

SPECIAL ISSUE

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REPUBLIC OF KENYA

***ELGEYO MARAKWET COUNTY
GAZETTE SUPPLEMENT***

BILLS, 2016

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**THE ELGEYO MARAKWET COUNTY ASSEMBLY
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**THE ELGEYO MARAKWET COUNTY ASSEMBLY
EARLY CHILDHOOD DEVELOPMENT
EDUCATION BILL, 2016**

A Bill for

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

ENACTED by the County Assembly of Elgeyo Marakwe as follows—

PART I — PRELIMINARY

1. This Act may be cited as the Elgeyo Marakwet Early Childhood Development Education Act, 2016 and shall come into operation on a date appointed by the Executive Committee Member responsible for Education by notice in the county and Kenya Gazette, which date shall not be later than ninety days from the date of its publication.

Citation.

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

Interpretation.

“center” means any institution of early childhood development;

“child” means an individual who has not attained the age of eighteen years;

“community” means persons residing in the neighborhood of an early childhood education centre;

“curriculum” means the approved subjects taught or programs offered and includes all the activities provided at any centre;

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

“department” means the Department of Education and Technical Training established under section 5;

“early childhood” means the age between three and five years of a child;

“inspector” means inspector of schools appointed

under the Kenya Basic Education Act No. 14 of 2013;

“pre-primary” means the period of age between four and six years before the child joins level one in a primary school.

3. This Act shall apply to all institutions of early childhood education under this Act.

Application.

4. The provision of early childhood education shall be guided by the following values and principles—

Guiding Principles.

- (a) the right of every child to education;
- (b) equitable access for the child to education and equal access to education or institutions;
- (c) promotion of quality and relevance;
- (d) accountability within the institutions of early childhood education;
- (e) protection of every child against discrimination within or by an education department or education or institution on any ground whatsoever;
- (f) protection of the right of every child in a public ECD centre to equal standards of education of the same education level;
- (g) encouraging independent and critical thinking; and cultivating skills, disciplines and capacities for reconstruction and development;
- (h) elimination of hate speech and tribalism through instructions that promote the proper appreciation of ethnic diversity and culture in society;
- (i) promotion of good governance, participation and inclusiveness of parents, communities, private sector and other stakeholders in the development and management of early childhood education;
- (j) transparency and cost effective use of educational resources and sustainable implementation of educational services;
- (k) elimination of gender discrimination, corporal punishment or any form of cruel and inhuman

treatment or torture;

- (l) promoting the protection of the right of the child to protection, participation, development and development;
- (m) promotion of innovativeness, inventiveness, and creativity;
- (n) non-discrimination, encouragement and protection of the marginalized, persons with disabilities and those with special needs;
- (o) provision of appropriate human resource, funds, equipment, infrastructure and related resources that meet the needs of every child in early childhood education.

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

5. (1) The Governor shall promote the establishment of pre-primary and early childhood schools, centres and institutions in the county to ensure pre-primary education and development for all children below the age of six years before they proceed to the compulsory basic primary education.

Responsibilities of
the Governor.

(2) The Governor shall organize the pre-primary and early childhood education system in the county and be responsible for the general progress, development and co-ordination of the system and its activities in accordance with the Basic Education Act, No.14 of 2013.

6. (1) It shall be the responsibility of every parent or guardian to present for admission or cause to be admitted his or her child, as the case may be, to a basic education institution

Duties of parents and
guardians.
Sec. 31 No.14 of
2013.

7. The County Executive Committee Member responsible for education shall, in consultation with the County Education Board established under the Basic Education Act—

Quality Assurance
and standards.

- (a) provide the curriculum, guidelines on minimum standards for school buildings, equipment and other relevant facilities for pre- primary and early childhood schools, centres and institutions;

- (b) ensure that the care givers who teach in the schools, centres and institutions have the necessary qualifications; and
- (c) ensure that all pre-primary and early childhood schools, centres and institutions are licensed, registered and regularly inspected by government education inspectors.
- (d) the Directorate may have such consultants or experts as may be necessary for the discharge of its functions.

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

Annual and other reports.

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

(3) A report submitted under subsection (1) or (2) shall be Tabled in the County Assembly.

PART III— REGISTRATION OF SCHOOLS, CENTRES AND INSTITUTIONS

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

School, centre or institution to be registered.

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

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

10. (1) An application for registration of a school, centre of institution under this Act shall be in a form

Application for registration.

prescribed by the Executive Committee Member responsible for education.

