

SPECIAL ISSUE

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**TAITA-TAVETA COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2014

NAIROBI, 29th October, 2014

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THE EARLY CHILDHOOD DEVELOPMENT AND EDUCATION BILL, 2014

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THE TAITA-TAVETA COUNTY EARLY CHILDHOOD DEVELOPMENT AND EDUCATION BILL, 2014

A Bill for

AN ACT of County Assembly of Taita-Taveta to promote and regulate free and compulsory basic education and to provide for, governance and management of institutions of education; make provisions for comprehensive pre-primary schooling and Early Childhood Development Programmes so as to achieve the goals of basic education for all residents.

ENACTED by the County Assembly of Taita -Taveta, as follows —

PART I—PRELIMINARY

1. This Bill may be sited as the Taita-Taveta Early Childhood Development and Education Act, 2014 and shall come into operation on such date as the County Executive Member responsible for Education may in consultation with the Governor appoint.

Short Title.

2. In this Bill unless where the context otherwise requires:

Interpretation.

“County Education Board” means a Board established as an agency of the national Government to serve the County Government of Taita -Taveta under section 5 of the Basic Education Act, 2013;

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

“education programme” means all the prescribed subjects taught or programmes offered and includes all activities provided at any pre- primary educational institution within Taita Taveta County;

“County Executive Committee Member” means the secretary for the time being responsible for matters related to pre-primary education and care centers;

“home-based education” means the provision of education for reward, to fewer than five children under the age of six and it includes any child enrolled at the facility who is the child of the person who provides education or

Care, in their home, the home of the person providing the education or any other home nominated by a parent or guardian of the child;

“hospital based education and care service” means the provision of education or care to more than three or more children under the age of six years who are receiving hospital care;

“licensed pre-primary education and care centre” means a pre-primary education and care centre in respect of which the service provider holds a current licence under section 23 herein;

“licensed pre-primary service” means an early childhood service in respect of which the service provider holds a current licence issued under section 23;

“licensed home based education service” means a home based education and care service in respect of which the service provider holds a current licence issued under section 23;

“licensed hospital based education service” means a hospital based education and care service in respect of which the service provider holds a current licence issued under regulations made under section 23;

“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;

“pre-primary education” means education imparted to a child of four or five years before joining level one in a primary school and includes home-based education and care services and the hospital based education and care service;

“pre-primary and care centre” means premises used regularly for the education of three or more children by the day or part of the day to children under the age of six who do not belong to the persons proving the education but not for any continuous period of more than seven days.

“special needs education” includes education for gifted or talented learners as well as learners with physical and mental challenges and includes education which provides appropriate curriculum differentiation in terms of content, pedagogy, instructional materials, alternative media of

communication or duration to address the special needs of learners and to eliminate social, mental, intellectual, physical or environmental barriers to learners;

“service provider” means a person, agency or body that operates, arranges and or provides education in relation to a pre-primary education institution, a home based education and care centre, and /or a hospital based education and care service.

3. This Act shall only apply to pre-primary educational institutions within the County Government of Taita-Taveta.

Application.

4. The provisions of other relevant National laws on education shall apply to any matter relating to education and as such the National Law shall prevail in case of conflict.

Application of relevant National Laws.

5. The provision of education shall be guided by the following values and principles as envisioned in the Basic Education Act (No. 14 of 2013) —

Guiding principles.

- (a) The right of every child to free and compulsory pre-primary school education;
- (c) Equitable access for the child to pre-primary school education;
- (e) Promotion of quality and relevant education;
- (g) Protection of every child against unfair discrimination within or by a pre-primary education institution on any grounds whatsoever;
- (h) Promotion of good governance, participation and inclusiveness of parents, the community, private sector and other stakeholders in the development and management of education—
- (i) Elimination of gender discrimination, corporal punishment or any form of cruel and inhuman treatment or torture;
- (j) Non-discrimination, encouragement and protection of the marginalized, persons with disabilities and those with special needs;

- 6 (k) Ensuring human dignity and integrity of persons engaged in the management of pre-primary school education.

