for matters relating to education;

“curriculum” means the approved subjects taught or programmes offered to learners and includes all the activities provided at any institution of basic education;

“*duksi*” means Islamic elementary programmes that offers Quranic education and other related subjects;

“formal education” means the regular education provided in the system of schools and other institutions;

“head of institution” has the meaning assigned to it under the Teachers Service Commission Act;

“informal learning” means learning that takes place outside institutions and arises from the learner's involvement in activities that are not undertaken with the object of a learning purpose;

“Institute” means the Kenya Institute of Special Education established under section 51;

“institution” means a public or private basic education institution or facility used wholly or partly, regularly or periodically, for conducting basic education and includes pre-primary school, primary school, junior school and senior schools;

“integrated schools” means a school which is shared by learners with special needs;

“junior school” means an institution offering the level of education comprising learning under the Competency Based Framework in Grades 7, 8 and 9;

“learner” means a person who is taught by another, especially a school child or student in relation to a teacher;

“*madrassa*” means structural Muslim programmes that offers islamic and other subjects from primary, junior school and senior school;

“mobile school” means a formal flexible institution that allows for mobility of learners and teachers;

“non-formal education” means any organized educational activity taking place outside institutions and targets specific groups or categories of persons with life skills, values and attitudes for personal and community development;

“out-of-school child” means a person below the age of eighteen years who is not engaged in learning in an institution;

“out-of-school youth” means all persons who have attained the age of eighteen years but have not attained thirty-five years and who are not engaged in learning in an institution;

“parents’ teachers association” means an association prescribed in section 45;

“pastoral programme of instruction” means—

- (a) the programmes designed by different Christian churches; and
- (b) a faith-based programme that is designed to instruct primary school learners in different faith traditions and values with a view to develop the knowledge and practice of their faith;

“pre-primary education” means education offered to a child aged at least four years before joining Grade 1 in a primary school;

“primary education” means education imparted to a child after pre-primary education and before junior school;

“private school” means a school established, owned or operated by private individuals, entrepreneurs and institutions;

“public school” means a school established, owned or operated by the Government;

“scholarship” is a financial aid awarded to learners based on academic merit, financial need, or the high level of excellence, talent and skill that a learner has demonstrated in their studies;

“school” means an institution registered to offer education under this Act;

“senior school” means a level of education comprising learning under the Competency Based Framework in Grades 10,11 and 12;

“special needs education” means physical, mental or intellectual conditions with substantial and long-term adverse effects on the learning ability, other than exposure, or the needs of those who learn differently or have disabilities that prevent or hinder or make it harder for them to access education or educational facilities of a kind generally provided for learners of the same age in the formal education system and includes education for gifted or talented learners;

“special school” means a school established for the benefit of a particular class of children who require some special form of education, treatment or care;

“sponsor” means a person or institution who makes a significant contribution and impact on the academic or financial or infrastructural or spiritual development of an institution of basic education and includes the Government;

“stakeholder” means a person, a public or private institution or organization involved in an education institution and with vested interests for the benefit of such an institution;

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

“tuition fees” means fees charged to cater for instruction or instructional materials.

3. The objects of this Act shall be to—

Objects of the Act.

- (a) promote access to, and quality of, basic education;
- (b) enhance transparency and accountability in basic education;
- (c) facilitate an inclusive approach in the provision of basic education;
- (d) promote fairness, equity and equality in access to basic education; and
- (e) promote collaboration and partnerships in provision of basic education.

4. This Act shall apply to all persons undergoing instruction and learning in basic education institutions and all persons or institutions engaged in or having an interest in the provision of basic education.

Application.

5. The provision of basic education shall be guided by the following principles—

Guiding principles.

- (a) equity in access;
- (b) quality and relevance;
- (c) accountability, transparency, rule of law and democratic decision making;
- (d) non-discrimination;
- (e) good governance, integrity and inclusivity;
- (f) human dignity and integrity; and
- (g) intergovernmental consultation and cooperation.

PART II—ROLES OF NATIONAL GOVERNMENT AND COOPERATION WITH COUNTY GOVERNMENTS

6. The national government shall—

Role of the national government.

- (a) ensure free and compulsory basic education to every child in accordance with Article 53(1)(b) of the Constitution;
- (b) formulate policies, norms and standards for the provision of basic education;
- (c) ensure access to basic education for learners with special needs;

- (d) ensure equity in and quality of basic education;
- (e) register and monitor the operations of all education institutions providing basic education but not in respect of pre-primary schools;
- (f) develop and implement curricula that promote positive culture and the holistic development of the child;
- (g) develop and implement assessment of learners in basic education;
- (h) ensure access to basic education for vulnerable and disadvantaged children;
- (i) ensure access, retention and completion of basic education by learners;
- (j) ensure adequate non-teaching staff in basic education institutions;
- (k) ensure adequate infrastructure, teaching and learning materials in basic education institutions;
- (l) provide appropriate incentives to learners in basic education;
- (m) collaborate with and support county governments in the management of pre-primary education;
- (n) collaborate with county governments and other relevant agencies, to develop and implement policies on foundational learning;
- (o) engage stakeholders in the provision of basic education; and
- (p) ensure compliance with this Act.

7. Subject to Article 189 of the Constitution, the national government may—

Cooperation with county governments.

- (a) cooperate with county governments in the provision of basic education; and
- (b) enter into an intergovernmental arrangement for cooperation in the provision of basic education.

8. Subject to Article 187 of the Constitution, either level of Government may, on request and with agreement of the other level of government, transfer to the other

Transfer of functions and powers between the two levels of

government its respective functions relating to provision of basic education. government.

PART III—FREE AND COMPULSORY BASIC EDUCATION

9. (1) Pursuant to Article 53(1)(b), every child has the right to free and compulsory basic education. Right of the child to free and compulsory basic education.

(2) The national and county governments shall implement the right of every child to free and compulsory basic education.

(3) The Cabinet Secretary shall, in consultation with the County Education Boards, establish—

- (a) primary, junior and senior schools, mobile schools, adult and continuing education centres and multipurpose development institutions within a reasonably accessible distance within a county;
- (b) appropriate boarding primary schools in arid and semi-arid areas, hard-to-reach and vulnerable groups as appropriate;
- (c) academic centres, or relevant educational institutions to cater for gifted and talented learners; and
- (d) special and integrated schools for learners with special needs.

10. (1) Each learner shall undergo basic education.

Right to basic education.

(2) Notwithstanding sub-section (1), the Cabinet Secretary shall formulate regulations and guidelines governing non-formal and informal learning and alternative provision of basic education.

11. (1) A public school shall not charge or cause any parent or guardian to pay tuition fees for or on behalf of any learner in the school.

Free tuition.

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

(3) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not

exceeding one million shillings or to imprisonment for a period not exceeding three years, or to both.

12. (1) A public school shall not impose other charges without the approval of the Cabinet Secretary.

Other charges.

(2) Subject to sub-section (1), a person or institution that collects any charges shall issue an official receipt.

(3) No child shall be barred from attending school because of failure to pay the charges contemplated under this section.

(4) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a period not exceeding three years, or to both.

13. (1) Every parent or guardian shall present their child for admission or cause their child to be admitted, as the case may be, to a basic education institution.

Admission to a basic education institution.

(2) A child shall be admitted in a school at the commencement of the academic year or within such extended period as may be prescribed.

(3) A school or person responsible for admission shall not discriminate against any child seeking admission on any ground, including ethnicity, sex, religion, race, colour or social origin, age, disability, language or culture.

(4) A child admitted to a basic education institution shall not be prevented from carrying out the child's religious practices or subjected to a practice that contravenes their faith.

(5) The provisions of sub-section (3) shall not apply in matters relating to sex in cases where a school is registered for a particular sex or disability.

(6) Where a parent or guardian defaults in the discharge of the parents's or guardian's responsibility under sub-section (1), the parent or guardian shall be deemed to have committed an offence and shall be liable to a fine not exceeding one hundred thousand shillings or to a period not exceeding two years, or to both.

(7) For the purpose of admission to a basic education institution, the age of a child shall be determined on the

Cap. 149.

basis of the birth certificate issued in accordance with the provisions of the Births and Deaths Registration Act or on the basis of such other document, as may be prescribed by regulations made by the Cabinet Secretary.

(8) Notwithstanding subsection (7), no child shall be denied admission to a school or basic education institution for lack of proof of age.

14. A public school shall not administer or cause a person to administer any test for the purposes of determining eligibility for admission of a child to the school.

Restriction on admission tests.

15.(1) A parent of a child who has been denied admission to a public school may notify the County Education Board of the decision.

Denial of admission.

(2) The County Education Board notified of decision under subsection (1), shall review the decision of a school that denies a child admission and within fourteen days make a determination.

(3) Where the County Education Board determines that the denial of an admission was not merited, the Board shall communicate the decision to the school and the parent or guardian and order immediate admission of the learner, in writing.

(4) Where the County Education Board determines that the denial of an admission was merited, the Board shall communicate the decision to the school and the parent or guardian with reasons for such decision in writing.

(5) The parent or guardian may appeal against the decision of the County Education Board under subsection (4) to the Education Appeals Tribunal.

16.(1) A person shall not prevent a child from attending school on account of employment, income generating activities, religion, parental conflict or cultural practices or on any other ground.

Prevention from attending school.

(2) A person who contravenes subsection (1) commits an offence and is liable to fine not exceeding five million shillings or to imprisonment to a period not exceeding five years, or to both.

17. (1) Every parent or guardian whose child—

Parent or
guardian's role.

(a) is Kenyan; or

(b) resides in Kenya,

shall ensure that the child regularly attends as a pupil at a school or such other institution as may be prescribed by the Cabinet Secretary.

(2) A parent or guardian who fails to ensure attendance of a child to school or such other institution as required under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both.

18. (1) Where a learner fails to attend school, the head of institution shall cause an investigation of the circumstances of the child's absence from school.

Functions of the
head of
institution.

(2) Where the head of institution finds there are no reasonable grounds for the child's failure to attend school, the head of institution shall—

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

(b) submit a report on the failure of the child to attend school to the County Education Board.

(3) Any parent or guardian who, without a reasonable cause and after a written notice from the head of institution, fails to comply with this section, commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a period not exceeding two years, or to both.

