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The Vihiga County Early Childhood Education Bill, 2019

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THE VIHIGA COUNTY EARLY CHILDHOOD EDUCATION BILL, 2019

A Bill for

AN ACT of the County Assembly of Vihiga to provide a framework for the establishment of systems for the administration of early childhood education in Vihiga County, and for connected purposes

ENACTED by the County Assembly of Vihiga, as follows—

PART I-PRELIMINARY

1  This Act may be cited as the Vihiga County Early Childhood Education Act, 2019

2  In this Act, unless the context otherwise requires —

   “basic education” means the educational programmes offered and imparted to a person in an institution of basic education and includes Adult Basic Education and education offered in pre-primary educational institutions and centres

   “child” means a person who is at least four years of age and not more than five years of age or who meets such other criteria for admission as the County Executive Committee Member may prescribe,

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

   “County Education Board” means the County Education Board established under section 17 of the Basic Education Act,

   “County Executive Committee Member” means the county executive committee member responsible for matters relating to education within Vihiga County,

   “Curriculum” means all approved subjects taught or programmes offered in an education centre which are approved by the Kenya Institute of Curriculum Development,

   “department” means the department of education
headed by the county executive committee member responsible for education at the county level of government,

“education centre” means a public or private early childhood education centre or facility used for conducting early childhood education and training,

“early childhood education” means the educational programmes imparted to a child in an education centre,

“Education Standards and Quality Assurance Council” means the Education Standards and Quality Assurance Council established under section 64 of the Basic Education Act,

“Kenya Institute of Curriculum Development” means the Kenya Institute of Curriculum Development established under section 3 of the Kenya Institute of Curriculum Development Act, and

“Head teacher” means the lead teacher or administrator of an early childhood education centre,

“Public education centre” means a county government sponsored public education centre,

“Service provider” means any person involved in the provision of early childhood services who may include but not limited to, nutritionist, health officer and social worker and,

“Sponsor” has the meaning assigned to it under the Basic Education Act

3 The objects and purposes of this Act are to—

(a) provide a framework for the establishment of a comprehensive early childhood development and education system by the Vihiga County government,

(b) provide a framework for the establishment of the infrastructure necessary to support the provision of quality education in the early childhood education system within Vihiga County,

(c) promote the delivery of quality early childhood education and provide a framework that enhances the quality and efficiency of early childhood education in Vihiga County, and
(d) provide a framework for the establishment of—

(i) a developmentally, culturally and linguistically appropriate early childhood care and education system including the implementation of program models, standards and curriculum based on research and best practices, and

(ii) a partnership between the Vihiga county government, private persons and other relevant stakeholders with an interest or expertise in early childhood care and education

4 All entities in this Act shall, in performing their functions under this Act, be guided by the following principles —

(a) the right to free and compulsory education as enshrined under Article 53 of the Constitution,

(b) coordinated public participation in the implementation, monitoring and evaluation of policies and plans related to the implementation of early childhood development and education in the county,

(c) a holistic approach towards meeting the education and other development needs of the child to ensure that their full potential is realized,

(d) empowerment and capacity building as a means of facilitating the right to early childhood education,

(e) recognition of the parents and family of the child as the primary care givers and the role of the community in providing an alternative support system to the parents and an environment that ensures the realization of the right to early childhood education and development,

(f) equality, equity and non-discrimination in the provision of early childhood education and the recognition of children with special needs,

(g) transparency in the implementation of programmes and activities relating to early childhood education and the allocation and utilization of public and private resources,
(h) ensuring that interventions are based on objective information and methods and that monitoring mechanisms and regular evaluations are established, thus ensuring transparency in the public management, social audit and taking into account the needs of the population,

(i) accountability through developmentally appropriate methods of measuring, reporting and tracking the growth and development of a child and the improvement of the early childhood education systems and programs,

(j) collaboration and co-operation with the National government and relevant stakeholders in the implementation of activities necessary for ensuring the actualization of the right to early childhood education, and

(k) the identification and prioritization of communities most at risk while striving to make the system universally available to all those who wish to participate

PART II—RIGHT TO EARLY CHILDHOOD EDUCATION

5  (1) Every child has the right to free and compulsory early childhood education

(2) The right to early childhood education shall be enjoyed without discrimination, exclusion or restriction on the basis of sex, race, color ethnic origin, tribe, birth, creed or religion, social or economic standing, political or other opinion, property, disability or other status

(3) For the enjoyment of the right to early childhood education, the county government shall —

(a) respect, protect, promote, monitor, supervise and evaluate the right to early childhood education and guarantee mechanisms for its enforcement,