6. The role of the county government shall include—

Role of the County Government.

- (a) The provision of funds required for the development of the necessary infrastructure for institutions of basic education;
- (b) Provision of funds in institutions of training teachers and personnel involved in conducting pre-primary education, childcare facilities, home craft centers and village polytechnics; and
- (c) Provision of teaching and learning materials.

PART II—PROMOTION OF COMPULSORY PRE-PRIMARY EDUCATION AND SERVICES

7. (1) The Executive Committee Member shall implement the right of every child to compulsory pre-primary education.

Role of Executive Member.

(2) The Executive Committee Member shall in consultation with the County Education Board provide for the establishment of—

- (a) pre-primary education centres within a reasonable accessible distance within the county

(3) Ensure establishment and placement of special and integrated schools for learners with disability.

8. (1) Every parent or guardian shall—

Duty of parents and guardian.

- (a) Cause to be presented for admission his or her child, as the case may be, to a pre-primary education institution;
- (b) have the right to participate in the character development of his or her child;
- (c) be involved in the provision of basic needs of his or her child; and
- (g) be involved in the cost-sharing of his/ her child's needs where and when required.

- (d)
(e)
(f)
- (2) Where a parent or guardian defaults in the discharge of his or her responsibility under sub-section (1), such a parent or guardian is liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both.

9. (1) Pupils shall be given appropriate incentives to learn and complete pre-primary school education.

Incentives and prohibition of holding back and expulsions.

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

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

Prohibition against physical punishment and mental harassment to the child.

(2) A person who contravenes the provision of sub-section(1), commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months, or both.

11. The Executive Committee Member responsible for pre- primary education sector shall—

Responsibility of the Executive Committee Member.

- (a) ensure the promotion of compulsory pre-primary education to every child in the county;
- (b) ensure that children belonging to marginalized, vulnerable or disadvantaged groups are not discriminated against and prevented from pursuing and completing pre-school education;
- (c) provide infrastructure including, appropriate financial resources;
- (d) ensure quality pre-school education conforming to the set standards and norms;
- (e) ensure provision of special education and training facilities for talented and gifted pupils and pupils with special education needs.
- (f) ensure compulsory admission, attendance and completion of pre-school education by every pupil;

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- (g) monitor functioning of schools; and
 - (h) advise the county government on financing of infrastructure development for pre-school education .

PART III—PRE-PRIMARY EDUCATION CURRICULUM AND PROGRAMMES

12. (1) Every pre-primary education institution shall develop and implement a flexible daily programme plan composed of activities that take into account—

Daily educational
programme plan.

- (a) the developmental milestones and stages of different age groups;
 - (b) individual abilities and needs;
 - (c) the need to respect each child's primary language while encouraging the use of Swahili and English as the official languages in Kenya;
 - (d) the need to encourage a non-sexist approach to learning and play that recognizes children's preferences and not their gender;
 - (e) differences in learning styles;
 - (f) the need to provide a variety of experiences in order to promote the physical, social, emotional, creative, intellectual and spiritual development of children; and
 - (g) all specific area of holistic development.
- (2) The plan referred to in subsection (1) shall—
- (a) be displayed in writing in a conspicuous place on the premises of the institution, and a copy thereof shall be made available upon request to any parent or guardian of a child enrolled, or seeking to be enrolled at the institution;
 - (b) include:
 - (i) indoor and outdoor physical activities that provide opportunities for fine and gross motor development;

- (ii) create experience which allow a child to develop and express his/her own ideas, feelings and culture in all parts of the programme (such as art, dramatic play, music and language);
- (iii) language learning experiences that provide opportunities for spontaneous conversation, as well as experiences with books, poems, stories and songs;
- (iv) experiences that promote self-reliance and self- esteem (including the care of the body, clothing and possessions, toilet training and hygiene) and health education experiences that include the modeling of good health and nutrition practices and safety awareness;
- (v) child initiated and adult initiated activities;
- (vi) active play, quiet activity and sleep;
- (vii) individual and group activities (including the promotion of shared group responsibility for equipment and materials).

