

SPECIAL ISSUE

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

Trans Nzoia County Gazette Supplement No. 4 (Acts No. 1)

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REPUBLIC OF KENYA

TRANS NZOIA COUNTY GAZETTE SUPPLEMENT

ACTS, 2014

NAIROBI, 9th May, 2014

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THE TRANS NZOIA COUNTY ELIMU BURSARY FUND ACT,
2014

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73532 - 00200,
NAIROBI, KENYA

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THE TRANS NZOIA COUNTY ELIMU BURSARY FUND ACT, 2014

No. 1 of 2014

Date of Assent: 6th May, 2014

Date of Commencement: 9th May, 2014

AN ACT of the County Assembly of Trans Nzoia to enact the Trans Nzoia County Elimu Bursary Fund Act to provide for financial support to needy students in Trans Nzoia County and for matters incidental thereto and connected therewith.

ENACTED by the County Assembly of Trans Nzoia as follows—

PART I—PRELIMINARY

1. This Act may be cited as The Trans Nzoia County Elimu Bursary Fund Act, 2014 and shall come into operation upon assent by the Governor of Trans Nzoia County.

Short title

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

Interpretation

"Board" means the County Bursary Fund Board established by Section 5(1);

"Executive committee member" means the Executive committee member responsible for Education.

"Chairperson" means the Chairperson of the Board and Ward Bursary

Committee appointed under Section 5(2) (a) and 11(2) (b) respectively.

"Community" means residents of a particular geographical area or region defined as a County, Constituency, Ward, or Village area under a village administrator and having common interests;

"County" means Trans Nzoia County.

"Ward" means an electoral unit within a constituency delimited in accordance with Article 89 of the Constitution or the Elections Act, 2011;

"Ward Bursary Fund Committee" means the committee established under

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Section 11(1);

"Fund" means the Bursary Fund established under Section 4(1);

"County Assembly" means the County Assembly of Trans Nzoia;

"Member of County Assembly" means a Member of the County Assembly of Trans Nzoia;

"County Chief Officer" means the County Chief Officer appointed under Section 45 of the County Government Act;

"County Executive Member" means a County Executive Committee Member of Trans Nzoia County appointed under Section 35 of the County Government Act;

"County Government" means the County Government of Trans Nzoia as provided for under Article 176 of the Constitution;

"Governor" means the County Governor of the County of Trans Nzoia;

"Beneficiary" means a needy Student.

3. (a) To establish The Trans Nzoia County Elimu Bursary Fund through an Act of County Assembly of Trans Nzoia.
- (b) To legally enable the county government of Trans Nzoia award bursaries to extremely needy students in secondary, college and university from Trans Nzoia County.
- (c) To give priority to orphans, students from single parent families and others who come from poor backgrounds pursue quality education.

Objects of the Act

PART II — THE TRANS NZOIA COUNTY ELIMU BURSARY FUND

4. (1) There is established a County Bursary fund to be known as The Trans Nzoia County Elimu Bursary Fund which shall provide financial support to needy students from Trans Nzoia County, subject to availability of funds.

Establishment of
the Trans Nzoia
County Elimu
Bursary Fund

(4) The funds shall be disbursed by the county government through the Board to beneficiaries as a grant to

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be channeled to needy and bright students in the manner provided for by this Act;

(3) The fund shall be administered by the Board in consultation with Ward Bursary Committees;

5. (1) There is established a Board to be known as the County Bursary Board.

Establishment of
 the County
 Bursary Board

(2) The Board shall be administered by Five Board members who shall consist of—

- (a) The executive committee member for education who shall be the Chair person;
- (b) The Executive Committee Member for finance who shall be a member;
- (c) The County Chief Officer for education who shall be the secretary;
- (d) The chairperson of the education committee County Assembly of Trans Nzoia who shall represent the assembly;
- (e) One person representing the youth;
- (f) One person with disability;
- (g) One person to represent women.

For the avoidance of doubt the 1/3 gender rule shall apply and the CEC member for Educations shall make regulations for the appointment of persons contemplated in (e), (f) and (g) above.

(3) The Board shall be in existence until the appointment of a new board after the next general elections.

6. The Chairperson or a member of the Board other than ex-officio members shall, subject to the provisions of this Act, hold office for a period of five years upon such terms and conditions as may be specified in the instrument of appointment.

