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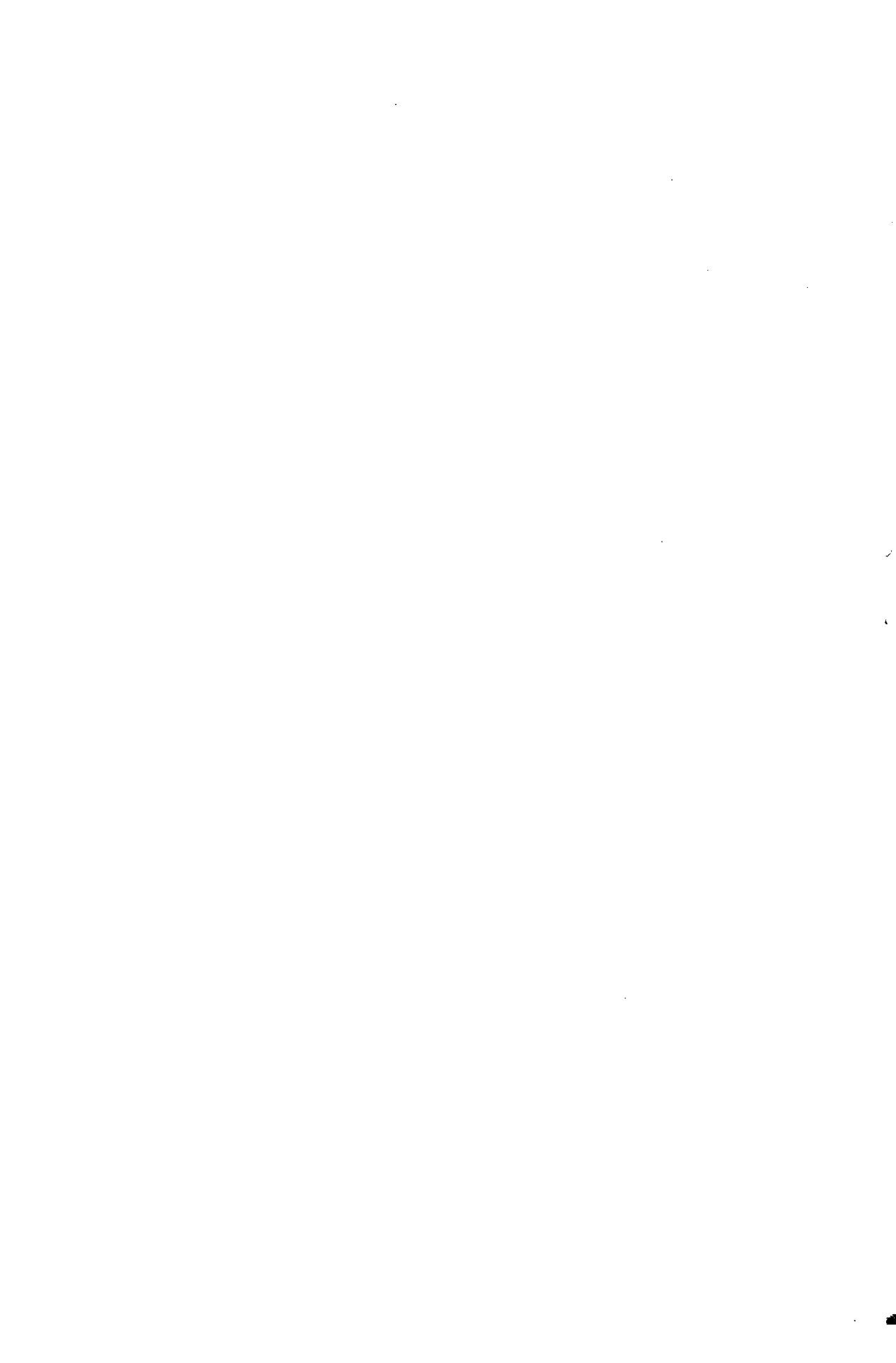
NAIROBI, 30th December, 2016

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**THE MARSABIT COUNTY EARLY CHILDHOOD
DEVELOPMENT AND EDUCATION ACT, 2016
ARRANGEMENT OF SECTIONS**

No. 9 of 2016

Date of Assent: 17th December, 2016

Commencement Date: 30th December, 2016

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**MARSABIT COUNTY EARLY CHILDHOOD DEVELOPMENT
AND EDUCATION ACT, 2016**

**AN ACT of the County Assembly of Marsabit to provide a framework
for early childhood development and education within the
county, and for connected purposes**

ENACTED by the County Assembly of Marsabit, as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as Marsabit County Early Childhood Development and Education Act, 2016.

