

SPECIAL ISSUE

NATIONAL COUNTY ASSEMBLIES FORUM (CAF)
LAW REPORTING
LIBRARY
P.O. Box 73552 - 00200,
NAIROBI, KENYA

Mandera County Gazette Supplement No. 12 (Acts No. 5)



REPUBLIC OF KENYA

MANDERA COUNTY GAZETTE SUPPLEMENT

ACTS, 2014

NAIROBI, 11th July, 2014

CONTENT

Act—

PAGE

The Mandera County Education Bursary Act, 2014 1

THE MANDERA COUNTY EDUCATION BURSARY ACT, 2014

No. 5 of 2014

Date of Assent: 27th May, 2014

Date of Commencement: 11th July, 2014

ARRANGEMENT OF CLAUSES

Sections

PART I—PRELIMINARY

- 1– Short title
- 2– Interpretation

**PART II—ESTABLISHMENT OF FUND, OVERSIGHT BOARD
AND WARD EDUCATION BURSARY COMMITTEE**

- 3– Establishment of the Fund
- 4– Object and purpose of the Fund
- 5– Establishment of the Board
- 6– Composition of the Board
- 7– Functions of the Board
- 8– Meeting of the Board
- 9– Establishment of Ward Education Bursary Committee
- 10– Function of the Committee
- 11– Meeting of the Committee
- 12– Vacation of office
- 13– Remuneration
- 14– Staff of the Board or Committee

**PART III—FUND ALLOCATION, MANAGEMENT AND
ELIGIBILITY CRITERIA**

- 15– Beneficiaries of the Fund
- 16– Fund allocation
- 17– Expenditure on the Fund
- 18– Administration of the Fund
- 19– Criteria for awarding bursaries
- 20– Payment of bursaries

2014

Mandera County Education Bursary

21–Processes for awarding bursaries

22–Bursary conditions

PART IV—FINANCIAL PROVISIONS

23–Financial year

24–Annual estimates

25–Accounts and audit

PART IV—MISCELLANEOUS

26–Winding –up of the Fund

27–County champion and patron

28–Guiding principle

29–General penalty

30–Regulations

**THE MANDERA COUNTY EDUCATION BURSARY
ACT, 2014**

AN ACT of the County Assembly of Mandera to provide for establishment of a fund for bursaries tenable in Secondary Schools and Tertiary Institutions; to provide for establishment of a County Education Bursary Board and Ward Education Bursary Committee; to provide for management and administration of the Fund, and for connected purposes

ENACTED by the County Assembly of Mandera as follows—

PART 1—PRELIMINARY

1. This Act may be cited as the Mandera County Education Bursary Act, 2014.

Short title.

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

Interpretation.

“Administrator of the Fund” means a person designated as such under Section (19) of the Act;

“Board” means the Mandera County Education Bursary Board established under Section (5) of the Act;

“Committee” means Ward Education Bursary Committee established under Section (9) of this Act;

“Executive Committee Member” means the County Executive Committee Member for the time being responsible for matters relating to Education;

“Chief Officer” Means the Officer for the time being responsible for matters relating to Education;

“Fund” means the Mandera Education Bursary Fund established under Section (3) of this Act;

“County Assembly” means County Assembly for Mandera County elected in accordance with Article 177 of the Constitution;

“Governor” means the County Governor for Mandera County elected in accordance with Article 180 of the Constitution;

“Member” means an elected or nominated Member of the County Assembly;

2014

Mandera County Education Bursary

“Tertiary institution” means an institution registered as University, College, Technical or other institution of further or post-Secondary training;

“Resident” means any person who resides or whose parents reside within the County of Mandera at the time of application or any person whose national identification documents or his or her parent’s identification documents indicate his or her affiliation to Mandera County.

“Ward” means one of the wards into which Mandera County is divided.

“Department” means department for the time being responsible for matters relating to Education.

**PART II—ESTABLISHMENT OF FUND,
OVERSIGHT BOARD AND WARD EDUCATION
BURSARY COMMITTEE**

3. (1) There is established a fund to be known as the Bursary Fund. Establishment of the Fund.

(2) The Fund shall consist of—

- (a) monies appropriated for the Fund each fiscal year;
- (b) grants and donations;
- (c) income generated from the proceeds of the Fund.

