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DEVELOPMENT AND EDUCATION BILL, 2017**

No 4 of 2017

Date of Assent 16th May 2017

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**THE NYANDARUA COUNTY EARLY CHILDHOOD
DEVELOPMENT AND PRE-PRIMARY EDUCATION**

ACT, 2017

AN ACT of the Nyandarua County Assembly to make provisions for the promotion, governance and management of Early Childhood Development and pre-primary education institutions and for connected purposes

ENACTED by the County Assembly, of Nyandarua County, as follows—

PART I—PRELIMINARY

Short title and Commencement

1 (1) This Act may be cited as the Nyandarua County Early Childhood Development and Pre-Primary Education Act, 2017

Interpretation

2 In this act unless the context otherwise requires—

“basic education” means the educational programmes offered and imparted to a person in basic education institution,

“basic education institution” means the institution as defined in the Basic Education Act, 2013,

“chief officer” means the Chief Officer referred to in section 45 of the County Governments Act for the time being responsible for early childhood development and pre- primary education,

“child” means any child below seven years,

“children with special needs” means children whose mental characteristic, sensory abilities, physical characteristics, emotional and social adjustment or communication abilities are underdeveloped and include children who suffer from long-term disabilities that affect the body or emotions to the extent that learning growth and development are affected,

“county education board” means the Board established under section 17 of the Basic Education Act, No 14 of 2013,

“curriculum” means all the approved subjects taught or programmes offered and includes all the activities provided at any institution of early childhood development and pre-primary education institution which are approved by the Kenya Institute of Curriculum Development

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“department” means the County department for the time being responsible for Early Childhood Development and Pre- Primary Education,

“directorate” means the Directorate established under section 5 of this Act,

“early childhood development centre” means a baby day care, a kindergarten, a home based care center or a play group offering early childhood services to five or more children, not being the children of the persons providing education or care, or children under the age of five enrolled in a school being provided with the education or care before or after school—

- (a) by the day or part of a day and
- (b) for any continuous period of more than five days

“early childhood development” means the process of emotional, cognitive, sensory, spiritual, moral, physical, aesthetic social and communication development of children from birth to school-going age,

“early childhood development programme” means a programme structured within an early childhood development service to provide learning and support appropriate to the child’s developmental age and stage,

“early childhood services” means services of the following kinds

- (a) Baby day care services,
- (b) kindergarten services,
- (c) play groups, and
- (d) any other early childhood education services that do not fall under the ambit of pre-primary education

“executive committee member” means the Executive Committee Member responsible for matters related to early childhood and pre-primary education,

“head teacher” means the lead educator or administrator of an early childhood or a pre-primary education centre,

“national education board” means the Board established under section 5 of the Basic Education Act,

“parent” means a mother, father or guardian of a child and includes any person who is responsible under the law to maintain a child or is entitled to a child’s custody,

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“pre-primary education” means education offered to a child aged between four and six years before joining level one in a primary school,

“pre-primary school” means an institution offering pre-primary education

“private school” means a school established, owned or operated by private individuals, entrepreneurs or institution,

“pupil” means a child enrolled in an early childhood or a pre- primary education institution,

“School” means an early development centre or a pre-primary school”

Object and Purpose of the Act

3 The object of this Act is to provide a legal framework for comprehensive early childhood development and pre- primary education management and regulation in order to achieve the goal of attaining the high standards and accessible early childhood and pre-primary education for all children in the County

Guiding Principles

4 The Provision of early childhood development and pre-primary education shall be guided by the following values and principles—

- (a) The right of every child to accessible free and compulsory pre-primary school education,
- (b) welfare and best interest of the child,
- (c) equitable and accessible early childhood development programmes and pre-primary education,
- (d) promotion of quality and relevant education,
- (e) protection of every child against discrimination,
- (f) protection of the right of every child to equal standards of education including the medium of instruction used in school for all children of the same educational level,
- (g) ensuring human dignity and integrity of persons engaged in the management of early childhood development and pre-primary education institutions,
- (h) promoting the right of the child to protection, participation, development and survival, and