Interpretation

Basic Education Act

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

“board” Means the County Education Board as established under Act, No.14 of 2013;

“centre” means a public or private early childhood education centre registered under this Act;

“centre management committee” means a committee established in accordance with section 17;

“chief officer” means the Chief Officer for the time being responsible for matters relating to early childhood development and education;

“county executive committee Member” means the Executive Committee Member for the time being responsible for matters relating to pre-primary education and early childhood development in the county;

“early childhood” means the period before a child joins level one in a primary school;

“early childhood education” means the educational programmes offered and imparted on a child in an early childhood education centre;

“department” means the unit responsible for matters relating to Early Childhood Development and Education in the county;

“mobile school” means a formal flexible institution that allows for mobility of pupils and teachers and is specifically designed to suit the needs of migrant communities;

“operator” means a person who runs an early childhood development education centre and includes a proprietor; and

“tuition fees” means fees charged to cater for instruction or instructional materials.

Objective of the Act

3. The object of this Act is to ensure effective and efficient management of early childhood development and education centres in the county.

PART II—EARLY CHILDHOOD EDUCATION AND DEVELOPMENT IN THE COUNTY

Functions of Department of Early Childhood Education and Development

4. (1) The County Department, after consultation with the County Education Board and other National Agencies shall—

- (a) implement the curriculum developed by the Kenya Institute of Curriculum Development;
- (b) set and implement basic guidelines on minimum standards for early childhood development and education centres, buildings, equipment and other relevant facilities for early childhood education centres and institutions;
- (c) administer the curriculum for the training of early childhood education teachers and ensure that the teachers who teach in the ECDE centres and institutions have the necessary trainings and qualifications;
- (d) ensure that all early childhood development and education centres and institutions are licensed, registered and regularly assessed for quality standards by officers from the Department of Early Childhood Development and education in collaboration with the County Education Board and other National Government Agencies;
- (e) ensure the establishment of adequate public centres for pre-primary and early childhood development, education and training; and
- (f) carrying out research and ensuring sustainability of Early Childhood programmes including establishing and maintaining resource centres;
- (g) advising and making recommendations to the County Executive Committee Member on policy matters in respect to early childhood education systems and quality assurance of early childhood education;

- (h) Ensure that special feeding program are included in the ECDE programs; and
- (i) Perform any other function for the effective provision of early childhood development and education.

(2) The County Executive Committee Member through the County Public Service Board shall ensure that the department has adequate human and other appropriate resources to enable it carry out the functions assigned to it under this Act.

Role of the County Government

5. (1). The County Government shall—

- (a) ensure access to Pre-primary and early childhood development, education and training facilities taking into account the individual learners physical, mental and intellectual abilities;
- (b) in enhancing access under subsection (2) (a) the County Executive Committee Member shall ensure that children with disabilities are integrated into society to extent compatible with the interest of the children in accordance with article 54(1) (b) of the Constitution and the Persons with Disabilities Act No. 14 of 2003;
- (c) no public centre shall charge or cause any parent or guardian to pay tuition fees or admission fees for or on behalf of any learner in the centre;
- (d) every parent or guardian shall ensure any child eligible under this Act is registered in and regularly attends a pre-primary and early childhood centre.

(2) Notwithstanding subsection (1) (c)—

- (a) tuition fees may be payable by persons who are not Kenyan citizens;
- (b) other charges may be imposed at a public school with the approval of the Cabinet Secretary in consultation with the county education board provided that no child shall be refused to attend school because of failure to pay such charges;
- (c) no person shall collect levies without issuing an official receipt.

(3) The County Government may establish such mobile schools as it considers necessary to facilitate access to early childhood development and education within the county.

(4) The County Executive Committee Member may prescribe the requirements for the establishment and registration of a mobile school within the county.

Responsibility of the County Executive Committee Member

6. The County Executive Committee Member shall—
- (a) ensure compliance with quality and relevance in the provision and delivery of early childhood education;
 - (b) adapt efficient systems to achieve the desired outcomes and objectives.

Categories of Early Childhood Development Centres

7. (1) Early Childhood development and education centres shall be categorized as either—

- (a) public centres established, owned, sponsored or operated by the County Government; or
- (b) private centres established, owned or operated by private persons.

(2) The County Government shall establish and maintain public centres within a reasonably accessible distance within the county including mobile schools.

(3) A public centre shall not be converted to a private centre or to any other private status unless the County Executive Committee Member has been consulted and has approved such conversion.

(4) The County Executive Committee Member shall in consultation with the County Education Board make Regulations for the conversion of a public education centre into a private education centre.