(b) refrain from actions that undermine access to early childhood education,

(c) ensure the availability and accessibility of early childhood education by all children within the county irrespective of their economic, social or
religious background by making provision for sufficient access to resources, funding and support and maintaining an enabling environment in which children can attain early childhood education,

(d) provide an opportunity for the public to develop their understanding on the need to support the implementation of early childhood education and for public participation in the formulation and implementation of any service or programme interventions towards early childhood education,

(e) ensure the development of skills and capacity building necessary for achieving an equitable and effective early childhood education system in the county, and

(f) provide and maintain a sustainable early childhood education system and protect the right to early childhood education from encroachment by any public authority or any person

6 The County Executive Committee Member shall, in promoting the right to early childhood education —

(a) provide free and compulsory early childhood education to every child within Vihiga County,

(b) formulate programmes and plans and implement policies for the realization of the right to early childhood education,

(c) be responsible for the training, registration, staffing and supervision of the early childhood education and development personnel in Vihiga County,

(d) develop, in consultation with the relevant stakeholders, curriculum programs that are secular in nature and that promote culture and the holistic development of the child,

(e) provide the necessary infrastructure and funds necessary for the development of education centres and for the administration of early childhood education within Vihiga County,

(f) identify and undertake an assessment of children with special needs in the county and put in place special programmes targeting such children in the provision of early childhood education,
(g) 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,

(h) carry out public awareness and advocacy programmes in relation to early childhood development and education,

(i) ensure the provision of, and support investment in human resource, infrastructural facilities and learning resources to facilitate the provision of early childhood education,

(j) establish and maintain relationships with stakeholders involved in the provision of early childhood education in Vihiga County, and

(k) promote the circulation of and access to up-to-date and timely information on early childhood education and development

7 (1) Every parent or guardian shall cause to be presented for admission or cause to be admitted his or her child, as the case may be, to a pre-primary education institution

(2) Where a parent or guardian fails and/or refuses to discharge his/her responsibilities under subsection (1) such person commits an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand shillings

(3) Where a person convicted of an offence under subsection (2) is unable to pay the fine, such person shall be liable to imprisonment for a term not exceeding three months or to such penalty including community service as the Court shall consider fit to impose

8 (1) Where a child fails to attend an education centre, the head teacher shall cause an investigation of the circumstances of the child’s absence from school

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

(a) issue a written notice to the parent of the child
requiring that parent to comply with the provisions of this Act, and

(b) submit a report on the child to the sub County ECDE program officer

9 (1) The County Executive Committee Member shall establish a mechanism for the identification of children with special needs and put in place such infrastructure as may be necessary to ensure that such children have access to, and are provided with early childhood education.

(2) In performing his or her functions under subsection (1), the county executive committee member shall—

(a) put in place mechanisms and develop screening tools necessary for the early identification of children with disabilities or special needs,

(b) set up structures that ensure that children with special needs are given the appropriate intervention as early as possible,

(c) ensure that there are adequate learning institutions, facilities and rehabilitation services for children with disabilities,

(d) conduct training and capacity building programmes targeting teachers and trainers who specialize in training and caring for children with special needs,

(e) conduct sensitization and awareness campaigns on learning disabilities and issues affecting children with special needs,

(f) ensure that there are adequate facilities and ensure that every education centre has at least one teacher to assist children with special needs, and

(g) put in place the necessary facilities to ensure the production of and access to affordable assistive aids and devices for children with special needs.

PART III—ESTABLISHMENT AND REGISTRATION OF EARLY CHILDHOOD EDUCATION CENTRES

10 The County Executive Committee Member shall establish and maintain such early childhood education centres including education centres for children with special needs as they may consider necessary to meet the obligation.
set out under Article 53 of constitution of Kenya 2010 and this Act

11 (1) The County Executive Committee Member shall keep and maintain a register of—

(a) all persons registered to provide early childhood education services within the county,
(b) all education centres within the county,
(c) all education centres whose registration has been cancelled, and
(d) such other particulars as the County Executive Committee Member may from time to time determine to be necessary

(2) Any person may inspect the register and obtain a copy of, or an extract from the Registrar

12 A person shall not offer early childhood education services or establish or maintain an education centre unless such person is registered in accordance with this Part

13 (1) A person who intends to offer early childhood education and development services shall submit an application for registration to the County Education Board in the prescribed form

(2) An applicant under subsection (1) shall submit together with the application—

(a) a certificate of registration or in the case of a company, a copy of the memorandum and articles of association of the company,
(b) duly completed and signed application forms for the management of the Institution in the prescribed form,
(c) duly completed and signed application forms for the head teacher of the institution in the prescribed form,
(d) an institution inspection report by the Sub-County Education office,
(e) a public health or sanitary inspection report,
(f) the Title Deed, allotment letter or a valid lease agreement covering a period not less than five
years,