19. (1) Each learner shall be subject to such disciplinary measures as shall be prescribed by rules and guidelines formulated by the Cabinet Secretary.

Discipline.

(2) A learner shall not be subjected to corporal punishment, torture or cruel, inhuman or degrading treatment or punishment of any manner, whether physical or psychological.

(3) A person who contravenes the provisions of subsection (1) commits an offence and shall be liable on

conviction to a fine not exceeding one hundred thousand shillings or to imprisonment not exceeding six months or both.

(4) Subject to subsection (2) the Cabinet Secretary may make regulations to prescribe the discipline of a delinquent learner for whom all other corrective measures have been exhausted and only after such child and parent or guardian have been afforded an opportunity of being heard:

Provided that such a learner shall be admitted to an institution that focuses on correction in the context of education.

(5) Subject to this section, the Cabinet Secretary may make regulations to prescribe the procedure for suspension, expulsion and transfer of a learner from school.

20. A learner admitted in a school shall not be barred from transitioning to the next level.

Transition to the next level.

21. The Cabinet Secretary shall develop a framework to provide for the re-entry of learners who drop out of school for various reasons including pregnancy, drug and substance abuse, gender-based violence, inhibitive cultural practices, child labour, special needs and disabilities or any other reasonable cause.

Re-entry of learners who drop out of schools.

PART IV—SYSTEM AND STRUCTURE OF BASIC EDUCATION

22. (1) The Cabinet Secretary shall make regulations prescribing an appropriate system and structure of basic education in Kenya.

System and structure of basic education.

(2) The system and structure of basic education shall be administered in accordance with the Kenya National Qualification Framework set out under the Kenya National Qualifications Framework Act.

Cap. 214.

(3) The Cabinet Secretary shall promote integration of religious programmes including *madrassa*, *duksi* and pastoral programmes of instructions into the formal education system.

23. (1) Basic educational institutions shall be organized under the following categories—

Categories of institutions.

(a) public schools; and

(b) private schools.

(2) The Cabinet Secretary may prescribe any other category of basic education institutions.

(3) A public school shall not be converted to a private school.

(4) Subject to consultation with relevant stakeholders, a private school may be converted to a public school.

24. (1) A person or institution seeking to offer a foreign system of education in Kenya shall apply to the Cabinet Secretary for approval.

Foreign system of education.

(2) The Cabinet Secretary shall make regulations for the registration, licensing, accreditation and quality assurance of foreign system of education.

PART V—REGISTRATION OF BASIC EDUCATION INSTITUTIONS

25. (1) Every institution, whether public or private, seeking to offer basic education in Kenya shall be registered in accordance with this Act.

Registration of basic education institutions.

(2) Subject to the provisions of this Act, the registration of any institution shall be provisional for a term of one-year renewable for one further term of one year until the institution is quality assured by the Ministry responsible for basic education and notice given in writing that the registration is final.

26. (1) An institution shall not be registered to offer basic education under this Act unless the institution—

Registration requirements.

- (a) has sufficient number of registered teachers and non-teaching staff;
- (b) has appropriate teaching and learning facilities;
- (c) has suitable premises to accommodate the number, age, gender and security of the learners who shall attend the institution;
- (d) has premises and accommodation that conform to the prescribed requirements of the occupational health and safety regulations; and
- (e) has necessary and suitable infrastructure and appropriate and adequate equipment to carry out

the programmes applied for as may be prescribed by regulations.

(2) The Cabinet Secretary shall prescribe regulations on the establishment of basic education institutions.

27. (1) A person or organization that wishes to register an institution shall apply in the prescribed manner to the relevant County Education Board.

Application for registration of an institution.

(2) An application under subsection (1) shall contain the following information—

- (a) the name, physical, postal and electronic addresses of the proposed institution;
- (b) in the case of a mobile school, the name of a general area in which the school is situated;
- (c) the governance and management structures of the institution, membership of the proposed institution, and academic qualifications and experience of the promoters and managers of the intended institution;
- (d) the aims and objects for which the institution is to be established and the programmes of instructions and the courses of study that will be offered by the institution;
- (e) the number, qualifications and competence of the teachers and non-teaching staff;
- (f) available suitable infrastructure and appropriate equipment;
- (g) financial ability of the promoters and managers of the institution; and
- (h) such other matters as may be prescribed by the regulations made under this Act.

Cap. 411C.

(3) Information containing personal data presented to the County Education Board shall be handled in accordance with the Data Protection Act.

28. (1) The County Education Board shall, in considering an application submitted under section 27, inspect and assess the resources of the applicant,

Registration certificate.

(2) The County Education Board may, in consultation with stakeholders, advise the Cabinet Secretary on the

suitability of an institution intended to be established as a basic education institution.

(3) Where the County Education Board determines that the applicant meets the requirements of this Act, the County Education Board shall recommend to the Cabinet Secretary the registration and the issuance of a registration certificate.

(4) The Cabinet Secretary may issue a registration certificate to an institution under subsection (1) if satisfied that such institution shall, once registered, offer basic education services to learners.

(5) Where the County Education Board determines that an application under section 27(1) does not meet the requirements set out under section 27(2), the County Education Board may recommend to the Cabinet Secretary that the institution should not be registered.

(6) The County Education Board shall, within seven days of making the decision under subsection (5), notify the applicant of its decision with reasons, in writing.

(7) If the applicant has been notified of non-compliance and intended recommendation not to register, the applicant may—

- (a) apply to the County Education Board for review;
- (b) take steps to comply and submit a fresh application; or
- (c) appeal to the Education Appeals Tribunal.

(8) If the applicant applies for review under subsection (7)(a), the County Education Board may review its decision on any of the following grounds—

- (a) a mistake or error apparent on the face of the record; or
- (b) discovery of new or important matter or information.

(9) If the applicant submits a fresh application under subsection (7)(b), the provisions of sections 27 and 28 shall apply.

(10) A person who engages in the promotion or management of basic education institution without a registration certificate, commits an offence and shall, on conviction, be liable to a fine not exceeding twenty million shillings or a term of imprisonment not exceeding three years, or to both.

(11) Where an institution is found to be operating without registration, the institution shall, in addition to the penalties under subsection (3), be closed.

PART VI—MANAGEMENT OF BASIC EDUCATION

29. (1) The Cabinet Secretary shall be responsible for primary, junior and senior schools' levels of education.

Management of
basic education.

(2) The County Governments shall be responsible for pre-primary education.

30. (1) There is established a County Education Board for each county.

County Education
Board.

(2) The County Education Board established under subsection (1) shall be an agent of the national government.

31. Every County Education Board shall—

Functions of the
County Education
Board.

- (a) collaborate with the relevant county governments in overseeing the operation and management of basic education institutions in the county;
- (b) coordinate and monitor basic education in the county on behalf of the national government;
- (c) interpret national policies in education based on the county's needs;
- (d) plan, promote, develop, and coordinate basic education in the county in accordance with the provisions of this Act, the national education policy and the laws and policies of the county government;
- (e) collaborate with the boards of management, head of institutions and other appropriate authorities in the management of basic education institutions;
- (f) maintain a list of all basic education institutions within the county;

- (g) monitor curriculum implementation in basic education in the county;
- (h) monitor the conduct of assessments at the basic education levels in the county in collaboration with all the relevant national bodies;
- (i) monitor the implementation of school feeding and nutrition programmes at the county level;
- (j) collaborate with the Teachers Service Commission and county governments on teacher management within the county;
- (k) coordinate with relevant agencies to ensure that barriers to the right to education are removed and with national government and county governments to facilitate realization of the right to education within the county;
- (l) put measures in place to ensure all children and youth of school going age within the county attend and complete basic education; and
- (m) perform such other functions as may be necessary for the better carrying out of the provisions of this Act or any other written law.

32.(1) The members of every County Education Board shall comprise of a Chairperson and fifteen other members appointed by the Cabinet Secretary as follows—

Composition of
the County
Education Board.

- (a) the County Commissioner, who shall be the Chairperson;
- (b) the County Director of Education or a representative, who shall be the Secretary to the Board;
- (c) a representative of the county executive committee member for education;
- (d) a representative of the Teachers Service Commission;
- (e) a representative of the National Council of Churches of Kenya and Evangelical Fellowship of Kenya;
- (f) a representative of the Kenya Episcopal Conference;

- (g) a representative of the Muslims Education Council;
- (h) a representative of the association of private schools;
- (i) two representatives of a trade union representing the interest of teachers;
- (j) two representatives of parents' teachers' association;
- (k) a representative of persons with disability;
- (l) a representative of the primary school head teachers' association;
- (m) a representative of the secondary school principals' association; and
- (n) a representative of a child rights organization.

(2) In appointing persons as Chairperson and members of the County Education Board, the Cabinet Secretary shall observe the principle of gender equity, ethnic and religious balance, transparency, openness and shall have due regard to the principle of equal opportunities for persons with disabilities.

(3) The members of a County Education Board appointed under subsection (1)(c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m) and (n) shall have a minimum qualification of secondary education certificate or its equivalent.

(4) Each County Education Board may co-opt into its membership such persons not being more than three, whose skills and experience shall assist the Board in the discharge of its functions.

33. (1) The conduct of the business and affairs of the County Education Boards shall be as provided in the Second Schedule.

Conduct of business and affairs of the County Education Boards.

(2) Except as provided in this Act, each County Education Board may regulate its own procedure.

34. (1) The members appointed under section 32(1) (e), (f), (g), (h), (i), (j), (k), (l), (m) and (n) shall hold office for a period of three years and shall be eligible for reappointment for one further term.

Term of office.

(2) The Cabinet Secretary shall, by regulations provide for the staggering of the terms of the members of the County Education Board to ensure continuity.

35. The members of a County Education Boards shall be paid such remuneration as may be approved by the Cabinet Secretary in consultation with the Salaries and Remuneration Commission.

Remuneration of
the County
Education Board.

36. (1) Each County Education Board may establish such committees as may be appropriate to perform such functions and discharge such responsibilities as it may determine.

Committees of the
County Education
Board.

(2) Notwithstanding subsection (1), each County Education Board shall set up specialized committees on—

- (a) planning, finance, audit and human resources;
- (b) registration and management;
- (c) curriculum, quality assurance and assessment; and
- (d) discipline and dispute resolution.