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

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

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

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

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

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

Applicant to pay prescribed fee.

12. The Department shall, upon receipt and after forwarding the application for the registration of a pre-primary or early childhood school, centre or institution to the County Education Board, publish the application in the county Gazette and in at least one daily newspaper of national circulation.

Publication of the application.

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

Registration of a school, centre or institution.

- (a) the applicant is an adult and a fit and proper person to operate the school centre or institution;
- (b) the applicant has not been convicted of an offence under the Psychotropic and Dangerous

drugs Act, or the Children's Act, No. 8 of 2001, or an offence involving fraud, dishonesty or moral turpitude;

- (c) where the applicant is a company, firm or other organization, none of its directors or members, has been convicted of an offence mentioned in paragraph (b);
- (d) none of the persons to be employed by the applicant in the operation of the institution has been convicted of an offence mentioned in paragraph (b);
- (e) the applicant or a person to be employed by the applicant in the operation of the institution is not, by reason of any infirmity of mind or body or otherwise, incapable of operating or being employed in the institution.

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

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

Permit to operate
prior to registration.

(2) A permit under subsection (1) shall cease to operate upon—

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

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

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

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

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

Registration certificate.

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

16. The registration certificate issued under section 15 shall be displayed, by the operator, in a conspicuous place on the premises of the pre-primary or early childhood school, centre or institution.

Registration certificate to be displayed.

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

Register of schools to be kept.

PART IV — MESCELLANIOUS PROVISIONS

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

Administrative and technical costs. No. 18 of 2012.

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

Public Complaint Resolution.

- (a) a pre-primary or early childhood school, centre or institution is operating illegally or is contravening any provision of this Act; or
- (b) a child at any pre-primary or early childhood

school, centre or institution has been abused or has suffered injury or harm as a result of the act or negligence of the operator, a person acting as an agent, or any person employed in the school, centre or institution.

(2) Upon receiving a complaint under subsection (1), the Department shall refer the complaint to a police inspector in the area of the school, centre or institution and notify the County Education Board of the complaint.

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

(4) The police inspector shall submit to the department a report containing the following information—

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

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

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

(6) Any person who attends before the committee under subsection (5) shall be entitled legal representation.

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

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

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

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

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

Publication of matters of concern to the community.

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

21. (1) The Executive Committee Member responsible for Education and Technical Training shall, in consultation with the County Education Board make Regulations generally for the better carrying out of the purposes and provisions of this Act,

Regulations.

(2) The Executive Committee Member responsible for education shall cause a draft of the Regulations proposed to be made under subsection (1) to be laid before the Assembly for approval before publication in the county and Kenya Gazette.

MEMORANDUM OF OBJECTS AND REASONS

The CECM in-charge of Education and Technical Training is Tabling in the County Assembly a Bill to enact Early Childhood Development Education Bill, 2016, this forms the cornerstone of Elgeyo Marakwet County legislation, no legislation has been enacted since 2013.

The Early Childhood Education Bill, 2016 is geared towards the objectives given;

- (i) Gives effect to paragraph 9 of Part 2 of the Fourth Schedule of the Constitution of Kenya, 2010. This paragraph gives the functions of County Governments as *“Pre-primary education, village polytechnics, home craft centres and childcare facilities.”*
- (ii) Assigns responsibilities relating to pre-primary and Early Childhood Education in the county.
- (iii) Art. 5 of the Bill outlines the responsibilities of the Governor and Art. 6(1) outlines the responsibilities of parents and guardians. This therefore, apart from giving clear roles for each, it equally improves on the general management of the ECDE programs.
- (iv) Provides a legal framework for the registration of and management of ECDE centers in the county. Currently the centers are run by amorphous committees which are not hungered in any law.
- (v) Provide a framework for resource mobilization for improving access to and equity of Early Childhood Development and Education in the county.
- (vi) The County Government of Elgeyo Marakwet in the aspirations of its people, stated in the CIDP to build 200 ECDE classrooms. The Bill will give effect the framework of attaining the aforementioned.
- (vii) The Bill will also give a framework for quality assurance and relevance of the ECD programs and curriculum. The programs will be standardized in the county.
- (viii) The Bill will provide a framework for access to Universal Basic Education as stipulated in MDG 2 and Art. 52 (b) of the Constitution of Kenya, 2010 which is effected through Art. 28 of the Basic Education Act, 2014 and Art. 43, 1 (f) of the Children’s Act.

Dated 7th January, 2016.

FESTUS KIPROP,
Chairperson,
Committee on Education and Technical Training.

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