(3) Measures shall be taken at a pre-primary institution for—

- (a) written observations of each child's progress to be recorded, dated and categorized into areas of learning to identify the child's level of performance and to inform planning; and
- (b) those observations to be communicated to the child's parent or guardian on a periodic basis..

10 **13.** The service provider for every licensed pre-primary education service shall keep, and avail to the Executive Member on request—

Administrative requirements.

- (a) a register of the children who attend or have attended the service provider, specifying the date of birth of each; and
- (b) a record of the MCH Clinic attendance of children at the service provider; and
- (c) any other records that are necessary to enable the service provider's performance to be monitored adequately.

14. (1) The Executive Committee Member may prescribe a curriculum framework for licensed pre-primary education and services as an addition to the already existing education programmes laid under section 12.

Curriculum framework.

(2) The Executive Committee Member may not prescribe a curriculum framework or amend any prescribed curriculum framework unless the Executive Committee Member has consulted with those organizations that appear to the Executive Committee Member to be representative of persons likely to be substantially affected by the curriculum framework or the amendment, as the case may be.

(3) As soon as practicable after prescribing or amending a curriculum framework, the Executive Committee Member shall publish a notice in the *Gazette* —

- (a) stating that a curriculum framework has been prescribed or, amended; and
- (b) setting out the curriculum framework or the amendment to the curriculum framework in its entirety, or stating where or how a copy of the curriculum framework or the amended framework can be obtained by the public.

(4) If a curriculum framework is prescribed under this section, every service provider for a licensed pre-primary service to whom the curriculum framework applies, shall implement that curriculum framework in accordance with any requirements prescribed in the regulations made under this Act.

15. (1) The pre- primary education institution shall afford the child's parent or guardian the right to—

Involvement of parent or guardian.

- (a) Exclude the child from any specific area of activity provided by the institution;
- (b) visit the institution at any time when the child is on the premises;
- (c) give or withhold consent, in writing, to the child's participation in any activities conducted or arranged by the institution and occurring off the premises.

Schedule meetings with parents and guardian.

16. (1) The early childhood institution shall schedule meetings with the parent or guardian of each child in order to—

- (a) Review the child's development and adjustment to the environment;
- (b) Reach agreement on appropriate disciplinary measures, other than corporal punishment;
- (c) Discuss issues, needs and concerns specific to that child.

(c)
(d)

(3) The pre-primary educational institutions shall facilitate the sharing of observations, concerns and comments from the parents of children enrolled at the institution, and service providers of the institution, by providing an easily accessible log book for that purpose.

17. (1) It shall be the duty of the parents or guardian of a child with special needs education to—

Children with special education needs.

- (a) Inform the service providers of the disability at the time of seeking enrollment at the pre-primary institution or, if the disability is diagnosed after the enrollment, as soon as practicable after the diagnosis; and
- (b) Provide the child with whatever special equipment is necessary to facilitate the child's attendance at and participation in the activities of the institution, having regard to the nature of the disability.

(2) In this Act a child with disability means a child

suffering from—

- (a) a disabling permanent physical handicap, that is to say, a physical disability, infirmity, malformation or disfigurement of indefinite duration, resulting from illness, injury or congenital defect;
- (b) a disabling permanent mental handicap; or
- (c) a learning disability;
- (d) A behavioral or psychological disability.

(3) Where an pre- primary institution has enrolled any child with a disability, appropriate equipment and material shall be made available to stimulate the child's interest and involvement in activities in keeping with the child's level development and condition of health.