(3) All decisions of the committees appointed under subsection (1) may be reviewed by the County Education Board.

37. (1) Every County Education Board shall submit annual reports to the Cabinet Secretary.

Reporting by the
County Education
Board.

(2) Notwithstanding subsection (1), the Cabinet Secretary may, at any time, require a report from a County Education Board relating to basic education in the county.

38. (1) There shall be a Board of Management appointed by the County Education Board for—

Board of
management.

- (a) public comprehensive schools;
- (b) public primary schools;
- (c) public senior schools;
- (d) public special schools;
- (e) public adult and continuing education centres; and
- (f) public multipurpose development training institutes.

(2) Notwithstanding subsection (1), a county government may enter into an intergovernmental

arrangement of cooperation with the national government on the management of a school where a public pre-primary school is situated in the same compound as a public primary and junior school.

39. (1) A Board of Management established under section 38 shall comprise of—

Composition of
the Board of
Management.

(a) in the case of a comprehensive school—

- (i) two persons from among the parents in the school, one of whom shall be the Chairperson of the parents' teachers' association;
- (ii) two representatives of the sponsors of the school or where there is no sponsor, three representatives nominated by the County Education Board;
- (iii) one person living with disability;
- (iv) one person with relevant professional qualifications;
- (v) one person nominated by the alumni association of the comprehensive school;
- (vi) the County Director of Education or the County Director's representative who shall be an employee of ministry for the time being responsible for education; and
- (vii) the head of the institution, who shall be the secretary of the Board.

(b) in the case of a primary school—

- (i) the Chairperson of the parents' teacher's association;
- (ii) (ii) two representatives of the sponsor of the school or where there is no sponsor, three representatives nominated by the County Education Board;
- (iii) one person living with disability;
- (iv) (iv) one person with relevant professional qualifications;
- (v) one person nominated by the alumni association of the primary school;

(vi) the County Director of Education or their representative, who shall be an employee of Ministry of Education and who shall be an *ex officio* member; and

(vii) the Head of Institution, who shall be an *ex officio* member and the Secretary to the Board.

(c) in the case of a senior school—

(i) the chairperson of the parent's teacher's association;

(ii) two representatives of the sponsor of the school, or where there is no sponsor three representatives nominated by the County Education Board;

(iii) one person living with disability;

(iv) one person with relevant professional qualifications;

(v) one person nominated by the alumni association of the senior school;

(vi) the County Director of Education or their representative who shall be an employee of Ministry of Education; and

(vii) the head of institution, who shall be the Secretary.

(2) Notwithstanding subsection (1)(b), the national and county government may enter into an intergovernmental arrangement of cooperation on the management of a school where a pre-primary, a primary and a junior school share the same compound.

(3) A person elected as a chairperson of the Board of Management or appointed as a member shall hold office for a term of three years from the date of appointment and shall be eligible for re-appointment for one further term.

(4) The chairperson of the Board of Management shall be elected by the members in their first meeting.

(5) Notwithstanding subsection (4), the Chairperson of the Board of Management of public schools sponsored by a

faith-based organization shall be appointed by the County Education Board in consultation with the sponsors.

(6) The conduct and affairs of each Board of Management shall be as set out in the First Schedule.

40. The Cabinet Secretary shall by regulations prescribe the qualifications for chairperson and members of the Board of Management under section 39.

Qualification of members of the Boards of Management.

41. The members of each Board of Management shall be paid such allowances as the Cabinet Secretary may determine on the advice of the Salaries and Remuneration Commission.

Remuneration of the members of the Board of Management.

42. Every Board of Management of a basic education institution shall—

Functions of the Board of Management.

- (a) promote quality education for all learners in accordance with the standards set under this Act and any other relevant law;
- (b) manage the institution's affairs in accordance with the rules and regulations governing occupational safety and health;
- (c) advise the County Education Board on the staffing needs of the institution;
- (d) determine cases of learners' discipline and make reports thereon to the County Education Board;
- (e) facilitate and ensure the provision of guidance and counselling to all learners;
- (f) provide for the welfare and observance of the human rights and ensure safety of the learners, teachers and non-teaching staff at the institution;
- (g) encourage learners, teachers and non-teaching staff, parents and the community, and other stakeholders to render voluntary services to the institution;
- (h) oversee reasonable use of the facilities of the institution for community, social and other lawful purposes, subject to such reasonable and equitable conditions as it may determine including the charging of fees;

- (i) administer and manage the resources of the institution;
- (j) recruit, employ and remunerate such number of non-teaching staff as may be required by the institution in accordance with this Act; and
- (k) perform any other function to facilitate the implementation of its functions under this Act or any other written law.

43. (1) Every Board of Management of an institution of basic education may establish such committees as the Board may consider appropriate to perform such functions and discharge such responsibilities as the Board may deem necessary.

Committees of the Board of Management.

(2) Without prejudice to subsection (1), the Board of Management shall establish the following committees—

- (a) finance, procurement and general purposes committee;
- (b) academic and student welfare committee; and
- (c) audit committee.

44. (1) Every Board of Management shall submit an annual report to the County Education Board.

Reporting by Board of Management.

(2) Notwithstanding subsection (1), the County Education Board may, at any time, require a report from a Board of Management on any particular matter.

45. (1) Each school, whether public and private, shall establish a parents' teachers' association whose members shall comprise of the parents of the school.

Parents teachers' associations.

- (2) The parent's teacher's association shall—
- (a) maintain good working relationship between teachers and parents;
- (b) discuss, explore and advise the parents on ways to raise funds for the physical development and maintenance;
- (c) explore ways to motivate teachers and learners to improve performance in academic and co-curricular activities;

- (d) in relation to public schools, discuss and recommend charges to be levied on learners or parents;
- (e) undertake and oversee development projects on behalf of the parents' teachers' association;
- (f) assist the school management in the monitoring, guidance, counselling and discipline of learners; and
- (g) consider and recommend measures for the welfare of staff and learners.

(3) The parents' teachers' association shall, at its first meeting, elect a Chairperson from amongst the parents of the school.

(4) The Head of Institution shall be the Secretary to the parents' teachers' association.

(5) There shall be an Executive Committee of the parent's teacher's association consisting of representatives of each class in the school and two teachers.

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

(7) The parents' teachers' association shall hold such number of meetings at such places and at such times as the Association shall consider necessary for the proper discharge of its functions.

(8) Subject to the provisions of this section the parents' teachers' association shall regulate its own procedure.

46. (1) Every public primary, comprehensive and senior schools shall be headed by a Head of Institution appointed by the Teachers Service Commission.

Head of institution.

(2) Every private comprehensive and senior school shall be headed by a Head of Institution duly registered under the Teachers Service Commission Act.

(3) A head of institution shall—

- (a) be responsible for the day-to day management of the school;

- (b) be the accounting officer; and
- (c) be the agent of the Ministry responsible for basic education in the management of the school.

(4) The Cabinet Secretary shall prescribe regulations to implement the provisions of this section.

PART VII — SPECIAL NEEDS EDUCATION

47. (1) The national and county governments shall promote the development and implementation of education for learners with special needs.

Role of the
national
government and
county
governments.

(2) In ensuring that the national government fulfils its obligation under sub-section (1), the Cabinet Secretary shall—

- (a) develop a national strategy and plan of action and policies for the provision of education to learners with special needs;
- (b) take measures to create opportunities and the environment that enables the realization of the right to special needs education by all persons requiring such education in accordance with Article 54(1)(b) of the Constitution;
- (c) put in place the necessary infrastructure, facilities and human resources necessary for the effective and efficient delivery of special needs education to learners in learning institutions within the jurisdiction of the national government under the Fourth Schedule to the Constitution;
- (d) maintain an up-to-date data on learners with special needs including the number of such learners, the nature of their disability, their educational requirements, their level of education and their geographic distribution;
- (e) maintain an inventory of the personnel and facilities available for the provision of special needs education;
- (f) monitor and evaluate the implementation of policies, plans and strategies for the provision of special needs education at the national and county level of government;

- (g) appraise and review the levels of access to special needs education, assess the quality of the existing infrastructure and human resource and put in place measures for the continuous development of such infrastructure and human resources;
- (h) formulate a programme for the recruitment and training, including in-service, of teachers for learners with special educational needs;
- (i) ensure that the education curriculum and public examinations recognize and take account of the needs and circumstances of learners with special educational needs;
- (j) formulate programs and put in place structures for the provision of home-based, non-formal, adult, continuing, alternative, free and appropriate public special needs education;
- (k) putting in place measures to address factors that hinder the realization of the right to special needs education in accordance with Article 54(1)(b) of the Constitution;
- (l) formulating the appropriate strategies in ensuring that quality special needs education is accessible to persons requiring special needs and who are marginalized or fall within the category of vulnerable persons; and
- (m) perform such other functions for the better implementation of this Act or as may be conferred on it under any other written law.

48. (1) Subject to Articles 187 and 189 of the Constitution, the national government may enter into a collaboration arrangement with the relevant county government to support, promote and administer effective and efficient delivery of special needs education in the county.

Collaborations
with county
government.

(2) Notwithstanding subsection (1), the respective county executive committee member shall—

- (a) implement the national policy and program on the delivery of special needs education in the county;

- (b) put in place the necessary infrastructure and establish the necessary education centres pursuant to its mandate under Part 2 of the Fourth Schedule to the Constitution for the delivery of special needs education;
- (c) ensure that there are in place, the necessary resources, including human resources necessary for the development of education centres and the administration of special needs education in the county;
- (d) collaborate with the Cabinet Secretary and such agencies and stakeholders in the county as are necessary in ensuring a coordinated approach in facilitating access to, and delivery of, special needs education in the county;
- (e) initiate, undertake and participate in the collection, preparation, production and dissemination of data and information on the needs of learners requiring special needs education in the county;
- (f) integrate the provision of special needs education in public learning institutions under the mandate of the county and for this purpose, ensure that every education centre has at least one teacher who is able to assist children requiring special needs education;
- (g) provide the necessary facilities and put in place the necessary structures to ensure that there are adequate affordable assistive aids and devices for learners requiring them in the learning institutions in the county;
- (h) coordinate the activities of State organs, institutions, the private sector, non-governmental organizations and community-based organizations involved in matters relating to special needs education; and
- (i) develop models and a curriculum and assessment for the delivery of special needs education that caters for various categories of learners requiring special needs education.