(3) There shall be paid out of the Fund payments in respect of any expenses incurred in pursuance of the objects and purposes for which the Fund is established.

4. The object and purpose of the Fund is to— Object and purpose of the Fund

- (a) increase access to secondary education and tertiary studies.
- (b) support needy student proceeding with secondary, tertiary and technical studies;
- (c) provide special grants to students undertaking Technical or Science Courses;
- (d) promote an integrated strategic approach in addressing education, training and skills development;
- (e) fulfill the Department’s social responsibility through funding of secondary education and tertiary studies;

- (f) reduce disparities and inequalities in provision of secondary school education and tertiary studies;
- (g) expand access to finances in promotion of education at all levels;
- (h) model an alternative framework in funding education and social programs.

5. There is established a Board to be known as the Mandera County Education Bursary Board.

Establishment of the Board

6. (1) The Board shall be an incorporated body with perpetual succession and a common seal and shall in its corporate name be capable of;

Composition of the Board

- (i) suing and being sued;
- (ii) taking purchase or otherwise accruing holding charging or disposing of movable and immovable property;
- (iii) borrowing money or making investment;
- (iv) doing or performing all other acts or things for the proper performance of its function under this Act which may lawfully be done or performed by a body corporate.

The Board shall consist of—

- (a) the chairperson of the Board who shall be nominated, subject to Subsection (4), by the Executive Committee Member and appointed by the Governor with the approval of the County Assembly;
- (b) the Chief Officer responsible for matters relating to finance;
- (c) the Chief Officer responsible for matter relating to Education;
- (d) the Chief Executive Officer who shall be competitively employed by the County Public Service Board and who shall be the secretary to the board;
- (e) the Chief Executive Officer appointed under section 6 (1) (d) shall be the Accounting Officer of the Board and has overall financial and Administration responsibilities for the fund.

- (f) six persons appointed by the Executive Committee Member of whom;
 - (i) one representing the civil society;
 - (ii) one person representing the Ministry of Education;
 - (iii) one person representing women;
 - (iv) one person representing persons with disabilities;
 - (v) one person representing religious leaders; and
 - (vi) one person representing the youth.
- (g) the chairperson of the board, the CEO and the six persons nominated by the CEC of education to be submitted to the Assembly for Approval.

(2) The Board member shall serve for a period of five years renewable only once.

(3) The Executive Committee Member shall cause the names of persons constituting the Board to be published in the Mandera County Gazette.

(4) A person shall not be appointed a chairperson under Subsection (1) (a) unless that person—

- (a) holds a minimum of university degree from a recognized institution or its equivalent;
- (b) five years' work experience; and
- (c) Fulfills requirements of Chapter Six of the Constitution.

7. the functions of the Board shall be to—

Functions of the Board

- (a) supervise all the assets of the Education Bursaries Fund;
- (b) provide the overall management, design and oversight the Fund;
- (c) approve disbursement of the Fund;
- (d) receive reports on the performance of the Fund from the Ward Education Bursary Committee established under Section (9) of this Act;
- (e) develop relevant guidelines and review them as the need arises, to guide the operations and implementation of the Fund;

- (f) monitor and evaluate the programs and activities under the Fund;
- (g) prepare annual report on the operations and performance of the Fund to the Assembly and;
- (h) review recommendations of the ward education bursary committee on the list of applicants and ensure right procedures have been followed and the approved applicants have been identified in a fair and transparent manner;
- (i) to ensure timely and efficient disbursement of funds to respective ward bursary committee.

8. (1) The business and affairs of the Board shall be conducted in accordance with the First Schedule. Meetings of the Board

(2) Except as provided in the First Schedule, the Board may regulate its own affairs.

(3) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but that person shall not vote on any matter requiring decision of the Board.

9. (1) There is established a Committee to be Known as the Ward Education Bursary Committee (hereafter referred to as "The Committee") in every Ward. Establishment of Ward Bursary Committee

(2) The Committee shall be an unincorporated body consisting of—

- (a) the Ward administrator or his representative;
- (b) County Assembly member elected from the respective ward as a patron;
- (c) sub-county accountants who shall be the ward fund manager;
- (d) area Education Officer;
- (e) four persons appointed by the CEC Member in consultation with the elected MCA representing the ward of whom;
 - (i) one person represents religious leaders;
 - (ii) one person represents women interest within the ward;

2014

*Mandera County Education Bursary***COUNTY ASSEMBLIES FORUM (CAF)**

P. O. Box 73552 - 00200,

No. 5 NAIROBI, KENYA

(iii) one person represents the youth; and

(iv) one person representing persons with disabilities.