PART IV—RECRUITMENT OF PRE-PRIMARY TRAINED TEACHERS

18. (1) The delivery of educational services to the pre-primary sector involves caregivers, pre-primary practitioners as well as trained teachers. Respectively the County Executive Committee Member shall provide instructional supervision of the trained pre-primary teachers.

Personnel involved in pre-primary education and services.

19. Every pre-primary institution should have trained teachers equivalent to a ratio of 1:24 pupils. This will ensure competence necessary for the delivery of early childhood or pre-primary education.

Ratio of trained teachers to pupils.

20. (1) for purposes of section 19 a person shall not be recruited by the recruitment panel under this section as a pre-primary teacher unless that person—

Eligibility of trained teachers for recruitment.

- (a) has a degree, diploma or certificate in ECD;
- (b) has a certificate of good conduct;
- (c) is a Kenyan citizen; and
- (d) is at least 18 years of age.

(2) The recruitment panel shall refer to under sub-section (1) shall consists of—

- (a) County Public Service Board;
- (b) County Director of Early Childhood

Education;

- (c) County human resource officer;
- (d) County Representative from the Education Committee formed by the Ministry of Education;
- (e) Sub-County ECD Programme officer;
- (f) Member of the County Education Board.

21. The terms and conditions of services for any person recruited under section 20(1) above shall be as determined by the County Executive Member in consultation with the County Education Board and the Teacher Service Commission Code.

Terms and conditions of service.

PART V—LICENCING AND CERTIFICATION OF PRE-PRIMARY INSTITUTIONS AND CARE CENTRES

22. (1) No service provider may operate a pre-primary education and care centre unless that service provider is licensed to operate the centre as provided for under section 23.

licencing for pre-primary
Institutions and care
centres.

(2) A person or organization intending to establish an institution offering pre-primary education shall make an application as per section 23 in respect of the pre-primary education and care service provided by the service provider.

23. (1) The Executive Committee Member may make regulations providing for the licensing of service providers to provide pre-primary education of any kind, the transfer of licences and regulating the management, operation, and control of licensed pre-primary services of any kind and imposing duties on service providers.

Regulations relating
to licensing.

(2) Regulations made under subsection (1) may—

- (a) prescribe minimum standards relating to premises, facilities, programmes of education, staffing and parental or guardian participation including adult to child ratios, health and safety and the operation or administration of those services or any of them, to be complied with to ensure the health, comfort, care, education, and safety

14 of children attending the licensed pre-primary education;

- (b) Authorize the Executive Committee Member, after consultation with the those organizations that appear to the Executive Committee Member to be substantially affected by these regulations, to prescribe a criteria to be used by the chief officer to asses compliance with the minimum standards imposed by these regulations;
- (c) Limit or regulate the numbers of children who may attend a licensed pre-primary institution and care centres or any premises used to provide a licensed home- based education and care service, or a licensed hospital- based education and care service;
- (d) Provide for the grant, duration, expiry, renewal,suspension,transfer,reclassification, and cancellation of licences of one or more specified kinds for service providers for each kind of pre-primary service, and prescribe the conditions subject to which such licences may be granted, renewed or transferred and the fees payable in respect of the grant, renewal, and transfer of such licences, or do any of those things;
- (e) Prescribe the records to be kept by service providers in respect of children attending the licensed pre-primary institutions, care centres and licensed home- based education and care services, and licensed hospital based education and care services;
- (f) Regulate the qualifications to be held by any specified number or proportion of those persons mandated with the Carrying out the control and management and education of all the pre- primary educational institutions.

(3) Regulations made under subsection (1) may prescribe different standards and other requirements—

- (a) for pre- primary education and services of different types and descriptions; and

(b) in respect of different kinds of licences.

(4) The criteria prescribed by the Executive Committee Member for use in assessing compliance with the minimum standards imposed by regulations made under this section may differ in any way, including for—

- (a) pre-primary services of different types or descriptions; and
- (b) different kinds of licenses; and
- (c) different minimum standards.