49. (1) Subject to the Constitution and the provisions of this Act, the Cabinet Secretary shall establish and maintain basic education institutions for learners with special needs.

Establishment and management of special schools.

(2) In establishing the schools contemplated under subsection (1) the Cabinet Secretary shall take into account the different categories of special needs and principle of equity in access to basic education.

(3) The Cabinet Secretary shall ensure provision of special needs education in special needs institutions established under sub-section (1) or in pre-primary, primary, junior and senior schools appropriate to the special needs of a learner.

(4) The Cabinet Secretary shall ensure that every special needs institution with learners with special needs school is provided with trained special needs teachers, non-teaching staff, appropriate infrastructure, learning and instructional materials.

(5) The Cabinet Secretary shall put in place measures to ensure prompt and continuous assessment of learners with special needs to determine the nature and degree of special needs to guide on requirements to facilitate functional learning.

50. (1) The Cabinet Secretary shall make regulations for the establishment and management of special needs schools and institutions offering special needs education.

Regulations in special needs education.

(2) Notwithstanding subsection (1), the Cabinet Secretary shall make regulations to—

- (a) prescribe the duration of pre-primary, primary and secondary education suitable to the needs of a learners pursuing special needs education;
- (b) provide for the learning and progression of learners with special needs through the education system;
- (c) prescribe standards and requirements relating to the conduct of schools making provision for special needs education for learners with special needs;

- (d) prescribe the categories of learners requiring special needs education and methods appropriate for the education of learners in each category of special school or educational institutions under section;
- (e) prescribe guidelines for the promotion of education for learners with special needs; and
- (f) establish mechanisms to ensure that every special school or educational institution offering special needs education has appropriate personnel, infrastructure, learning materials and equipment.

PART VIII—KENYA INSTITUTE OF SPECIAL EDUCATION

51. (1) There shall be established an Institute to be known as the Kenya Institute of Special Education.

Establishment of
the Institute.

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

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging, leasing or disposing of moveable or immovable property;
- (c) borrowing and lending money; and
- (d) doing or performing all such other acts necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

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(3) The headquarters of the Institute shall be in Nairobi City County.

(4) The Institute may establish branches as it deems necessary to facilitate the effective and efficient implementation of its mandate.

(5) The Institute shall be the successor of the Kenya Institute of Special Education established under paragraph 3 of the Education (Kenya Institute of Special Education) Order, 1986.

(6) The Kenya Institute for the Blind established under the Education Act, shall, at the commencement of this Act be deemed to be a branch of the Institute.

52. (1) The Institute shall be administered by a Board which shall comprise of—

Board of the Institute.

- (a) a Chairperson, who shall be appointed by the President;
- (b) the Principal Secretary for the time being responsible for matters relating to basic education or a designated representative;
- (c) the Principal Secretary for the time being responsible for matters relating to finance or a designated representative;
- (d) the Attorney-General or a designated representative;
- (e) the Chief Executive Officer of the Council of County Governors or a designated representative;
- (f) a representative of the National Council for Persons with Disabilities;
- (g) three members who shall not be public officers with expertise in special needs education appointed by the Cabinet Secretary; and
- (h) the Chief Executive Officer who shall be an *ex officio* member.

(2) The appointment of the Chairperson under subsection (1) (a) and the independent members under subsection (1) (h) shall be appointed by the Cabinet Secretary by notice in the *Gazette*.

53. The Institute shall—

Functions of the Institute.

- (a) advise the Government on policies on special needs education;
- (b) conduct capacity building on special needs education and inclusive education, functional assessment, rehabilitation and related areas;
- (c) conduct teacher training courses for teachers in various fields of special needs education;
- (d) conduct in-service training for personnel working in all fields of special needs education;
- (e) prepare and conduct training for personnel in the field of special education;

- (f) manage educational and psychological assessment centre;
- (g) manage an orientation and mobility centre for training and demonstration purposes;
- (h) conduct research on basic education for learners with special needs;
- (i) design, produce, assemble and distribute materials, assistive devices and technologies for learners with special needs education;
- (j) conduct advocacy on issues of learners with special needs and establish education assessment and resources centres in the Counties; and
- (k) collaborate with relevant government agencies to ensure effective and efficient provision of basic education for learners with special needs.

54. The Board of the Institute shall have powers to—

Powers of the Board of the Institute.

- (a) manage control and administer the assets of the institute in such manner and for such purposes as best promotes the purposes for which the institute is established;
- (b) open and operate a bank account subject to approval by the National Treasury;
- (c) receive any gifts, grants or donations or endowments made to the institute or any other monies in respect of the institute and make disbursements therefrom in accordance with the provisions of the law; and
- (d) enter into association, partnerships or linkages with any person or entity in order to facilitate the conduct of the functions of the institute.

55. (1) The Institute shall establish such number of education assessment and resource centres in each county to facilitate research, development, advisory services and learning in matters of special need in education.

Education assessment and resource centers.

(2) Notwithstanding subsection (1), the education assessment and resource centres shall—

- (a) facilitate the study of learners with special needs within the county;

- (b) advise parents and teachers as to appropriate methods of education for children with special needs;
- (c) in suitable cases, provide for the special education needs of such children in the identified clinics; and
- (d) advise County Education Boards on assessment of the needs of any child with special needs for the purposes of any of the provisions of this Act.

56. (1) A person is qualified to be appointed as the Chairperson of the Board under section 52 (1) (a) if that person—

Qualifications for appointment.

- (a) is a Kenyan Citizen;
- (b) holds a degree in education from a university recognized in Kenya;
- (c) has at least ten years' experience in special needs education; and
- (d) meets the requirements of Chapter Six of the Constitution.

(2) The Chairperson shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

(3) A person is qualified to be appointed as a member of the Board under section 58 (1) (h), if that person—

- (a) is a Kenyan citizen;
- (b) holds a degree from a university recognized in Kenya;
- (c) has at least five years' experience in special needs education; and
- (d) meets the requirements of Chapter 6 of the Constitution.

(4) A member of the Board appointed under section 58(1)(h) shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

57. The office of the Chairperson or member of the Board shall become vacant if the Chairperson or member—

Vacancy.

- (a) dies;
- (b) resigns from office by notice in writing addressed to the appointing authority;
- (c) is absent from three consecutive meetings of the Board without good cause;
- (d) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months;
- (e) contravenes Chapter Six of the Constitution;
- (f) is adjudged bankrupt or enters into a composition scheme or arrangement with creditors; and
- (g) is unable to perform the functions of the office by reason of physical or mental incapacity.

58. The conduct and regulation of the business and affairs of the Board of the Institute shall be as provided in the Third Schedule, and subject to this Act, the Board may regulate its own procedure.

Conduct of business and affairs of the Board.

59. The Board may, by resolution either generally or in any particular matter, delegate to any committee of the Board or to any member, officer, employee or agent of the Board the exercise of any powers or the performance of any of the functions or duties of the Board under this Act.

Delegation by the Board.

60. The Chairperson and members of the Board shall be paid such remuneration, fees or allowances as may be approved by the Cabinet Secretary, on the advice of the Salaries and Remuneration Commission.

Remuneration of members.

61. (1) There shall be Chief Executive Officer of the institute who shall be competitively recruited and appointed by the Board.

Chief Executive Officer.

(2) A person is qualified to be appointed as the Chief Executive officer of the institute if the person—

- (a) holds a degree from a university recognized in Kenya;
- (b) holds a master's degree in special needs education or any other relevant degree from a university recognized in Kenya;
- (c) has at least ten years' experience in management in a public or private institution; and

- (d) meets the requirements of Chapter Six of the Constitution.

(3) The Chief Executive Officer shall hold office for a term of four years on such terms and conditions of employment as the board of the institute may determine and shall be eligible for re-appointment for one further term of four years subject to satisfactory performance.

(4) The Chief Executive Officer shall—

- (a) be responsible for the day-to-day administration and management of the affairs and staff of the institute;
- (b) be responsible for executing the decisions of the Board of the institute;
- (c) be the custodian of all records of the institute; and
- (d) undertake any other duties, as the institute may deem necessary.

62. The Board may appoint such staff as may be necessary for the proper discharge of the functions of the Institute under this Act or any other written law, as the Board may, on the advice of the Salaries and Remuneration Commission, determine.

Staff of the
Institute.

63. (1) The common seal of the Institute shall be kept in the custody of the Chief Executive Officer or such other person as the Board of the Institute may direct and shall not be used unless upon the order of the Institute.

Common seal of
the Institute.

(2) The common seal of the Institute shall be authenticated by the signature of the Chairperson of the Board or the Chief Executive Officer provided that the Board shall in their absence, in any particular matter, nominate one member of the Board to authenticate the seal on behalf of the Chairperson of the Board or the Chief Executive Officer.

(3) The common seal of the Institute shall, when affixed to a document and duly authenticated, be judicially and officially noticed and unless a contrary is proven, any order or authorization by the Board of the Institute shall be presumed to have been duly given.

PART IX—QUALITY ASSURANCE AND STANDARDS

64. (1) There is established the office of the Director of Schools Inspections, which shall be an office in the public service.

Director of
Schools
Inspections.

(2) The Director shall be competitively recruited and appointed by the Public Service Commission.

(3) The Director shall be under the supervision of the Principal Secretary responsible for matters relating to basic education.

(4) The functions of the Director shall be to—

- (a) set standards in basic education in Kenya;
- (b) ensure standards and maintain quality in basic education institutions;
- (c) administer policies and guidelines relating to basic education;
- (d) ensure curriculum implementation and delivery is in accordance with the set standards;
- (e) in cooperation with County Education Board and the Kenya National Educational Assessment Council, monitor the conduct of assessments and examinations in institutions of basic education;
- (f) monitor and evaluate standards and quality in basic education; and
- (g) undertake periodic audit of school systems, financial management, assets, governance or any other matter related to provision of basic education at the school level.

65. (1) There shall be such number of school inspectors who shall be recruited and appointed by the Public Service Commission.

School inspectors.

(2) The school inspectors shall be under the supervision and direction of the Director of Schools Inspections.