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- (1) provision of appropriate human resource, funds, equipment, infrastructure and related resources that meet the educational needs of every child

**PART II—ESTABLISHMENT AND FUNCTIONS OF THE
DIRECTORATE OF EARLY CHILDHOOD DEVELOPMENT AND
PRE-PRIMARY EDUCATION**

Establishment of the Directorate

5 (1) There is established in the county department for matters of early childhood and pre-primary education, the Directorate of Early Childhood Development and Pre- Primary Education

(2) The Directorate shall be headed by a Director who shall be a public officer competitively recruited by the County Public Service Board on such terms and conditions as the Board shall determine

(3) The Directorate shall consist of such staff as may be necessary for the performance of its functions

Functions of the Directorate

6 (1) The Directorate shall be responsible for the following

- (a) Advising on policies on early childhood development and pre-primary education,
- (b) Ensuring that there is equitable access to free and compulsory pre-primary education and compliance to the provisions of this Act,
- (c) cooperation with relevant authorities and agencies established under the Basic Education Act to ensure compliance with educational standards and promote early childhood development and pre-primary education,
- (d) supporting the delivery of the highest possible standard of education services,
- (e) overseeing the operation and management of early childhood development and pre- primary education in the County,
- (f) planning, promoting, developing and coordinating early childhood development, pre- primary education, training and research in the County in accordance with this Act, national laws and policies,
- (g) supporting the promotion of, and public awareness on the availability and quality of education,

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- (h) working with the County Education Board to ensure effective monitoring and evaluation of the delivery of education,
- (i) registering and maintaining a data bank of all early childhood education institutions in the County,
- (j) liaising with the relevant authorities to ensure the learning and progression of children with special needs through the early childhood development system, and
- (k) performing such other functions as may be necessary for the attainment of the objective and purpose of this Act as may be directed by the Executive Member

(2) The Directorate shall generate and cause to be published an annual report on the state of early childhood education and pre-primary education in the County

PART III —EARLY CHILDHOOD DEVELOPMENT AND CARE CENTERS

Curriculum Framework

7 (1) The Executive Member shall ensure that the prescribed curriculum framework is implemented in the County

Curriculum Standards

8 Every early childhood service provider shall ensure that the teaching and curriculum standards—

- (a) Respond to the learning interests, strengths and capabilities of enrolled children,
- (b) provides a child centered and child friendly learning environment,
- (c) reflects an understanding of learning and development that is consistent with contemporary research, theory and practices in early childhood development, and
- (d) adheres to the prescribed curriculum

Premises and Health Standards

9 (1) An early childhood education and care center shall conform to the following premises and health standards—

- (a) ensure that premises and facilities have regard to the number and age range of the children attending the premises,

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- (b) provide sufficient and suitable space for a range of activities, facilities for food preparation, eating, sleeping, storage, toileting and washing, and sufficient and suitable heating, lighting, noise control, ventilation and equipment, to support appropriate curriculum implementation by the service provider
- (2) health and safety practices require every licensed service provider to—
 - (a) take all reasonable steps to promote the good health and safety of children enrolled in the service,
 - (b) take all reasonable precautions to prevent accidents and the spread of infection among children enrolled in the service,
 - (c) take all reasonable steps to ensure that the premises, facilities, and other equipment on those premises are—
 - (i) kept in good repair,
 - (ii) maintained regularly, and
 - (iii) used safely and kept free from hazards
 - (d) take all reasonable steps to ensure that appropriate procedures are in place to deal with fires and other emergencies
- (3) Each licensed service provider shall comply with the premises and health standards

Transport safety

10 A person or institution shall not designate or use a motor vehicle for transporting children to and from school or school or non-school related activity unless the motor vehicle is licensed under the Traffic Act (cap 403) for that purpose and meets the requirements of the Traffic Act and any prescribed standards ”

Licensing

11 (1) A service provider shall not operate an early childhood education and care centre unless licensed to operate the centre under this Act

(2) a service provider who operates an early childhood education and care centre commits an offence if—

- (a) a service provider operates the early childhood education and care centre without holding a current licence under this Act, or
- (b) the service provider ceases to operate an early childhood education and care center in circumstances other than an