(3) The Committee shall serve for a period of five years renewable only once.

(4) The Executive Member shall cause the names of persons constituting the Committee to be published in the Mandera County Gazette.

(5) The respective Ward Administrator shall provide the necessary secretariat services to the Committee.

(6) The four persons appointed under sub section (d) shall elect from among themselves, one person to be the chair of WBC.

10. (1) The Function of the Committee shall be to—Function of the
Committee

- (a) issue and receive bursary application forms;
- (b) vet bursary applicants using the established criteria;
- (c) identify the candidates within the Ward using guidelines provided by the Board;
- (d) manage and oversee the implementation of the Fund at the Ward level; and
- (e) compile, update and forward progress reports to the Board semiannually;
- (f) to verify and ensure that all bursary payments are dispatched to the relevant institution;
- (g) decide on who amongst the applicants receive the bursary funds;
- (h) ensure efficient management of the fund;
- (i) perform such other duties as the committee may deem necessary from time to time for the proper management of the funds.

(2) The Committee shall meet for a maximum of twelve times a year.

11. (1) The business and affairs of the Committee shall be conducted in accordance with the Second Schedule.Meetings of the
Committee

(2) Except as provided in the Second Schedule, the Committee may regulate its own affairs.

(3) The Committee may invite any person to attend any of its meetings and to participate in its deliberations, but that person shall not vote on any matter requiring decision of the Committee.

12. (1) A person shall cease to be a member of the Board if such person—

Vacation of office

- (a) is unable to perform the functions of his office by reason of mental or physical infirmity;
- (b) is adjudged bankrupt;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment of more than six months;
- (d) is absent from three consecutive meetings of the Board without the permission of the Board;
- (e) resigns in writing, addressed, in the case of the Chairperson to the Executive Committee, and in the case of any other member, to the Chairperson; or
- (f) violates Chapter Six of the Constitution.

(2) The provisions of Subsection (1) may apply to the Committee member with the necessary modifications.

13. (1) The chairperson and members of the Board shall be paid such remuneration and allowances as the County Public Service Board shall, in consultation with the Executive Committee Member responsible for Finance, determine.

Remuneration

(2) The chairperson and members of the ward committee shall be paid such remuneration and allowances as the County Public Service Board shall, in consultation with the Executive Committee Member responsible for Finance, determine.

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

Staff of the Board

(2) In determining the necessary staff, the County Public Service Board shall consider County Public wage sustainability and ensure overall costs shall not exceed 5% provided in Section 16 (1) (a) of this Act.

(3) The officers, agents and staff of the Board shall be paid such remuneration and allowances as the County Public Service Board shall, in consultation with the Executive Committee Member responsible for Finance determine.

PART III—FUND ALLOCATION, MANAGEMENT AND ELIGIBILITY CRITERIA

15. (1) The Beneficiaries of the Fund are—

Beneficiaries of the Fund

- (a) Deserving Candidates joining secondary schools;
- (b) Deserving Students proceeding with secondary schools;
- (c) Deserving Students joining or proceeding with Post-Secondary Education.

(2) Applicants joining or proceeding with courses deemed critical to the County's needs may be given first preference.

(3) Bursaries shall only be awarded for studies at recognized tertiary institutions and schools.

16. (1) The Fund shall be allocated as follows—

Fund allocation

- (a) 5% administration fee shall be charged on the total fund allocated and shall be retained by the Board for purposes of facilitating both County and Ward level administration functions; and
- (b) For the remainder of the Fund, the Board shall allocate equitably among the wards.

(2) For the purpose of this Subsection 1(b), The Board shall take into account the following parameters—

- (a) population of the Ward;
- (b) poverty index.

17. (1) The Expenditure incurred on the Fund shall be on the basis of and limited to annual work programmes and cost estimates which shall be prepared by the administrator of the Fund and approved by the Board at the beginning of the financial year to which they relate.

Expenditure on the Fund

(2) Any revision of the approved annual work programme, and of any cost estimate, shall be referred to the Board for approval.

18. (1) The CEO of the Board shall be designated as the administrator of the Fund.