24. (1) A person holding an authorization under subsection (3) may, for the purpose of ensuring that the provisions of this Act, or the conditions of any licence, certificate, or grant issued or made under any of those provisions, are being complied with, or for the purpose of conducting an audit, at any reasonable time—

Powers of entry and
Inspection without
warrant.

- (a) enter and inspect any premises that are or contain a licensed pre-primary education and care centre or that are used to provide a licensed home- based education and care service or a licensed hospital based education and care service;
- (b) Inspect, photocopy, print out, or copy any documents, whether held in electronic or paper form, that the person believes on reasonable grounds to be those of a licensed pre- primary service;
- (c) Remove any document described in subsection (b), whether in its original form or in an electronic form or as a paper copy.

(2) If a document is removed from the premises under sub-section (1)(c), the person who removes it shall—

- (a) leave at the premises the list of the documents removed;
- (b) return the documents, or a copy of them, to the premises as soon as practicable unless to do so would prejudice any investigation being or to be carried out by the government.

(3) The Executive Committee Member may authorise,

in writing any person who, in the opinion of the Executive Committee Member, is suitably qualified and trained in the exercise of Powers under subsection (1), to exercise those powers.

(4) An authorization under subsection (3) shall contain—

- (a) a reference to this section; and
- (b) the full name of the person authorized; and
- (c) a statement of the powers conferred on that person by this section.

(5) A person exercising a power under subsection(1) shall have the appropriate written authorization, and evidence of identity, and shall produce them to the person in charge of the premises concerned or, as the case may be, the person having possession or control of the documents concerned—

- (a) on first entering the premises; and
- (b) Whenever subsequently reasonably required to do so by the person in charge.

(6) For the purposes of this section, inspection, in relation to premises include observing any children there.

25. (1) A service provider shall not engage in the promotion, management, or teaching of basic education unless such person is licensed and certified in accordance with relevant provisions.

Offence to promote without being licensed or certified.

(2) Every service provider who operates a pre- primary education institution and a care centre commits an offence if the service provider—

- (a) operates a pre-primary institution and a care centre without holding a current licence as provided for under section 23 ; or
- (b) ceases to operate a pre- primary institution and care centre for which it holds a current licence under the regulations made under section 23, in circumstances other than an emergency, without first informing the Executive Committee Member that it will stop operating the centre; or

- (c) ceases to operate a pre-primary institution and care centre for which it holds a current licence under regulations made under section 23, in circumstances involving an emergency, and fails to tell the Executive Committee Member as soon as is reasonably practicable after the closure.

(3) An offence under subsection (2) is punishable on conviction—

- (a) in the case of an offence under subsection (2) (a), by a fine not exceeding twenty thousand for every day or part of the day on which the offence took place; or
- (b) in the case of an offence under subsection (2)(b) or(c), by a fine not exceeding fifty thousand.

26. (1) The Executive Committee Member shall establish and maintain a data bank of all—

Executive Committee Member date bank.

- (a) Certified and licensed pre-primary educational institutions in the county. This shall include public, private, community centres and faith based centres.
- (b) trained teachers and service providers in the said institutions; and
- (c) children and pupils.

(2) the register established and maintained under subsection(1) shall be open to the public for inspection during normal working hours.

PART VI—FINANCIAL PROVISIONS

27. (1) In every year, out of the money appropriated by the County Assembly—

Funding of certain early childhood education services.

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- (a) the service provider for a licensed early childhood service;
 - (i) may be paid general grants; and
 - (ii) may be paid one or more discretionary grants; and
 - (b) the management of a body corporate that fulfills the requirements prescribed by regulations may be paid a discretionary grant for the purpose of establishing a licensed early childhood service.

(2) The amount of every grant shall be determined by the County Executive Committee Member.