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emergency, without giving a notice of at least three months to the Director, or

- (c) the service provider ceases to operate the early childhood education and care centre due to an emergency, and fails to inform the Director within 72 hours

(3) An offence under subsection (2) is punishable upon conviction by a fine not exceeding Kenya Shillings fifty thousand or to an imprisonment for a term not exceeding six months

Open Door Policy

12 (1) The parent or guardian of a child has a right of entry to an early childhood education and care centre whenever the child is there, except if the parent or guardian—

- (a) is prohibited through a court order to access or contact a child,
- (b) is suffering from a contagious or infectious disease likely to have a detrimental effect on the children,
- (c) is, in the opinion of a person responsible for the operation of the centre or service, under the influence of alcohol or any other substance that has a detrimental effect on the functioning or behaviour of a person, or
- (d) is, in the opinion of a person responsible for the operation of the centre or service, exhibiting behavior that is or is likely to be disruptive to the effective operation of the centre or service

PART IV—ACCESSIBLE AND COMPULSORY PRE-PRIMARY EDUCATION

Unauthorized Fees

13 (1) No Public School shall charge or cause any parent or guardian to unauthorized fees on behalf of any pupil in a public pre-primary school

(2) Notwithstanding subsection (1) other charges may be imposed at a Public School with the Authority of the Executive Member in consultation with the County Education Board, provided that no child shall be refused to attend school because of failure to pay such charges

(3) No person shall collect any levies without issuing an official receipt

(4) No person shall charge or tuition and collect tuition and admission fees in public pre-primary schools

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Duty of parents and guardians

14 (1) Every parent or guardian shall cause to be presented for admission or cause to be admitted his or her child, as the case may be, to a pre-primary education institution. Where a parent or guardian defaults in the discharge of his or her responsibility under sub section (1), such a parent or guardian commits an offence and is liable to a fine not exceeding Kenya Shillings fifty thousand or to imprisonment for a term not exceeding three months, or to both

(2) A parent or guardian shall have the right to participate in the character development of his child

Proof of age of admission

15 (1) For the purpose of admission to an early childhood education and pre-primary education institution, the age of a child shall be determined on basis of the birth certificate issued in accordance with the provisions of the Registration of Births and Deaths Act or on the basis of such other document, as may be prescribed

(2) No child shall be denied admission in a school or basic education institution for lack of proof of age—

Incentives and Prohibition of holding back and expulsions

16 (1) A pupil shall be given appropriate learning incentives to learn and complete pre-primary school education

(2) A pupil admitted in a pre-primary school, subject to provisions of this Act shall not be held back in any class and shall not be expelled from pre-primary school

Prohibition of torture

17 (1) A pupil shall not be subjected to torture and cruel, inhuman or degrading treatment or punishment, in any manner whether physical or psychological

(2) A person, who contravenes the provisions of sub-section (1), commits an offence and shall be liable on conviction to a fine not exceeding Kenya Shillings twenty thousand or to imprisonment for a term not exceeding three months or both

Holiday Tuition

18 (1) A pupil shall not be subjected to holiday tuition

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding Kenya Shillings twenty thousand or to imprisonment for a period not exceeding three months or both

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Responsibility of Executive Committee Member

19 The Executive Committee Member shall—

- (a) Ensure accessible and compulsory pre-primary education to every child in the county,
- (b) ensure compulsory admission and attendance of children of compulsory school age at school or an institution offering pre-primary school education,
- (c) ensure that children belonging to marginalized, vulnerable or disadvantaged groups are not discriminated against and prevented from pursuing and completing pre-primary school education,
- (d) subject to the availability of resources, progressively provide human resource including adequate teaching and non-teaching staff according to the prescribed staffing norms,
- (e) subject to the availability of resources, progressively provide infrastructure including pre-primary schools, learning and teaching equipment,
- (f) ensure quality pre-primary education conforming to the set standards and norms,
- (g) promote special education and training facilities for talented and gifted pupils and pupils with disabilities,
- (h) ensure compulsory admission, attendance and completion of pre-school education by every pupil,
- (i) monitor the pre-primary education, and
- (j) advise the County government on financing of infrastructure development for pre-primary education
- (k) appoint head teachers of public pre-primary schools in the County