(3) The school inspectors shall have the power to—

- (a) ensure compliance with set standards;

- (b) provide appropriate incentives for voluntary compliance with quality assurance standards in basic education;
- (c) at any time enter, with or without notice, any basic education institution including any part of the institution and any building used in connection with the institution, including workshops, dormitories, kitchens, sanatoria, hostels, ancillary buildings and any other buildings on the site of the institution to ensure compliance with education standards and regulations;
- (d) require any person responsible for the management of a basic educational institution or teacher or employee to—
 - (i) produce for the inspectors' quality review any time table syllabus, or record book, material or document;
 - (ii) furnish the school inspectors with such information relating to the teaching or the management of the basic education institution;
 - (iii) require by order in writing, the attendance before him or her any person who appears to be acquainted with the facts or circumstances of the case; and
 - (iv) take such photographs or video recording as the school inspector deems necessary of the premises and persons reasonably believed to be acquainted with the fact or the circumstances of the case.

(4) Where appropriate a school inspector shall, in consultation with the County Education Board, order the closure of a school, for a specific period until the basic standards are met.

(5) On being requested by a school inspector, the head of the institution or any other person responsible for the institution shall take place at the disposal of the school inspector all the facilities, records, accounts, notebooks, examination scripts and other materials belonging to the

institution that the school inspector may reasonably require for the purpose of the inspection of the institution or the inspection or audit of its accounts.

66. Every basic education institution shall, in consultation with the Director of Schools Inspection —

National and international standards and quality assurance.

- (a) develop appropriate national and international standards;
- (b) establish, implement and manage quality assurance systems;
- (c) establish and promote appropriate collaborative arrangements with relevant national and international agencies on standards and quality assurance; and
- (d) establish systems and processes for continuous review and improvement of standards and quality assurance.

67. (1) The Cabinet Secretary shall, to ensure standards, quality and relevance in curriculum development, and on advice of the relevant stakeholders, continuously develop, review, evaluate and monitor the curriculum.

Standards, quality and relevance in curriculum development.

(2) The curriculum under basic education shall be developed in accordance with the Kenya Institute of Curriculum Development Act.

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68. (1) To ensure standards, quality and relevance in assessment, the Cabinet Secretary shall, upon advice of the relevant stakeholders, continuously evaluate and monitor the assessment process.

Standards, quality and relevance in assessment.

(2) The assessment under basic education shall be conducted as provided for under the Kenya National Examinations Council Act.

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PART X – SCHOLARSHIPS AND BURSARIES

69. (1) The Cabinet Secretary shall ensure a coordinated approach in the provision of scholarships and bursaries in basic education.

Provision and coordination of scholarships and bursaries.

(2) In discharge of the mandate under subsection (1), the Cabinet Secretary shall —

- (a) administer basic education scholarships and bursaries to eligible learners;
- (b) coordinate the provision of scholarships and bursaries in basic education;
- (c) establish and continually update a central data base on administration of scholarships and bursaries in basic education;
- (d) put in place mechanisms for the administration and coordination of scholarships and bursaries within the Ministry; and
- (e) mobilize resources to ensure adequate funding for scholarships and bursaries in basic education.

(3) The Cabinet Secretary may make regulations for the better carrying out the provisions of this section.

70. The central database referred to under section 70

Database.

(2) (c) shall include—

- (a) names and details of scholarships and bursaries awarding persons or institutions;
- (b) names and details of the beneficiaries of scholarships and bursaries including the learning institution of the beneficiary; and
- (c) the amount of scholarships and bursaries awarded to each beneficiary including the name of the person or institutions giving the scholarship or bursary.

71. The Cabinet Secretary shall at all times, and in liaison with relevant Government agencies, determine and continuously update the needy status of the applicants and beneficiaries.

Determination of needy status.

72. (1) The Cabinet Secretary shall establish criteria for identifying eligible beneficiaries of scholarships and bursaries.

Criteria on scholarship and bursary award.

(2) The Cabinet Secretary shall establish criteria for identifying eligible granting institutions that may be authorized to grant scholarships and bursaries to eligible beneficiaries.

(3) The Cabinet Secretary shall, in developing the criteria under subsections (1) and (2), be guided by the principles of fairness, equality and equity.

(4) Where a basic education bursary or scholarship is funded from money appropriated under this Act or any other legislation, the bursary or scholarship shall only be awarded to eligible learners in a public basic education institution.

(5) The Cabinet Secretary shall develop regulations for the better carrying out of the provisions of this section and in this regard, shall consider—

(a) in the case of awarding of scholarships—

- (i) academic performance;
- (ii) special talents and skills;
- (iii) level of need;
- (iv) affirmative action;
- (v) the category of school;
- (vi) the amount of fees and other school related expenses; and
- (vii) whether the applicant is benefiting from any other scholarship or bursaries, including the amount of such benefit.

(b) in the case of award of bursaries—

- (i) level of need;
- (ii) affirmative action;
- (iii) the category of school;
- (iv) the amount of fees payable and other school related expenses; and
- (v) whether the applicant is benefiting from any other scholarship or bursaries, including the amount of such benefit.

73.(1) Where a learner receives a scholarship or bursary in excess of need, the learning institution shall notify the granting institution of the excess amount received and seek guidance on whether to refund the excess amounts, allocate the excess to another eligible learner in the learning institution or apply the excess amount to the next payment period of the beneficiary.

Excess
scholarship and
bursaries.

(2) Where the granting institution does not wish for the excess amount to be allocated to another eligible learner, the learning institution may, where appropriate—

- (a) apply the excess amount to the next payment period of the beneficiary; or
- (b) refund the scholarship or bursary granted in excess, to the granting institution.

74. There shall be established a process of tracking performance and progress of the learners including learners awarded scholarships or bursaries through the Kenya Education Management Information System.

Monitoring of performance and progress of learners.

75. (1) Any granting institution or entity taking part in the administration of scholarships and bursaries in basic education shall make annual reports to the Cabinet Secretary through Kenya Education Management Information System.

Reporting obligations.

(2) The annual report submitted to the Cabinet Secretary shall cover the particulars of the beneficiaries, the amount awarded to each beneficiary, the learning institutions and their beneficiaries, and the type of award.

(3) Without prejudice to sub-section (1), a person, institution or entity taking part in the administration of scholarships and bursaries in basic education may submit the reports, information or data as is requested by the Cabinet Secretary.

(4) Learning institutions shall keep accounts and records of all scholarship and bursaries granted in favour of their learners and shall file quarterly reports with the Cabinet Secretary on all monies received, and the particulars of the amounts allocated to their learners.

76. The Cabinet Secretary shall cause to be undertaken such analysis on the status of administration of scholarships and bursaries in basic education and submit such report annually to Parliament.

Annual report.

77. (1) The Cabinet Secretary shall establish a mechanism of information sharing with relevant stakeholders to facilitate the better administration of scholarships and bursaries in basic education.

Information sharing.

(2) The information sharing mechanism contemplated under sub-section (1) shall include an information system, information sharing procedure and data protection measures.

78.(1) The Cabinet Secretary may enter into a cooperation framework for management and administration of scholarships and bursaries in basic education.

Cooperation in the administration and management of scholarships and bursaries.

(2) The cooperation framework shall detail the subject matter of cooperation, the obligations of parties to the cooperation, the time the cooperation is to take, the resource requirements to give effect to the subject matter of the cooperation, and dispute resolution mechanism.

79. The scholarships and bursaries under this Act shall be administered from a Fund to be established and operationalized under the Public Finance Management Act.

Fund.

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PART XI—KENYA EDUCATION MANAGEMENT INFORMATION SYSTEM

80.(1) The Cabinet Secretary shall establish and maintain an integrated education management information system which shall comprise a central register in electronic file or any other format for the management and governance of basic education.

Maintenance of register and records.

(2) Each public and private basic education institutions in the Country shall submit data of all their learners to the Cabinet Secretary on an annual basis.

(3) The central register contemplated under sub-section (1) shall consist of—

- (a) a register of pre-primary learners and pre-primary schools maintained by each county governments;
- (b) a register of learners in primary, junior school and senior school in terms of the school and the geographical spread;
- (c) a register of basic education institutions for learners with special needs and the learners in these institutions;
- (d) a register of adult and continuing education centres and learners; and
- (e) a register of basic education institutions and learners in marginalized areas; and

- (f) any other relevant data as the Cabinet Secretary may prescribe.

81. The central register established under section 81(1) shall contain the following particulars—

Particulars of the register.

- (a) the bio data of each learner;
- (b) the bio data of each learner's parents or guardian;
- (c) the basic education institution of each learner;
- (d) indication on the special needs status of each learner if any;
- (e) sex of each learner; and
- (f) such other bio data as the Cabinet Secretary may prescribe in the regulations made under this Act.

82. (1) The Cabinet Secretary shall establish a mechanism of information sharing with relevant stakeholders to facilitate the better administration of basic education.

Information sharing.

(2) The information sharing mechanism contemplated under sub-section (1) shall include an information management system, information sharing procedures and data protection measures.

(3) The Cabinet Secretary shall make regulations for better carrying out of this section.

83. Any person who—

False statement.

- (a) knowingly makes any false statement during the registration process, whether orally or in writing, relating to any matter affecting a learner or a basic education institution; or
- (b) being required under paragraph (a) to answer any questions, furnish any information or particulars, or produce any document or paper, neglects to do so without reasonable cause,

commits and shall, on conviction, be liable to a fine of not exceeding one hundred thousand shillings or to imprisonment for a term of not less than six months, or to both.

PART XII—NATIONAL COUNCIL FOR EDUCATION IN MARGINALIZED COMMUNITIES

84. (1) There is established a Council to be known as the National Council for Education in Marginalized Communities.

Establishment of
the Council.

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

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging, leasing or disposing of moveable or immovable property;
- (c) borrowing and lending money; and
- (d) doing or performing all such other acts necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

(3) The headquarters of the Council shall be in Nairobi City County, but the Council shall ensure reasonable access to its services in all parts of Kenya.

85. The Council shall—

Functions of the
Council.