(3) The Executive Committee Member may from time to time, determine the means by which the amounts of grants may be calculated or ascertained; and—

- (a) different means may be determined in respect of :
 - (i) grants of different classes or descriptions; and
 - (ii) licensed early childhood education services of different classes or descriptions; and
- (b) the amount of any grant may be determined accordingly; but
- (c) nothing in this subsection limits or effects the Executive Committee Member's power under subsection(2) to determine the amount of any grant.

(4) A grant—

- (a) may be paid unconditionally, or subject to any conditions the Executive Committee Member may specify in writing when the grant is paid or earlier; and
- (b) may be paid to be used for any purpose the service provider considers appropriate, or for only such purposes as the Executive Committee Member specifies in writing when the grant is paid or earlier; and

- (c) may be withheld in whole or part if the service provider fails to comply with the regulations under this Act.
- (5) The service provider shall ensure that—
 - (a) where a grant has been paid to be subject to conditions, the conditions are complied with; and
 - (b) if a grant has been paid to be used for purposes specified by the Executive Committee Member under subsection 4(b), the grant is used for only those purposes.

PART VII—GENERAL PROVISIONS

28. A person who intentionally insults, abuses, or intimidates a teacher or member of staff of an early childhood education and care centre commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings.

Offence of
intimidating staff.

29. A person who obstructs, hinders, resists, or deceives any person exercising or attempting to exercise a power of entry conferred by this Act commits an offence and, and is liable, on conviction, to a fine not exceeding one hundred thousand shillings.

Offence of obstructing
power of entry.

30. Any person who commits an offence under this Act for which no other penalty is provided is liable, on conviction, to a fine not exceeding one hundred thousand shillings or a term of imprisonment not exceeding twelve months, or both.

General penalties.

31. (1) The Executive Committee Member may upon consultations with the County Education Board make Regulations—

Regulations.

- (a) prescribing anything that may be prescribed under this Bill;
 - (b) generally for better carrying out of provisions of this Bill;
 - (c) on the establishment of Board of management of pre-schools.
- (2) Without prejudice to the generality of sub-section

20) Executive Committee Member may make regulations to provide for—

- (a) an appropriate structure for education and training;
- (b) incentives to learners, teachers and non-teaching staff;
- (c) discipline corrective measures and expulsion to facilitate compliance;
- (d) admission, progression and transfer of learner;
- (e) graduation and certification of learners;
- (f) public and stakeholder's participation in pre-school activities this may include; donations, financial support, materials provision and any other activities which the ECM may deem fit.

MEMORANDUM OF OBJECTS AND REASONS

The Constitution mandates and empowers the county governments with the responsibility of managing through the County Education Boards, the educational institutions.

The purpose of this Bill is to provide a legislative framework for comprehensive pre-primary and Early Childhood Development Programmes so as to achieve the goals of Basic Education for all residents within the county,

The objects of the proposed law as set out in the constitution and the Basic Education Act, 2013 are—

- (a) give further effect to the Constitution which mandates the county government with the function of ensuring that the every child receives free and compulsory basic education;
- (b) to ensure that the national government policy on education as set out in Basic Education Act, 2013 is implemented at the county level in accordance with the requirements of the Constitution.

Further the Bill will provide for competence and continued regulation over matters relating to education and for that purpose to establish certain

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uniform norms and standards applicable to county regulation of activities in the sector of education.

The county government is at liberty to establish its own bodies that will aid in managing learning institutions. These bodies are also expected to implement the national government policy on basic education.

The County Education Board shall ensure that the registration, licensing and accreditation of educational institutions is transparent, fair and equitable.

There will be need to provide for the coordination between the con-current National Education Board the County Government and the County Education Board for coherence and efficiency in managing and governing the basic education sector within the County.

Dated the 24th October, 2014.

HANS KEKE,

*Chairman of the Education Committee,
Taita-Taveta County Assembly.*

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