Tenure of office

7. A member, not being an ex-officio member may—

Removal from
 office

- (a) Resign from office.
- (b) Be removed from office by the Governor on recommendation of the Board if the member—
- (c) Has been absent from three consecutive meetings

of the Board without its permission.

- (d) Is convicted of a criminal offence that amounts to a felony under the laws of Kenya.
- (e) Is incapacitated by prolonged physical or mental illness for a period exceeding six months; or
- (f) Is otherwise unable or unfit to discharge his functions.

8. (1) The functions of the Board shall be to—

Functions of the
Board

- (a) To ensure timely and efficient disbursement of funds to the identified needy students;
- (b) To ensure efficient management of the Fund;
- (c) To receive and discuss annual reports and returns from the wards;
- (d) To ensure the compilation of proper records, returns and reports from the wards;
- (e) To receive and address complaints and disputes and take any appropriate action in consultation with the ward Bursary Committee;
- (f) To approve for funding the lists of needy students in accordance with this Act and send funds to the respective institutions of the approved beneficiaries;
- (g) To consider and recommend to the County Assembly any matter requiring action by the County Assembly pursuant to the provisions of this Act;
- (h) To oversee the implementation of this Act and in this respect shall after every two years submit a report to County Assembly and where necessary, propose any amendments to this Act;
- (i) To oversee the policy framework and matters that may arise in relation to the Fund;
- (j) To continually review the framework set out for the efficient management of the Fund;

(k) The board may make reports other than the statutory report to appraise the County Assembly on various matters relating to the Fund

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and to seek various approvals as required by the Act.

(2) Where any issues of policy arises in the course of the performance of its functions under this Act, the Board shall refer the same to the executive committee.

(3) The Board shall report to the County Assembly Committee on education detailing—

- (a) A summary of the beneficiaries received from the wards in the preceding disbursement and indicating the approval status of such disbursements;
- (b) A summary of the status of disbursements of funds to the wards for that preceding disbursement.
- (c) A summary of the status of disbursements from the county government; and
- (d) Any restriction imposed on any ward bursary committee in accordance with the Act.

(4) The Board shall ensure that the list of beneficiaries forwarded to it by each ward is, upon approval, funded in accordance with the Act.

(5) Perform such other duties as the Board may deem necessary from time to time for the proper management of the Fund.

9. (1) The Board shall meet not less than six and not more than twenty times in every financial year and not more than two months shall elapse between the date of one meeting and the date of the next meeting.

Conduct of
business and
affairs of the
Board.

(2) Notwithstanding the provisions in Sub-section (1), the Chairperson may, and upon requisition in writing by at least three members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless at least Three of the total members of the Board otherwise agree, at least seven days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the

Board shall be five members.

(5) The Chairperson shall when present, preside at every meeting of the Board but the members present shall elect one member to preside whenever the Chairperson is absent, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted thereat.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting, and in case of

a tie, the Chairperson or the person presiding shall have a casting vote.

(7) Subject to sub-subsection (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

(8) Subject to the provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

(9) The Board may establish such committees as it may deem appropriate to perform such functions and responsibilities as it may determine.

(10) The Board shall appoint the chairperson of a committee established under Sub-section (1) from amongst its members.

(11) The Board may where it deems appropriate, invite any person to attend the deliberations of any of its committees.

10. (1) Every disbursement from the Fund shall be approved and recorded in the minutes of the relevant meeting of the Board.

Disbursement
from the Fund

(2) All disbursements from the Fund shall be for specific beneficiaries as submitted by the ward bursary committees in accordance with the procedures outlined in this Act.

(3) Make sure that all disbursements shall be made public and posted in every public office and shopping

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centers across the ward within thirty days after the disbursement by the ward bursary committee.

(4) The record of the amounts allocated to each beneficiary shall be submitted to the Board within seven days after the close of the agreed deadline together with receipts from the relevant institution and no disbursements shall be made into the accounts until all the records are duly received.

(5) The Board shall set out general conditions and requirements for release of funds, to ensure efficient and effective management of resources.

(6) The disbursement of funds shall be effected in two equal installments in the months of January and May, provided that the Board may reserve the option to disburse such funds outside the stipulated periods of time if circumstances so dictate.