- (a) mobilize funds to facilitate basic education in marginalized communities and areas;
- (b) institutionalize mechanisms for effective coordination, monitoring and evaluation of the activities of agencies involved in the provision of basic education in marginalized communities and areas;
- (c) implement such policies and guidelines geared towards promoting basic education in marginalized communities and areas;
- (d) establish appropriate linkages, collaboration and partnerships in the provision of basic education in marginalized communities and areas;
- (e) collect data, of all basic education institutions and school going children in marginalized areas;

- (f) implement such programmes and activities for school feeding and related infrastructure;
- (g) promote establishment of low-cost schools and mobile schools in marginalized areas;
- (h) carry out mapping of out of school children and their enrolment in suitable learning institutions;
- (i) conduct research activities on basic education in marginalized areas in Kenya; and
- (j) advise the Cabinet Secretary on policy matters relating to basic education in marginalized communities or areas in Kenya.

86. The Council shall have powers to—

Powers of the Board of the Council.

- (a) manage, control and administer the assets of the Council in such manner and for such purposes as best promotes the purposes for which the Council is established;
- (b) open and operate a bank account subject to approval by the National Treasury;
- (c) receive gifts, grants, donations or endowments made to the Council or any other monies in respect of the Council and make disbursements therefrom in accordance with the provisions of the law;
- (d) enter into association, partnerships or linkages with any person or entity in order to facilitate the conduct of the functions of the Council; and
- (e) engage consultants and experts, as it considers appropriate, to assist in the discharge of its functions.

87. (1) The Board of the Council shall consist of the following members—

Membership of the Board of the Council.

- (a) a Chairperson appointed by the President;
- (b) the Principal Secretary responsible for matters relating to basic education or a designated representative;
- (c) the Principal Secretary responsible for matters relating finance or a designated representative;

- (d) the Attorney-General or a designated representative;
- (e) the Chief Executive Officer of the Council of County Governors or a designated representative;
- (f) a representative from a recognized faith-based organization appointed by the Cabinet Secretary;
- (g) three members not being public officers appointed by the Cabinet Secretary, one of each shall be—
 - (i) a woman;
 - (ii) a youth; and
 - (iii) a person with disability; and
- (h) a Chief Executive Officer, who shall be an *ex-officio* member.

(2) The appointment of the Chairperson under sub-section (1) (a) and the members under sub-section (1) (f) and (g) shall be published in the *Gazette*.

88. (1) A person is qualified for appointment as a Chairperson of the Board of the Council under section 102(1)(a) if that person—

Qualifications of the Chairperson.

- (a) is a Kenyan Citizen;
- (b) holds a degree in Education, development studies, psychology studies, sociology from a university recognized in Kenya;
- (c) has at least ten years' experience; and
- (d) meets the requirements of Chapter six of the Constitution.

(2) The Chairperson of the Board shall hold office for a term of three years and shall be eligible for re-appointment for only one further term of three years.

89. (1) A person is qualified to be appointed as a member of the Board of the Council under section 102 (1) (g), if that person—

Qualification of a member.

- (a) is a Kenyan citizen;
- (b) holds a degree from a university recognized in Kenya;

- (c) has at least six years' experience in education or resource mobilization except for the youth; and
- (d) meets the requirements of Chapter Six of the Constitution.

(2) A member of the Board shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

90. The office of the Chairperson or a member of the of the Board of the Council shall become vacant if the Chairperson or the member — vacancy.

- (a) dies;
- (b) resigns from office by notice in writing addressed to the appointing authority;
- (c) is absent from three consecutive meetings of the Board without good cause;
- (d) is convicted of a criminal offence and sentenced to imprisonment for a term of exceeding six months;
- (e) contravenes Chapter Six of the Constitution;
- (f) is adjudged bankrupt or enters into a composition scheme or arrangement with creditors; and
- (g) is unable to perform the functions of the office by reason of physical or mental infirmity.

91. The conduct of the business and affairs of the Board of the Council shall be as provided in the Third Schedule, and subject to this Act, the Board may regulate its own procedure. Conduct of business and affairs of the Board.

92. The Board of the Council may, by resolution either generally or in any particular matter, delegate to any committee of the or to any member, officer, employee or agent of the Board the exercise of any powers or the performance of any of the functions or duties of the Board under this Act. Delegation by the Board.

93. The Chairperson and members of the Board of the Council shall be paid such remuneration or allowances as maybe approved by the Cabinet Secretary on the advice of the Salaries and Remuneration Commission. Remuneration of members.

94. (1) There shall be a Chief Executive Officer who shall be appointed by the Council through an open, transparent and competitive process.

Chief Executive Officer.

(2) A person shall be qualified for appointment as the Chief Executive officer of the Council if the person—

- (a) holds at least a bachelor's degree from a university recognized in Kenya;
- (b) holds a Master's degree in social sciences, development studies, gender or other relevant degree from a university recognized in Kenya;
- (c) has at least ten years' management experience, five of which shall be in senior management in a public or private institution; and
- (d) meets the requirements of chapter six of the Constitution.

(3) The Chief Executive Officer shall hold office for a term of three years on such terms and conditions of employment as the Council in consultation with Salaries and Remuneration Commission may determine and shall be eligible for re-appointment for one further term subject to satisfactory performance.

(4) The Chief Executive Officer shall be—

- (a) responsible for the day-to-day administration and management of affairs and staff of the Council;
- (b) responsible for executing the decisions of the institute;
- (c) custodian of all records of the Council; and
- (d) undertaking any other duties, as the Council may deem necessary.

95. The Board may appoint such staff as may be necessary for the proper discharge of the functions of the Council under this Act on such terms and conditions of service as the Board may, on the advice of the Salaries and Remuneration Commission, determine.

Staff of the Council.

96. The Board may, by resolution either generally or in any particular matter, delegate to any committee of the or to any member, officer, employee or agent of the Board the

Delegation of powers of the Board of the Council.

exercise of any powers or the performance of any of the functions or duties of the Board under this Act.

PART XIII—SPONSORSHIPS AND ALUMNI ASSOCIATIONS

97. (1) Any person or institution intending to sponsor a basic education institution shall give a written notice to the County Education Board describing the details of the sponsorship. Sponsorship.

(2) The County Education Board shall within a period of fourteen days of receipt of the notification for sponsorship under sub-section (1) consider the notification.

(3) In consideration of the notification for such sponsorship the County Education Board, may in consultation with the Cabinet Secretary—

- (a) approve such notification with or without amendments; or
- (b) reject such notification based on specific reasons to be communicated in writing to the intending sponsor.

(4) Where a notification for sponsorship is approved, the County Education Board shall cause to be entered an agreement on the execution and management of the intended sponsorship.

(5) The Cabinet Secretary shall make regulations to—

- (a) guide the recognition and documentation of contributions made by sponsors; and
- (b) provide for the framework of undertaking sponsorship activities or events in a learning institution.

(6) Without prejudice to the foregoing, any person or institution sponsoring a learning institution may participate in any of the following—

- (a) representation in the School Management Committees and Board of Management; and
- (b) sponsor the appointment of chaplains at their own expense.

98. (1) Each basic education institution may establish an alumni association, consisting of graduates of the institution and any other persons declared as such.

Alumni
association.

(2) An alumni association shall act as an interactive forum for the members specified under sub-section (1) and perform such other function as may be specified in its constitution.

PART XIV – FINANCIAL PROVISIONS

99. (1) The funds of the institutions established under this Act shall consist of—

Financing of basic
education.

- (a) monies appropriated by the National Assembly for the purposes of each institution;
- (b) any funds provided by bilateral or multilateral organisations, for the purpose of the basic education;
- (c) monies that may accrue to or vest in the in the course of the exercise of their functions under this Act;
- (d) gifts, grants, donations or endowments as may be given to the institutions;
- (e) monies that may be borrowed by the institutions for the discharge of their respective functions;
- (f) fees for services rendered to any designated institution in terms of a service agreement; and
- (g) monies from any other source provided for the department and institution or relevant educational institution or programme.

(2) The funds shall be used to promote basic education.

100. The financial year of the institutions established under this Act shall be the period of twelve months ending on the thirtieth day of June in each year.

Financial year.

101. (1) Before the commencement of each financial year, the Cabinet Secretary shall cause to be prepared estimates of revenue and expenditure of the institutions established under this Act for that year.

Annual estimates.

(2) The annual estimates shall make provisions for all the estimated expenditure of the institutions for the financial year concerned and in particular shall provide for—

- (a) the payment of salaries, allowances and other changes in respect of the staff of the institutions and offices;
- (b) the payment of pensions, gratuity and other changes in respect of retirement benefits which are payable out of the funds of the institutions and offices;
- (c) the acquisition, maintenance, repair and replacement of the equipment, facilities and other movable properties of the institutions and offices;
- (d) the proper maintenance of buildings and grounds of the institutions and offices;
- (e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the institutions may deem as appropriate;
- (f) the infrastructural development; and
- (g) conditional capitation funds to facilitate assessment both at the formative and summative stages of basic education.

(3) The annual estimates shall be approved by the National Assembly before the commencement of the financial year to which they relate.

102.(1) The accounting officers of the institutions established under this Act shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the department and institutions.

Accounts and
audit of
institutions.

(2) Within a period of three months after the end of each financial year, the accounting officers of the institutions established under this Act shall submit to the Controller of Budget and the Auditor General, the accounts of the department in respect of that year together with —

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- (a) a statement of income and expenditure during the year; and
 - (b) a statement of the assets and liabilities of the institutions on the last day of that year.
- (3) The accounts of the institutions established under this Act shall be audited and reported upon in accordance with the provisions of the Public Audit Act.

PART XV— GENERAL PROVISIONS

103. Any person who commits an offence under this Act for which no other penalty is provided is liable—

General penalties.

- (a) in the case of a first conviction, to a fine not exceeding two hundred thousand shillings or a term of imprisonment not exceeding twelve months, or both; and
- (b) in any other case, to a fine not exceeding three hundred thousand shillings or a term of imprisonment of not exceeding twelve months or both.

104. No matter or thing done by the Chairperson or any member of the Board of the County Education Board, the Schools Board of Management, the Institute, the Council, or member of staff of the County Education Board, the Schools Board of Management, the Institute and the Council shall, if the matter or thing is done bona fide for the purpose of executing any provision of this Act, render the chairperson or any member of the Board of the County Education Board, the Schools Boards of Management, the Institute and the Council, or member of staff of the County Education Board, the Schools Board of Management, the Institute and Council or any person acting on their directions personally liable to any action, claim or demand whatsoever.