Administration of the
Fund

- (2) the administrator of the Fund shall—
 - (a) supervise and operate a bank accounts at a reputable Bank in the County;
 - (b) supervise and control the administration of the Fund;
 - (c) consult with Executive Committee Member and the Board on matters relating to the administration of the Fund;
 - (d) cause to be kept proper books of account and other books and records in relation to the Fund, of all activities and undertakings financed from the Fund; and
 - (e) prepare a quarterly report on the receipt into and issues out of the Fund and submit it to the Executive Committee Member for Gazettement by the 21st of every four months.

(3) The bank account mentioned in sub-section 2 (a) shall be operated by a minimum of three signatories, of who the chief executive officer of the board is a mandatory signatory and two other signatories will be designated by the board.

19. Funds shall be disbursed from the Fund under the following conditions—

Fund disbursement

- (a) All disbursements from the fund shall be approved and minuted by the Board;
- (b) All disbursements from the Fund shall be to the successful candidates who meet the criteria set by the Board in accordance with provisions of this Act;
- (c) All disbursements from the Fund shall be made through the bank account maintained by the learning institutions;
- (d) The Board shall set out general conditions and requirements for release of funds, to ensure efficient and effective management of the resources.

2014

Mandera County Education Bursary

20. The Board shall take into consideration the following criteria in awarding education bursary—

Criteria for awarding bursaries

- (a) residence of the applicant as specified in Section (2) of this Act;
- (b) financial background of the applicant;
- (c) academic performance of the applicant;
- (d) vulnerability of the applicant.

21. (1) Payments of bursaries may cover the following—

Payments of bursaries

- (a) tuition fees;
 - (b) examination fees where applicable;
 - (c) accommodation and meals where applicable; and
 - (d) books or library fees where applicable.
- (2) The payments shall not cover—
- (a) travelling expenses; and
 - (b) subjects or modules that are repeated.

22. (1) The Board may, from time to time, through appropriate media publish the time frames for applications and awarding of the education bursaries.

Processes for awarding bursaries

(2) The Board shall consider applications for bursaries taking into consideration the availability of resources.

23. (1) Applications for bursaries must be submitted on the prescribed application forms for consideration.

Bursary conditions

(2) Education bursary is awarded based on an academic year, not a financial year.

(3) A bursary recipient must enter into a contract with the department within 15 days of the approval of the bursary.

(4) Contractual commitment of the students must be fully met before the same student shall be considered for next bursary.

(5) Payment of a bursary, which is due for study fees, shall be made directly to the relevant institution after receiving the fee structures or the statements of accounts.

(6) Bursary holders shall not receive any financial assistance before they submit results or letters of admission and/or proof of registration to the Board.

(7) No monies shall be paid out for failed or repeated subjects.

(8) The access by bursary applicants, shall be on a first come first served basis, subject to assessment and approval of the applications;

(9) A confirmation letter to pay the bursary may be forwarded to the applicant and the institution.

(10) The names of students awarded bursary and the amount given shall be published through notice boards, electronic means or other appropriate media.

PART IV—FINANCIAL PROVISIONS

24. The financial year of the Fund shall be the period of twelve months ending on the thirtieth day of June in each year. Financial year.

25. (1) Before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Fund for that year. Annual estimates

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

- (a) funding of Secondary and tertiary study fees.
- (b) payment of the salaries, allowances, gratuities and other charges in respect of the staff and members of the Board; and ward committees; and
- (c) maintenance of buildings and grounds of the Board.

(3) The annual estimates and expenditure shall be approved by the Board.

26. (1) The Board shall cause to be kept proper books and records of account of the income, expenditure, assets and liabilities of the Board. Accounts and audit

(2) Within a period of three months after the end of each financial year, the Office shall submit to the County

Auditor the accounts of the Board in respect of that year together with a—

- (a) statement of the income and expenditure of the Board during that year; and
- (b) statement of the assets and liabilities of the Board on the last day of that financial year.
- (3) The annual accounts of the Board shall be prepared, audited and reported upon in accordance with the Public Audit Act, 2013.