Duty of the Head teacher

20 (1) If a pupil fails to attend school for period of more than five continuous days or is a habitual absentee, the head teacher shall write to the parent demanding an explanation for the child's absence from school

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

- (a) Issue a written notice to the parents of the child requiring them to comply with the provisions of this Act, and

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- (b) submit a report on the child to the Sub-County Early Childhood Development Officer

PART V—SYSTEM AND STRUCTURE OF PRE-PRIMARY SCHOOL EDUCATION

Structure of Education

21 The system shall be so structured as to enable early childhood education and pre-primary learners to access education and training at any level in a sequence, and at a pace that may be commensurate with the individual learner's physical, mental and intellectual abilities

Categories of Schools

22 (1) Pre-primary schools and early childhood education educational institution shall be categorized as—

- (a) Private schools as those established, owned or operated by private individuals, entrepreneurs and institutions,
- (b) public schools which are schools established, owned or operated by the government and include sponsored schools, and
- (c) special needs early childhood education and pre-primary institutions

(2) No public early childhood education or a pre-primary education institution shall be converted into a private institution

(3) A private early childhood education or a pre-primary education institution shall not be converted to a public institution status without consultation with the County Education Board and approval of the Executive Committee Member

Recruitment Committee

23 (1) There is established, in the county, an early childhood education recruitment committee which shall consist of—

- (a) the county executive committee member or a person designated by him or her in writing,
- (b) the chairperson of the county public service board or a person designated by him or her in writing,
- (c) one representative of the Teachers Service Commission nominated by the Commission, and
- (d) a person nominated to the committee by the County Education Board

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(2) The early childhood education recruitment committee shall be responsible for the recruitment of early childhood education teachers within the county

(3) Every person who intends to teach or administer early childhood education shall be registered as a teacher by the Teachers Service Commission

(4) Upon the registration of a person as an early childhood education teacher under subsection (3), such person shall apply to be recruited as an early childhood education teacher by the early childhood education recruitment committee

(5) The Teachers Service Commission shall exercise disciplinary and professional control over the early childhood education teachers

(6) Notwithstanding subsection (5), the County Government may—

(a) impose such teaching standards and conditions of performance on the teachers, in addition to those imposed by the Teachers Service Commission, as it may consider necessary, and

(b) dismiss a teacher for breach of any condition of employment ”

**PART VI—PRIVATE EARLY CHILDHOOD EDUCATION AND
PRE-PRIMARY EDUCATIONAL INSTITUTIONS**

Establishment of Private Schools

24 Subject to the Constitution, national law and the provisions of this Act, any person may establish and maintain a private early childhood education or a pre- primary school

Registration of Private Pre-primary schools

25 (1) A person shall not establish or maintain a private pre-primary school unless it is registered under the Basic Education Act and licensed under this Act

(2) A private pre-primary school shall not be licensed if—

(a) the school premises, or any part of those premises, are inhabitable, or

(b) The proprietor or manager has been convicted of any crime against children under the Sexual Offences Act, Children’s Act and Counter Trafficking in Persons Act

(3) Subject to the provisions of this Act and the Basic Education Act the licensing of any private pre-primary school shall be

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provisional for a term of one year, renewable annually, until final registration is granted

- (4) A person shall not operate a private pre-primary education institution without a license
- (5) A person who contravenes subsection (4) commits an offence and upon conviction shall be liable to a fine not exceeding twenty thousand shillings or imprisonment for a term not exceeding three months or both

Right to attend Private School

26 Any child requiring pre-primary school education may attend a private school as an alternative to a public pre-primary school

Duties of Private Pre-Primary Schools

27 (1) A private pre-primary school shall—

- (a) Establish necessary educational and governance structure,
- (b) recruit qualified teachers,
- (c) comply with and follow the approved curriculum,
- (d) maintain premises that meet the requirement of the occupational health, safety regulations and building standards,
- (e) maintain necessary teaching and learning materials,
- (f) maintain a data bank on pupils undertaking education in the school and submit to the directorate, and
- (g) where requested by the directorate, provide evidence that pupils are making reasonable educational progress appropriate for their age and grade level based upon results of nationally recognized standardized achievement tests