Protection from personal liability.

105. The provisions of section 120 shall not relieve the Chairperson or any member of the Board of the County Education Board, the Schools Board of Management, the Institute and the Council of the liability to pay compensation or damages to any person for any injury caused by the exercise of any power conferred by this Act.

Liability for damages.

106. (1) The Cabinet Secretary may make regulations for the better carrying out of provisions of this Act. Regulations.

(2) Without prejudice to the generality of sub-section (1) the Cabinet Secretary may make regulations to provide for—

- (a) implementation of the structure of basic education;
- (b) review, evaluation and monitoring of policy on standards and relevance in basic education to assure and ensure standards, quality and relevance;
- (c) incentives to learners, teachers and non-teaching staff;
- (d) discipline and other corrective measures of learners;
- (e) admission, progression and transfer of learners;
- (f) integration of the *madrassa*, *Duksi* and pastoral programmes of instructions into the formal education system as appropriate to improve access and retention;
- (g) qualification and appointment process of Boards of Management of basic education institutions;
- (h) school-based auditing for public schools;
- (i) formal education; and
- (j) alternative provision of basic education.

(3) The Cabinet Secretary may make regulations with respect to the conduct and management of basic education institutions and such regulations may —

- (a) prescribe standards with regards to the numbers and qualifications of staff, the size of classes and the expenditure on educational standards;
- (b) prescribe minimum standards for the health and safety of learners and for a conducive and satisfactory environment for basic education;
- (c) management of Kenya Education Management Information System;
- (d) provide for admission, attendance and discipline of learners;

- (e) provide for annual basic education calendar;
 - (f) make provisions with respect to different classes or kinds of schools;
 - (g) provide for the promotion, development, management and governance of education through integration of technology;
 - (h) provide for religious instruction and religious education in basic education having regard to the national values and principles of governance and leadership and integrity under Article 10 and Chapter Six of the Constitution;
 - (i) prescribe the minimum entry requirements for admission into a Teacher Training College;
 - (j) prescribe requirements for registration of basic education institutions; and
 - (k) provide for or prescribe such other matters as the Cabinet Secretary considers necessary or desirable to provide for or prescribe.
- (4) The Cabinet Secretary may make regulations prescribing the duties and rights of students.

PART XVI—REPEAL, SAVINGS AND TRANSITIONAL PROVISIONS

107. The Basic Education Act is repealed.

Repeal of Cap. 211.
Winding up of the School Equipment Production Unit.
Cap. 486.

108. At the commencement of this Act, the School Equipment Production Unit, established under the Companies Act as a company limited by guarantee, shall be wound up in accordance with the Companies Act.

109. (1) Any assets and liabilities of a former agency existing immediately before the commencement of this Act shall, at the commencement of this Act –

Transfer of asset, liabilities, legal proceedings, staff and member of the Board.

- (a) in the case of primary school, junior school and senior school established under the Basic Education Act be deemed to be the assets and liabilities of those institutions;
- (b) in the case of the Kenya Institute of Special Education be deemed to be the assets and liabilities of the Institute;

- (c) in the case of the National Council for Nomadic Education in Kenya, be deemed to be the assets and liabilities of the Council.

(2) Any legal proceedings in which a former agency is a party and are pending determination shall, at the commencement of this Act—

- (a) in the case of primary school, junior school and senior school, be deemed to be legal proceedings to which the institutions are a party;
- (b) in the case Kenya Institute of Special Education be deemed to be legal proceedings to which the Institute is a party; and
- (c) in the case of National Council for Nomadic Education in Kenya be deemed to be deemed to be legal proceedings to which the Council is a party.

(3) Any member of staff of a former agency shall, at the commencement of this Act—

- (a) in the case of primary school, junior school and senior school, be deemed to be member of staff of these institutions;
- (b) in the case Kenya Institute of Special Education, be deemed to be a member of staff of the Institute; and
- (c) in the case of National Council for Nomadic Education in Kenya, be deemed to be a member of staff of the Council.

(4) Any member of the Board of a former agency shall, at the commencement of this Act—

- (a) in the case of primary school, junior school and senior school be deemed to be a member of the Board of Management of the institutions;
- (b) in the case Kenya Institute of Special Education, remain in office under the Institute until expiry of their term or six months, whichever is earlier; and

- (c) in the case of National Council for Nomadic Education in Kenya, be deemed to be a member of the Board of the Council for the remainder of their term or six months, whichever is earlier.

110. Any proceedings, instruments and any right of review, appeal subsisting immediately before the commencement of this Act by virtue of the repealed laws shall, at the commencement of this Act, be deemed proceedings, instruments, review, appeal under this Act.

Preservation of proceedings and right of appeal.

111. Where the period of time specified in the repealed Acts is current at the commencement of this Act, this Act shall have effect as if the corresponding provisions had been in force when the period began to run.

Continuance of period of time.

112. (1) Any register kept, registration effected, certificate issued, notice or information given, return made or other thing done under the repealed Acts which, immediately before the date of commencement of this Act, was in force or effect shall continue in force and have effect as if kept, effected, issued, given, made or done under the corresponding provision of this Act.

Preservation of licenses, certificates and registration.

(2) Any form used and any requirement as to the particulars to be entered in any form used for the purposes of the repealed Act which was in force or effect immediately before the date of commencement of this Act shall continue in force and have effect as though prescribed under this Act until forms or particulars are so prescribed.

113. (1) Notwithstanding the repeal of the Acts under all acts, directions, orders, appointments, requirements, authorizations, decisions or other things given, taken or done under, and all funds, assets and other property acquired or disposed of by virtue of the repealed Acts shall, so far as are not inconsistent with this Act, be deemed to have been given, taken, done or acquired or disposed of under this Act.

General savings.

(2) All rules and regulations made under the repealed Acts and in force immediately prior to the commencement of this Act shall continue to be in force but may be amended or revoked by rules and regulations made under this Act.

(3) All pending disciplinary matters will be determined as if they were commenced under this Act.

(4) All instruments issued by the offices or institutions established under the repealed Act and by the Schools Equipment Production Unit and in force immediately prior to the commencement of this Act shall be deemed to have been issued under this Act.

114. In this Part, “former agency” means –

Interpretation of
this Part.

(a) the Kenya Institute of Special Education established under the Education (Kenya Institute of Special Education) Order 1986;

LN. 17 of 1986.

Cap. 211.

(b) the School Equipment Production Unit established under the Companies Act as a company limited by guarantee; and

(c) the National Council for Nomadic Education in Kenya established under section 94 (1) of the Basic Education Act.

FIRST SCHEDULE

(s. 39(6))

**CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNTY
EDUCATION BOARD**

1. The office of a member of the County Education Board shall become vacant if the member —

Vacation of
office.

- (a) is absent without the permission of the Chairperson from three or more consecutive meetings of the County Education Board;
- (b) resigns the office in writing addressed to the Chairperson of the County Education Board;
- (c) is convicted of an offence and sentenced to imprisonment for a term of six months or more without the option of a fine;
- (d) is found guilty of an offence which in the opinion of the County Education renders them unsuitable to continue to hold office;
- (e) is unable to perform functions of the office due mental or physical infirmity; or
- (f) is otherwise unable to discharge the functions of the office.

2. (1) The County Education Board shall hold such number of meetings at such places and at such times as the County Education Board shall consider necessary for the proper discharge of its functions.

Meetings of the
Board.

(2) Notwithstanding sub-section (1) the County Education Board shall meet not less than three times in each financial year.

(3) At least fourteen days' notice shall be given prior to any meeting of the County Education Board.

3. Notwithstanding the provisions of section 2, the Chairperson or any three members may call a special meeting whenever it is expedient for the transaction of the business of the County Education Board by giving not less than seven days' notice to the members.

Special meetings.

4. (1) The Chairperson shall preside at all meetings of the County Education Board.

Presiding at
meetings.

(2) In the absence of the Chairperson at a meeting, the vice-Chairperson shall preside at that meeting of the County Education Board.

(3) In the absence of the Chairperson and the vice-Chairperson at a meeting, the members present shall elect a member to preside at that meeting of the County Education Board.

5. The quorum for the conduct of business at a meeting of the County Education Board shall be more than half of the members of the County Education Board.

Quorum at meetings.

6. (1) A decision on any matter before the County Education Board shall be by a majority of votes of the members present.

Voting.

(2) In the case of an equality of votes the Chairperson or the person presiding shall have a casting vote.

7. Subject to the provisions of this Act the County Education Board may determine its own procedure.

Procedure at meetings.

8. Subject to sections 2 and 5, proceedings of the County Education Board shall not be invalid by reason only of a vacancy in the membership of the County Education Board or by reason of a defect appointment of a member.

Vacancies and defects in appointment.

9. (1) If a member of the County Education Board is directly or indirectly interested in a contract, proposed contract or other matter before the County Education Board and is present at a meeting of the County Education Board at which the contract, proposed contract or other matter is the subject of consideration, that member shall disclose the fact as soon as is practicable a commencement of that meeting.

Disclosure of interest.

(2) A member to whom sub-section (1) applies shall not participate in the consideration, discussion or voting on the matter in which the member has disclosed an interest.

10. The Secretary to the Board shall keep a record of all proceedings and meetings of the County Education Board.

Records.

SECOND SCHEDULE

(s. 33 (1))

**CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD OF
MANAGEMENT**

1. The Board of Management shall be a body corporate with perpetual succession and a common seal, and shall in their corporate names, be capable of—

Incorporation of
Board of
Management.

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing, lending and granting money;
- (d) entering into contracts; and
- (e) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

2. There shall be an executive Board of Management for each Board of Management consisting of—

Executive Board
of Management.

- (a) the Chairperson of the Board;
- (b) the secretary of the Board;
- (c) the Chairperson of a Parents Teachers Association; and
- (d) two other Board members.

3. (1) Unless the appointment of the Chairperson or a member of the Board of Management is earlier terminated under this Act, a person appointed as Chairperson or as a member shall hold office for a term of three years from the date of appointment and shall be eligible for re-appointment for one further term of a period not exceeding three years.

Term of office.

(2) In reappointing members of the Boards of Management the Cabinet Secretary shall maintain a proportion of new membership that ensures continuity in the affairs of the Boards of Management.