Promotion of Right to Early Childhood Education

8. The Department shall, in promoting the right to early education—

- (a) provide free and compulsory early childhood education within the county;
- (b) formulate programmes and implement policies for the realization of the right to early childhood education;
- (c) ensure the provision of and support of investment in infrastructural facilities and learning resources to facilitate the provision of early childhood education;

- (d) be responsible for the training registration, staffing and supervision of the early childhood education and development teachers;
- (e) develop, in consultation with the Kenya Institute of Curriculum Development, local curriculum programs that promote culture and the holistic development of the child;
- (f) identify and undertake an assessment of children with special needs in the county and put in place, in consultation with the County Education Board special programmes targeting such children;
- (g) provide the necessary infrastructure and funds necessary for the development of centres and for the administration of early childhood education within the county; and
- (h) ensure that children belonging to marginalized, vulnerable or disadvantaged groups within the county are not discriminated against and prevented from pursuing and completing early childhood education.

Annual and other reports

9. (1) The department shall prepare and submit an annual report to the County Executive Committee Member on general status of early childhood development and education in the county.

(2) despite subsection (1), the Executive Committee member may at any time, require a report from the Department on any particular matter under the responsibility of the department.

(3) without prejudice to the generality of subsection (1), a report submitted shall include —

- (a) the number of education centres established and registered in that year;
- (b) report of children with special needs;
- (c) Status of implementation of the curriculum developed and the relevance;
- (d) Progress and development of learners; and
- (e) Early childhood education teachers in the county;”

(4) The County Executive Committee Member shall submit annual report to the County Assembly on general status of Early Childhood Development and Education in the county.

PARTIII—ESTABLISHMENT AND REGISTRATION OF EARLY CHILDHOOD DEVELOPMENT AND EDUCATION CENTRES

Requirement for Operation of a Centre

10. (1) a person shall not operate a centre except in accordance with this Act.

(2) Any person intending to operate a centre shall—

- (a) ensure the centre is registered;
- (b) ensure the premises or facility of the centre has undergone a quality review and approved in accordance with the guidelines and standards issued under this Act; and
- (c) ensure that the centre has a relevant land registration document.

(3) Any person who operates a centre, which is not registered under this Act commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand Shilling or to six month imprisonments or both.

Application for Registration

11. (1) An application for registration of a centre under this Act shall be in the prescribed form.

(2) A duly completed application form shall be accompanied with—

- (a) relevant land registration documents;
- (b) a prescribed fee; and
- (c) any other requirement that may be prescribed by Regulations.

(3) An application under this section shall be submitted to the Department of Early Childhood Development and Education.

(4) upon receipt of an application under subsection (1) the department shall—

- (a) within thirty days of receipt of the application, consider and approve or reject the application;
- (b) notify the applicant in writing within seven days of the decision whether the application has been approved or rejected;
- (c) where the application is rejected state the reasons for the rejection; and
- (e) where the application is approved, issue a certificate of registration within 14 days and retain a duplicate in the register kept for that purpose.

Appeals generally

12. (1) Any person aggrieved by the decision of the department may within 14 days appeal to the County Executive Committee Member in the prescribed form.

(2) Upon receipt of an appeal under subsection (1) the County Executive Committee Member shall within 30 days, determine the appeal and communicate the decision to the appellant.

Maintenance of the Register

13. The Director shall keep and maintain a register of all registered centres in the county.

Validity of Registration Certificate

14. (1) A registration certificate shall be valid for a period of one year from the date of issuance and may be renewed on application by the operator in accordance with this Act.

(2) Where the department is of the opinion that the centre is not in compliance with the provisions of this Act, such certificate shall be made to be cancelled.

(3) An application for renewal shall be in the prescribed form.

(4) Before cancelling the registration certificate of a centre under subsection (2), the department shall—

- (a) give written notice to the principal of the education centre that it is considering cancelling the registration of the education centre, and give reasons; and
- (b) give the operator of the centre a reasonable opportunity to respond to notice.

Registration Certificate to be Displayed

15. The registration certificate issued under section 12 shall be displayed by the operator, in a conspicuous place on the premises of the centre.

Suitable Premises

16. (1) 'The County Executive Committee Member shall prescribe the minimum acreage of the compound in which a centre is situated and the minimum standards required to be met in relation to premises prior to the registration of the centre under this Act.

(2) Subsection (1) shall apply to all premises used by the education centre for the regular delivery of courses, whether or not the principal of the centre owns or leases the premises for the education centre.

PART IV—GOVERNANCE AND MANAGEMENT OF CENTRES

Establishment of Management Committee

17. (1) There is established a Centre Management Committee for each centre.

(2) A committee in charge of public centre shall consist of—

(a) chairperson;

(b) three other persons appointed by the centre parents;

(c) The Head Teacher of the Centre who shall be the secretary to the Centre Management Committee.