(2) The County Education Board shall in Consultation with the Executive Member assess a private pre-primary school including teachers, non- teaching staff and instruction materials in the school

**PART VII—LICENSING, REGISTRATION AND
ACCREDITATION OF PRE-PRIMARY SCHOOLS**

Requirement for registration, accreditation and licensing

28 (1) A person shall not offer pre- primary education in the County unless the institution is registered, accredited and licensed as provided for under this Act and the Basic Education Act

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(2) A person or organization intending to establish an institution offering pre-primary education shall make an application as provided under the Basic Education Act. Upon approval of an application under sub-section (1), the applicant shall pay the prescribed fee to the County Treasury as per the relevant county law on trade licensing.

Maintenance of Data bank

29 (1) The Directorate shall establish and maintain a data bank of all—

- (a) Registered, accredited, licensed and incorporated institutions of pre- primary education, training and or research in the county,
- (b) pre-primary teachers working in pre-primary schools in the County, and
- (c) pre-primary school children

(2) The register established and maintained under subsection (1) shall be open to the public for inspection during normal working hours upon payment of a prescribed fee.

Establishment of Pre-primary Management Committees

30 There is established for each pre-primary institution in the county the Pre-Primary Management Committee constituting of

- (a) Three parents representing the parents or guardians of pre-primary children in the institution one of whom shall be the chairperson,
- (b) The institution's Head Teacher who shall be the secretary, and
- (c) One person from the Directorate representing the County Government

Functions of the Management Committees

31 A Committee shall be responsible for—

- (a) Overseeing the administration of the funds allocated to the institution,
- (b) reviewing the institutions work plans based on the estimated expenditure,
- (c) reviewing and submitting certified periodical financial and performance reports to the Directorate and in accordance to the requirements of any other law,
- (d) mobilizing resources for the institution's improvement,

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- (e) ensuring that the children's rights and needs are fulfilled and adequately met,
- (f) maintaining a positive public image of the institution,
- (g) enhancing relationships and partnerships, and
- (h) mitigating potential conflict of interest

Support for Pre-primary Institutions

32 (1) The County Government shall support pre-primary institutions through the management committees by —

- (a) Provision of funds for the effective running of pre-primary schools,
- (b) Ensuring that the children's best interests are protected

(2) The terms and conditions of service of the early childhood education teachers and pre-primary assistants shall be determined by the County Public Service Board

(3) A person shall not be recruited under subsection (1) unless if —

- (a) Holds at least a certificate in early childhood development from an institution duly recognized in Kenya,
- (b) has a certificate of good conduct, and
- (c) is at least 18 years of age

PART VIII—FINANCIAL PROVISIONS

Funds of the Directorate

33 The funds of the Directorate shall be used to promote early childhood education and pre-primary education and shall consist of —

- (a) Monies appropriated by the county assembly,
- (b) gifts, grants, donations or endowments lawfully received,
- (c) fees for services rendered to any designated institution in terms of a service agreement, and
- (d) monies from any other lawful source provided for the Directorate or relevant educational institution or programme

Annual estimates of income, expenditure and books of accounts

34 The Directorate shall prepare its annual estimates of income and expenditure as well as keep the relevant books of accounts in accordance with the provisions of the Public Finance Management Act, 2012

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PART IX—MISCELLANEOUS PROVISIONS

General Penalty

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

- (a) In the case of a first conviction, to a fine not exceeding Kenya Shillings One Hundred Thousand or to imprisonment for a term of not exceeding six months, or both, and
- (b) in the case of a second or subsequent conviction to a fine not exceeding Kenya Shillings Two Hundred Thousand or a term of imprisonment not exceeding twelve months, or both

Regulations

36 The Executive Member may in consultation with the County Education Board make Regulations for the implementation and better carrying out of duties prescribed under this Act

Transition

37 All early childhood education and pre-primary institutions operating in the county shall, within six months of coming into effect of this Act, comply with the provisions of this Act