11. (1) The County Treasury shall for each financial year allocate funds after approval of ward bursary committee of the ward.

Allocation of funds

(2) Once funds are allocated for a particular beneficiary, they shall remain allocated for that beneficiary and may only be re-allocated for any other person during the financial year with the approval of the Board.

(3) If for any reason money allocated to a particular beneficiary is cancelled or discontinued during the financial year, funds allocated to such a person shall be returned to the Fund.

(4) Unspent funds shall be allocated to any eligible beneficiaries by the board.

(5) All funds allocated to a ward shall be cumulative and shall be carried forward from one financial year to the next, including funds returned into the fund in accordance with section 10(3) of this Act or funds which are not utilized for whatever reasons.

(6) (a) A portion of the Fund, equivalent to at least five per centum (hereinafter referred to as the "Emergency Reserve") shall remain unallocated and shall be available for urgent applications and emergency needs.

(b) The Board shall determine the allocation of the

emergency reserve in accordance with the Act.

(c) "Emergency" shall be construed to mean an urgent, unforeseen bursary need for which it is in the opinion of the Ward Bursary Committee that it cannot be delayed until the next disbursement without harming the interest of the beneficiary.

(7) For each disbursement, the Board shall set aside;

(a) 2.5% of the Ward Bursary Committee and

(b) 0.5% to the Board of the total allocation to cater for the administration expenses of the fund.

(8) The sum set aside under subsection 10 (5) shall be properly accounted for and proper books of accounts kept and returns made to the Board on how the sum has been used.

(9) For each disbursement, the Board shall set aside a sum of at least Five per centum of the total allocation to cater for the physically challenged.

(10) For each disbursement, the Board shall set aside a sum of at least thirty per centum of the total allocation to cater for students in the vocational colleges.

PART III — WARD BURSARY COMMITTEES.

12. (1) There shall be a Ward Bursary Committee for each ward in the County.

Establishment of
the Ward Bursary
Committees

(2) Each Ward Bursary Committee shall comprise —

- (a) The county assembly member for the ward the patron;
- (b) The ward administrator who shall be the chairperson;
- (c) One person elected through a popular vote by the electorates in the ward who shall be the secretary;
- (d) The village administrators who shall be members;
- (e) One woman elected through popular vote by the electorates in ward who shall be a member;
- (f) One person with disability nominated by persons with disabilities in the ward who shall be a member;

- (g) One person elected from among the active religious groups in the ward who shall be a member;
 - (h) One person elected from among students in tertiary colleges in the ward who shall be a member;
 - (i) One person elected from among students in the university in the ward who shall be a member;
- (3) The six persons referred to in subsection (1) (c), (e), (f), (g) (h) and (i) shall be elected through the following procedure—
- (a) Within forty-five days of being sworn in, each county assembly member for a particular ward in collaboration with the ward administrator shall convene open public meetings of residents in each of the ward;
 - (b) Each ward shall then elect six persons in accordance to sub Section 3(a) whose names shall be forwarded to the Board in the county;
 - (c) Upon receiving the names from all the wards in the county, the Board shall appoint the six persons to the Ward Bursary Committee, taking into account the ethnic, religious, socio-cultural interests and the requirements of gender, youth and representation of persons with disabilities;
- (4) The Executive Committee Member for education shall cause the names of persons appointed as members of the ward bursary Committee, pursuant to Sub-Section (2) to be published in the County Gazette.
- (5) The Chairperson of the Board in consultation with the county assembly member for the ward, the ward administrator and the village administrators for every ward shall, within the first year of a new assembly and at least twice every year thereafter, convene open forum public meetings in every village in the ward to deliberate on bursary matters in the ward.
- (6) Each village shall come up with priority lists of proposed beneficiaries to be submitted to the ward bursary Committee.

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(7) The quorum of the ward bursary Committee shall be one half (50%) of the total membership.

(8) The term of office of the members of the ward bursary Committee shall be two years but shall be renewable and shall come to an end upon the appointment of a new ward bursary Committee in a manner provided in this Act.

(9) The ward administrator shall be the custodian of all records of the ward during the term of the committee and during transitions occasioned by general elections or a by-election.