(3) Persons appointed under subsection (2) (a) and (c) shall serve for a period of one year renewable once.

(4) In appointing members under subsection (2) the County Executive Committee Member and the Centre Management Committee shall take into account—

(a) The ethnic and regional diversity of the centre parents.

(b) Gender equality;

(c) Chapter 6 of the Constitution; and

(d) A minimum qualification of KCSE Certificate by the Chairperson of the Centre Management Committee.

Functions of the Centre Management Committee

18. (1) The functions of the Centre Management Committee shall be to—

(a) promote quality care, nutritional and health status of children;

(b) maintain good working relationship between the teachers and parents;

(c) recommend charges to be levied for services rendered by the centre;

(d) oversee centres' development projects; and

Carry out such other functions as may be necessary for the implementation of this Act within the centre.

Termly Report

19. The committee shall prepare a comprehensive termly report on all areas of its mandate and submit the report to the department.

Conduct of Affairs of the Committee

20. The business and affairs of the committees shall be as set out in the second schedule (create a Second Schedule).

Teaching staff

21. (1) A centre shall not employ an early childhood education teacher unless such person—

- (a) is a Kenyan citizen;
- (b) has a Kenya Certificate for Secondary Education or its equivalent qualification from a recognized institution;
- (c) holds at least a certificate or diploma in early childhood development and education from an institution recognized in Kenya;
- (d) is registered as a teacher by the Teachers Service Commission; and
- (e) meets the requirements of Chapter 6 of the Constitution and such other requirements as the County Executive Committee Member may, in consultation with the County Education Board, prescribe.

(2) An early childhood education centre shall not employ a person as a head teacher of a centre unless such person—

- (a) is a Kenyan citizen;
- (b) holds at least a diploma or degree in early childhood education and development from a recognized institution;
- (c) is registered as a teacher by the Teachers Service Commission; and
- (d) meets the requirements of Chapter 6 of the Constitution and such other requirements as the County Executive Committee Member may prescribe.

(3) The County Government shall be responsible for the remuneration of early childhood education teachers in public education

centres within the county and the County Assemblies shall appropriate such funds as may be necessary to ensure the recruitment of adequate early childhood education teachers in the county.

(4) The County Government shall pay such remuneration to early childhood education teachers commensurate to the qualification of such teachers.

PART V—SAFETY AND PROTECTION OF CHILDREN

Safety Equipment

22. (1) each centre under this Act shall—

- (a) maintain premises that meet the requirements of the Occupational Health, Safety Regulations and building standards;
- (b) ensure the welfare and safety of the pupils, teachers, non-teaching staff and other persons within the centre.
- (c) Put in place fire fighting equipment, first aid and other emergency equipment and non prescription medicine.

(2) In providing the equipment specified in subsection 1(c), the centre shall ensure that such equipment are accessible during an emergency.

(3) The equipment and the medicine under subsection (1) shall be maintained or kept by a centre in such a manner as to ensure they are out of reach of children and ensures that the safety of children is not compromised.

(4) The County Executive Committee Member shall prescribe minimum standards for the health and safety of pupils and for a satisfactory environment for education.

Prohibition of Corporal Punishment

23. (1) No person at the centre is allowed to administer corporal punishment.

(2) A learner shall not be subjected to torture and cruel, inhuman or degrading treatment or punishment, in any manner, whether physical or psychological;

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

PART VI—GENERAL PROVISIONS

Powers of Entry and Inspection

24. (1) A person holding an authorisation may for the purposes of ensuring the provisions of this Act or for the conditions of any certificate issued are being complied with or for the purposes of conducting any audit, at any reasonable time—

- (a) enter and inspect premises of the centre;
- (b) photocopy, print out, copy any document any document whether held in electronic or paper form; and
- (c) they can remove any document described in paragraph (b) above whether in original form, electronic or as a paper copy.

(2) The County Executive Committee Member may authorize in writing any suitably qualified and trained officer in the exercise of powers under subsection (1).

Accounts and Audit of a Centre

25. (1) Every Centre Management Committee shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the centre.

(2) Within a period of three months after the end of each financial year, each Centre Management Committee shall submit to the Executive Committee Member the accounts of the relevant centre in respect of that year together with—

- (a) a statement of income and expenditure during the year; and
- (b) a statement of the assets and liabilities of the early childhood development and education on the last day of that year.

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(3) The accounts of the centre shall be audited and reported upon in accordance with the provision of the Public Audit Act.

PART VII—MISCELLANEOUS PROVISIONS

General penalties

26. A person who commits an offence under this Act for which no other penalty is provided is liable to a fine not exceeding two hundred thousand shillings or a term of imprisonment not exceeding twelve months or both.