PART V—MISCELLANEOUS

27. In the event of winding up of the Fund, the cash balance shall be transferred to the County Exchequer Account while other assets of the Fund shall be transferred to the Department. Winding -up of the Fund

28. (1) The Governor shall be the County Champion and Patron and shall give overall policy direction to enhance the Fund's prestige and profile. County champion and patron

(2) In furtherance to sub-section (1), the Governor shall—

- (a) receive annual report on the performance of the Fund and review the implementation progress;
- (b) set the overall agenda for the Fund, by ensuring commitment at the highest level of the government; and
- (c) recognize the Fund's success stories through an annual awards ceremony.

29. In fulfilling the Act's mandate, the Executive Committee Member, the Board and the Committee must act in accordance with the values and principles set out in the Constitution and any other written law. Guiding principle

30. A person who contravenes a provision in this Act for which a penalty has not been provided for, commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years or to both. General penalty

31. The Executive Committee Member may, from time to time, make regulations for the smooth running of the fund and such regulations shall be approved by the County Assembly before implementation. Regulations

FIRST SCHEDULE (s.8)

MEETINGS PROCEDURES FOR THE BOARD

1. The Board Chairperson shall convene the first meeting of the Board.
2. The Board shall decide when and where it meets and the meetings shall be convened by the chairperson.
3. The Board shall meet for a maximum of twelve times in every financial year and not more than four months shall elapse between one meeting and the next meeting.
4. Unless three quarters of the members otherwise agree, at least seven days' notice in writing of a meeting shall be given to every member.
5. A meeting shall be presided over by the chairperson or in his or her absence, by the vice-chairperson or in both their absence, by a member of the Board elected by the members present from among their number.
6. The members of the Board shall elect a vice-chairperson from among themselves—
 - (a) At the first sitting of the Board; and
 - (b) Whenever it is necessary to fill the vacancy in the office of the vice-chairperson.
8. If any person has a personal or fiduciary interest in any matter before the Board, and is present at a meeting of the Board or any committee at which any matter is the subject of consideration, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not take part in any consideration or discussion of, or vote on any question touching such matter.
9. A disclosure of interest made under paragraph 8 shall be recorded in the minutes of the meeting at which it is made.
10. A person who contravenes paragraph 8 commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding Six months, or to both.
11. No member or staff of the Board shall transact any business or trade with the Board.
12. The quorum of the meeting shall be two thirds of the total membership of the board.

2014

Mandera County Education Bursary

13. Matters before the Board shall be decided by a majority of the members present and voting and in the event of equality of votes, the person presiding shall have a casting vote.

14. The Board shall keep minutes of proceedings of its meetings and decisions taken.

SECOND SCHEDULE (s.11)

MEETINGS AND PROCEDURE FOR THE COMMITTEE

1. The Committee Chairperson shall convene the first meeting of the Committee.

2. The Committee shall decide when and where it meets and the meetings shall be convened by the chairperson.

3. The Committee shall meet only thrice in every financial year.

4. Unless three quarters of the members otherwise agree, at least seven days' notice in writing of a meeting shall be given to every member.

5. A meeting shall be presided over by the chairperson or in his or her absence, by the vice-chairperson or in both their absence, by a member of the Board elected by the members present from among their number.

6. The members of the Committee shall elect a vice-chairperson from among themselves—

(a) at the first sitting of the Committee; and

(b) whenever it is necessary to fill the vacancy in the office of the vice-chairperson.

7. The chairperson and vice-chairperson shall not be of the same gender.

8. If any person has a personal or fiduciary interest in any matter before the Committee, and is present at a meeting of the Committee or any committee at which any matter is the subject of consideration, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not take part in any consideration or discussion of, or vote on any question touching such matter.

9. A disclosure of interest made under paragraph 8 shall be recorded in the minutes of the meeting at which it is made.

10. A person who contravenes paragraph 8 commits an offence and is liable, upon conviction, to a fine not exceeding one hundred shillings, or to imprisonment for a term not exceeding Six months, or to both.



11. No member or staff of the Committee shall transact any business or trade with the Committee.

12. The quorum of the meeting shall be two thirds of the total membership.

13. Where there is a vacancy in the Committee, the quorum of the meeting shall not be less than three members.

14. Matters before the Committee shall be decided by a majority of the members present and voting and in the event of equality of votes, the person presiding shall have a casting vote.

A question before the meeting shall be decided with a supporting vote of at least two thirds of the members present.

15. The Committee shall keep minutes of proceedings of its meetings and decisions taken.