(10) Whenever a vacancy occurs in the ward bursary Committee by reason of resignation, incapacitation or demise of a member then the vacancy shall be filled from the same category of persons where the vacancy has occurred.

(11) The ward bursary Committee shall meet at least six times in a year and not more than twenty times in every financial year including public forum meetings.

(12) A member of the committee may be removed on any one or more of the following grounds—

- (a) Lack of integrity;
- (b) Misconduct;
- (c) Bankruptcy;
- (d) Bringing the image of the committee into disrepute through unbecoming personal public conduct;
- (e) Promoting unethical practices;
- (f) Causing disharmony within the committee;
- (g) Physical infirmity or mental insanity;
- (h) Corruption;
- (i) Tribalism, nepotism and cronyism

(13) A decision to remove a member under subsection (12) shall be made through a resolution of at least six members of the Committee and the member sought to be removed shall be given a fair hearing before the resolution

is made.

(14) The resolution to remove a member under subsection (13) shall be communicated to the county bursary board who shall consider the merits and demerits of the case and take appropriate action.

(15) A vacancy arising as a result of the removal of a member under subsection (12) shall be filled in the manner set out in subsection (2) and minutes of the meeting shall indicate the fact of the removal or appointment of a member to the board.

13. (1) The list of identified beneficiaries under this Act shall be submitted by the chairman of the ward bursary Committee to the Board after approval by the ward bursary committee.

Beneficiaries

(2) The Board shall receive and compile the list of all beneficiaries submitted to it under this Act.

(3) The list of the beneficiaries shall be submitted to the Board at such time as may be determined by the executive committee in order to ensure timely inclusion of the disbursements in the annual Government budget of a particular financial year.

(4) Where the chairman of the ward bursary Committee fails to submit the list of beneficiaries together with relevant documents to the Board within the stipulated time in subsection (1), the list shall be deemed to have been submitted to the Board upon the lapse of the stipulated time

(5) The list of beneficiaries shall be submitted on a Ward Bursary Submission Form set out in Schedule 1 to this Act accompanied by minutes of the ward bursary Committee approving the list.

(6) All beneficiaries for every ward shall be listed in the Form together with the amounts allocated to each and total amounts disbursed accordingly.

(7) For every beneficiary listed in the Form, there shall be attached a Scoring Description Form set out in Schedule 2.

(8) The list of beneficiaries received by the Board pursuant to this section shall be tabled at a meeting of the

Board.

(9) The Board shall scrutinize and approve for bursary allocation the lists of those students who meet the threshold as set by this Act.

(10) Where the Board does not approve a list or a section of the list submitted to it under this section, it shall refer the matter to the ward bursary Committee giving reasons as to why it has declined the list or a section of the list. The list for each ward shall be numbered by the ward bursary committee and the serial numbers of all beneficiaries in a ward shall bear the name of the constituency, the ward, the village, the school or learning institution, the name of the beneficiary and the parents/guardians in order to ensure equity in disbursement.

(11) Funds shall be allocated equally and equitably among all the twenty five (25) wards.

(12) The amount for each disbursement shall be determined by Board in consultation with the county assembly education Committee and shall be submitted to county assembly for approval.

(13) The identification, vetting and allocation of funds to the needy students in each wards is the responsibility of the ward bursary Committee to be exercised in accordance with the provisions of this Act.

(14) Beneficiaries under this Act shall be identified, vetted and approved through a transparent, open, democratic, equitable and just process that is community—based in order to ensure that the prospective benefits of the fund are available to a widespread cross-section of needy students in Trans-Nzoia county.

(15) Any funding under this Act shall be for needy students in the county.

(16) Funds provided under this Act shall not be used for political expedience.

(17) Monitoring, evaluation, management of the fund and capacity building of various ward bursary committees may be undertaken by the Board provided that not more than three per centum shall be allocated for this purpose.

PART IV — FINANCE AND ADMINISTRATION

14. (1) At least three months 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 Secretary to the Board shall lay the proposed estimates before the Executive

Committee Member for Education for review and approval.

(3) The Executive Member for Finance may make alterations to the estimates and shall thereafter submit them to the Executive Committee and County Assembly for further approval.