(3) Notwithstanding the foregoing, a person who has served as a member of a Board of Management for one

term at the date of the commencement of this Act may be re-appointed for a second and final term of three years.

4. (1) A member of a Board of Management may at any time resign by giving notice in writing to the County Education Board.

Resignation from the Board of Management.

(2) A person giving notice under paragraph (a) shall cease to be a member of the Board of Management from the date specified in the notice or, if no date is specified, from the date of the receipt by the County Education Board of the notice.

5. (1) The appointment of a member to a Board of Management shall be revoked and the member shall vacate office if the member —

Revocation of appointment.

- (a) resigns in accordance with paragraph 2 of this Schedule;
- (b) becomes insolvent or has conveyed or assigned his property or has made a proposition or arrangement for the benefit of his creditors;
- (c) is sentenced by a court of law to imprisonment for a term of six months or more;
- (d) is incapacitated by physical or mental illness;
- (e) has been absent from three consecutive meetings of the Board of Management without leave;
- (f) has his appointment revoked by the nominating body; or
- (g) is otherwise unable or unfit to discharge his functions as a member of the Board of Management on account of any matter in this Act.

(2) Where the office of a member of a Board of Management becomes vacant by reason other than the expiry of the period of that office, the County Education Board, or the proprietor or sponsor may, in accordance with the provisions of this Act appoint another person to replace the member.

6. (1) A Board of Management shall meet at least once every four months.

Frequency of meetings of the Board of Management.

(2) Every meeting of the Board of Management shall be convened by giving at least fourteen days' notice in writing to every member unless three quarters of the total members of a Board of Management otherwise agree.

(3) Notwithstanding the provisions of sub-section (1), the Chairperson of a Board of Management may, on his own motion or upon requisition in writing by at least five members of the Board, convene a special meeting of the Board of Management or at any time for the transaction of specific business.

7. (1) The quorum for the conduct of business at a meeting of a Board of Management shall be two-thirds of the total number of members of the Board of Management.

Quorum of the
Board of
Management.

(2) Subject to the provisions of subparagraph (1) no proceedings of a Board of Management shall be invalid by reason only of a vacancy among the members thereof.

(3) Chairperson to preside over a meeting of Board of Management.

(4) The Chairperson shall preside at every meeting over a meeting of the Board of Management at which the Chairperson is present and, in his absence, the deputy Chairperson shall preside.

(5) In the absence of both the Chairperson and the deputy Chairperson at any meeting, the members present shall elect one of their number to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson.

8. Unless a unanimous decision is reached, a decision on any matter before a Board of Management shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

Decision of the
Board of
Management.

9. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before a Board of Management and is present at a meeting of the Board of Management at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the fact and shall

Disclosure of
interest.

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.

(3) A member of the Board of Management who contravenes sub-paragraph (1) shall commit an offence and be liable to a fine of fifty thousand shillings, or to imprisonment for a term of six months, or to both.

10. (1) Subject to this Act, the common seal of a registered institution of basic education for which a Board of Management is responsible shall be kept in a safe in the registered office of the institution and shall not be used except in the manner authorized by the Board of Management.

Common seal.

(2) All deeds, instruments, contracts and other documents shall be deemed to be duly executed by or on behalf of the institution—

(a) where they are required to be under seal, if sealed with the common seal of the institution and authenticated by the Chairperson and the secretary of the Board of Management;

(b) where they are not required to be under seal, if executed in that behalf by a member authorized by the Board of Management for that purpose.

(3) A deed, instrument, contract or other documents executed in accordance with sub-paragraph (2) shall be effective in law to bind the institution and its successors and may be varied or discharged in the same manner as that in which it was executed.

11. A Board of Management may, upon such terms and conditions of service as the County Education Board may determine, employ such staff or hire the services of such consultants or experts as may be necessary for the proper performance of its functions.

Employment of staff by the Board of Management.

THIRD SCHEDULE

(s. 58, 91)

**CONDUCT OF BUSINESS AND AFFAIRS OF THE
BOARDS OF THE INSTITUTE AND THE COUNCIL**

1. The Boards shall meet as often as necessary for the transaction of business, but not more than three months shall elapse between the date of one meeting and that of the next meeting.

Frequency of
meetings.

2. The Chairperson may at any time, and shall upon written request by a majority of the members, call a special meeting of the Board

Special meeting.

3. The Chairperson shall preside at every meeting of the Boards at which he or she is present, but in the absence of the Chairperson the members present may elect one from among their number to preside.

Chairing of
meetings.

4. The quorum for a meeting of the Boards shall be five members.

Quorum.

5. Unless a unanimous decision is reached, a decision on any matter before the Boards shall by a majority of the members present, and in the case of an equality of votes the Chairperson or person presiding shall have a casting vote.

Decision of the
Board.

6. A member who has a direct or indirect interest in a matter being considered or to be considered by the Boards shall, as soon as the relevant facts regarding the matter come to knowledge of the member, disclose the nature of such interest, and shall not be present during any deliberations on the matter.

Declaration of
interest.

7. The Boards shall cause the minutes of all proceedings of its meetings to be recorded and kept and shall be signed by the Chairperson or the person presiding at the meeting.

Recording of
minutes.

MEMORANDUM OF OBJECTS AND REASONS

Statement of objects and reasons

The principal object of the Bill is to give effect to Article 53(1)(b) of the Constitution and other enabling provisions; to provide for the system and structure of basic education; to provide for the administration of primary and secondary education; to provide for registration, governance and management of institutions of basic education; to provide for establishment and facilitation of learning in special needs education; to provide for Quality Assurance and Standards; to provide for coordinated approach in the provision of scholarships and bursaries in basic education; to provide for the establishment of the Kenya Education Management Information System; Kenya Institute of Special Education; and National Council for Education in Marginalized Communities and for connected purposes.

Part I (Clauses 1-5) provides for short title, interpretation of terms, objects and application of the Act and guiding principles. The guiding principles are equity in access; quality and relevance; accountability, transparency, rule of law and democratic decision making; non-discrimination; good governance, integrity, participation and inclusivity; human dignity and integrity; and intergovernmental consultation and cooperation.

Part II (Clauses 6-8) provides for the functions of the National Government; cooperation with County Governments and transfer of functions and powers between the two levels of Government.

Part III (Clauses 9-21) provides for the right of child to free and compulsory basic education. The Part provides for right to basic education; free tuition; admission to a basic education institution; restriction on admission test; review of admission decision; parents and guardian role; Head of Institution role; discipline; provisions prohibiting any person from preventing a child from attending school; transition to the next level; and re-entry of learners who drop out of schools.

Part IV (Clauses 22-24) provides for the system and structure of basic education. The Part makes reference to the Kenya National Qualification Framework; categories of schools; and foreign system of education.

Part V (Clauses 25-28) provides for registration of basic education institutions; the registration requirements; and the application process.

Part VI (Clauses 29–46) provides for governance and management of basic education. The Part makes provisions on the management of basic education; the establishment of the County Education Board; functions of the County Education Board; composition of the County Education Board; the conduct of business and affairs of the County Education Board; the appointment, composition and functions of a Board of Management for public schools; establishment of parents teachers association for public and private schools; and appointments of head of institutions.

Part VII (Clauses 47–50) provides for special needs education. The Part provides for the role of National Government and County Governments; collaboration with County Governments; establishment and management of Special Schools; and regulations in Special Needs Education.

Part VIII (Clauses 51–63) establishes the Kenya Institute of Special Education which shall be administered by the Board of the Institute. The Part further provides for the functions of the Institute which include advising the Government on policies on special needs education; conducting capacity building on special needs education and inclusive education, functional assessment, rehabilitation and related areas; and conducting teacher training courses for teachers in various fields of special needs education. The Part also makes provision for establishment of education assessment and resource centres, power of the Institute; qualifications for membership to the Board, occurrence of a vacancy in the Board ; the Chief Executive Officer and staff of the Institute.

Part IX (Clauses 64–68) provides for quality assurance and standards. The Part establishes the Directorate of Schools Inspection and provides for the powers of the schools' inspectors; the development and implementation of national and international standards and quality assurance standards; quality and relevance in curriculum development; and standards, quality and relevance in assessment.

Part X (Clauses 69–79) provides for Scholarships and Bursaries. The Part provides for provision and coordination; database; determination of needy status; guiding criteria on scholarships and bursaries award; scholarships and bursaries appropriation; monitoring of performance of awardees; reporting obligations; analysis of reports; information sharing; cooperation in administration and management of scholarships and bursaries; and fund

Part XI (Clauses 80-83) provides for the establishment of the Kenya Education Management Information System. The Part makes reference to maintenance of register and records; particulars of the register; and information sharing.

Part XII (Clauses 84-96) provides for the establishment of the National Council for Education in Marginalized Communities as a body corporate responsible for mobilizing funds to facilitate basic education in marginalized communities; and to institutionalize mechanisms for effective coordination, monitoring and evaluation of the activities of agencies. The Part provides for the powers of the Council; membership of the Board of the Council; qualifications for membership of the Board; occurrence of a vacancy in the Board; the Chief Executive Officer and staff of the Council and the conduct of the business and affairs of the Board.

Part XII (Clauses 97-98) provides for Sponsorships where a person or institution intending to sponsor a basic education institution shall notify the County Education Board. The Part also provides for Alumni Associations.

Part XIV (Clauses 99- 102) provides for financial provisions which include the financial year, annual estimates and accounts.

Part XV (Clauses 103-106) provides for general provisions which include provisions on data protection, general penalties, protection from personal liability, liability for damages and regulations.

Part XVI (Clauses 107-114) provides for repeal, savings and transitional provisions. The Part provide for the transfer of assets, liabilities, legal proceedings, staff and members of the Board in the case of the schools, Kenya Institute of Special Education, School Production Equipment Unit and National Council for nomadic Education in Kenya; preservation of proceedings and rights of appeal; continuance of periods of time; preservation of licenses, certificates and registration; general savings and interpretation of the part.

Statement on the limitation of fundamental rights and freedoms

The Bill does not limit fundamental rights or freedoms in any manner.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The Bill is a money Bill for the purposes of Article 114 of the Constitution as the enactment of this Bill may occasion expenditure of public funds.

Dated the 24th July, 2026.

KIMANI ICHUNG'WAH,
Leader of the Majority Party.