15. (1) The Board shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings, funds and activities as the Executive Member for Education may from time to time approve and shall, within a period of three months after the end of the financial year, cause to be prepared, signed and forwarded to the Executive Committee Member for Finance;

Accounts and
Audit

(a) A balance sheet showing details of the assets and liabilities of the Fund and

(b) Such other statements of account as the Executive Committee Member may approve.

(2) The accounts of the Fund shall be examined, audited and reported upon annually by the Executive Committee Member for Finance in accordance with the Public Audit Act.

(3) The Fund shall submit to the Executive Committee Member for Finance all books and accounts of the Board, together with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Fund such information and explanation as he may consider necessary for the performance of his duties as Executive Committee Member for Finance.

16. (1) The Board shall, within a period of three months after the end of the financial year submit to the CEC member for Education a report of the operations of

Annual report and
publication.

the Fund during such year, and the yearly balance sheet and such other statements of account as the Executive Committee Member for Education shall require.

(2) The Board shall publish the report, balance sheet and statements submitted under Subsection (1) in such a manner as the Executive Committee Member for Education may specify.

(3) The Executive Committee Member for Education shall lay before the County Assembly the reports, balance sheet and statements submitted under subsection (1), and such statements of accounts as may be approved, within a period of fourteen days of the receipt of the reports and statements, or, if the County Assembly is not sitting, within fourteen days of the commencement of its next sitting.

PART V — MISCELLANEOUS PROVISIONS

17. (1) The expenditure for running the Fund and related purposes shall be set aside at the beginning of the financial year and not more than three per centum of the total allocation to the Fund in the financial year may be used for this purpose, the annual budget of which shall be approved by the executive committee member for education.

Expenditure

(2) The personal emoluments of Government officers working or involved in the management of the Fund shall be provided for under the recurrent expenditure of Government but any other emoluments or payments to such officers from the Fund shall be determined by the executive committee member for education.

(3) Sitting allowances for the members of the Board and the ward bursary committee shall be paid out of the funds set aside under subsection (1).

18. (1) The executive committee member for education may make regulations for the smooth running of the Fund and such regulations shall be approved by the County Assembly before implementation.

Regulations

(2) The executive committee member for education may amend any of the Schedules through a notice in the Gazette, provided that such amendments shall first be approved by the County Assembly before implementation.

19. (1) The provisions of this Act shall be

Other Bursary

complimentary to any other bursary support efforts by the national government, the county government or any other agency and nothing in this Act shall be taken or interpreted to mean that beneficiaries may be excluded from any other bursary support programmes.

(2) For the avoidance of doubt, ordinary county Government Development allocations on education shall continue alongside the bursary program under this Act.

20. Any person who misappropriates any funds, or assists or causes any person to misappropriate or apply the funds otherwise than in the manner provided in this

Offences

Act, shall be guilty of an offence and shall upon conviction, be liable to imprisonment for a term not less than five years or to a fine not less than five hundred thousand shillings or to both.

21. (1) Any applicant dissatisfied with the decision of a Ward Bursary Committee may appeal to the Board for review of his/her application.

Appeals/Review

(2) The Board shall consider the appeal and direct the relevant Ward Bursary Committee accordingly.

22. (1) A member who has an interest in any matter present at a meeting, shall as soon as reasonably practicable after the commencement, disclose the fact thereof and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the matter, or be counted in the quorum of the meeting during consideration of the matter.

Disclosure of
interest.

(2) A disclosure of interest made under sub-section (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the Board who contravenes sub-section (1) shall cease to be a member of the Board upon direction of the executive committee member for education.

(4) The provisions of this Section shall apply to the conduct of the business of the board but only where no specific provisions have been made in this Act, and only in so far as they do not constitute a contradiction or negation of the provisions of the Act.

SCHEDULE 2 S.13 (7)

SCORE DESCRIPTION FORM

Constituency Name.....Ward Name.....Financial year

Chairman WBC Committee..... Signature.....Date.....

<i>Serial</i>	<i>Name of beneficiary</i>	<i>Total orphan & poor</i>	<i>Parents Physically challenged poor &</i>	<i>Single parent and poor</i>	<i>Both parents poor</i>	<i>Total Scores</i>	<i>Remarks</i>
Marks		100/100	80/100	60/100	40/100	total	
TOTAL							