(g) certified copies of professional and academic certificates of all teachers and the head teacher,

(h) certified copies of registration certificates issued to the teachers in the education centre by the Teachers Service Commission,

(i) supporting records signed by the relevant authorities showing existing facilities and future development or extension plans where applicable, and

(j) the prescribed fees

Where a person or organization who is registered to offer basic education under the Basic Education Act intends to offer early childhood education, such person shall apply, subject to section 68, for re-registration to offer early childhood education in the prescribed manner

(1) The County Education Board shall, where an applicant under section 13 meets the criteria for registration, provisionally register the applicant if the Board is satisfied that the education centre or proposed education centre meets or is likely to meet the criteria for registration as an education centre

(2) Provisional registration of an education centre or proposed education centre shall be for a period of twelvemonths, unless earlier revoked or such other period as the County Education Board may specify

(3) The County Education Board may renew the provisional registration of an education centre only once, for such period as the board may specify, if it is satisfied that—

(a) exceptional circumstances exist in relation to the education centre, and

(b) the education centre is likely to meet the criteria for registration as a private education centre in that period

(4) The County Education Board may undertake further investigations of the education centre, in addition to the review required under section 16, of an education centre that has its provisional registration renewed under subsection (3)
16 (1) As soon as practicable after provisionally registering an education centre under section 15, the County Education Board shall inform the early childhood education centre of the provisional registration

(2) The County Education Board shall review any education centre that is provisionally registered under section 15 either—

(a) between six and twelve months after the provisional registration of the education centre or proposed education centre, or

(b) a period earlier than that specified under paragraph (a) with the consent of its head teacher

(3) The County Education Board shall conduct a further review of the education centre that has had its provisional registration renewed under section 15, upon a request of the review by the CECM

(4) The County Education Board shall, upon conducting a review under subsection (2) or (3) prepare a written report in relation to the review and submit a copy to the CECM and to the head teacher of the education centre

(5) A written report submitted under subsection (4) on a review under this section shall include—

(a) information as to whether the education centre meets the criteria for registration as a private education centre, and

(b) information as to the areas in which improvement is required, if it does not meet the criteria

17 The County Education Board shall not approve an application for registration of a private institution as an education centre unless such centre—

(a) is situated in a premises that meets the requirements of a suitable premises under section 20,

(b) has the capacity to care and provide early childhood education to at least ten children,

(c) has adequate and qualified staffing that would ensure that the education imparted to the children is suitable according to the age range and level of
development of the children, the curriculum taught at the education centre and the size of the education centre,

(d) has equipment that is suitable for the curriculum being delivered or to be delivered at the education centre,

(e) meets the education standards prescribed under this Act, and

(f) has a head teacher who meets the qualifications and criteria prescribed under this Act

18 Where the County Education Board is satisfied that an education centre that is provisionally registered meets the criteria for registration as an education centre, the County Education Board shall grant full registration to the centre and issue to the centre, a certificate of registration

19 A private early childhood education provider registered under this Act shall —

(a) establish the structures necessary for the management and administration of education within the centre,

(b) recruit persons who are qualified and registered to teach the early childhood education curriculum in the centre, administer a curriculum that adheres to the early childhood education policy and this Act,

(c) maintain premises in a manner that ensures that it meets the requirements of the occupational health, safety regulations and building standards pursuant to the Public Health Act chapter 242,

(d) maintain necessary teaching and learning materials and equipment,

(e) maintain a data bank on pupils undertaking education in the education centre and submit to the executive committee member, and

(f) meet such other requirements as the County Education Board, may consider necessary for the delivery of quality early childhood education services within the county

20 (1) In determining whether the premises of an education centre are suitable for the administration of early
childhood education, the County Education Board shall take into account the criteria specified under the First Schedule to 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 head teacher of the centre owns or leases the premises for the education centre

(3) The County Education Board shall prescribe the minimum acreage of the compound in which an education centre is situated and the minimum standards required to be met in relation to premises prior to the registration of an education centre under this Act

21 (1) The head teacher of an education centre registered under section 18 shall notify the County Education Board of any change in the location of the education centre including—

(a) the acquisition of premises that are in addition to its current premises, or

(b) the relocation of the education centre to a different premise from that currently occupied by the education centre

(2) The head teacher of an education centre under subsection (1) shall not change the location of the centre nor acquire additional premises for the purpose of running the education centre unless he or she has applied to, and obtained the approval of the County Education Board

(3) In determining whether to grant approval of premises under subsection (1), the County Education Board shall take into account the criteria specified under section 17

22 (1) The County Education Board may take any action specified under subsection (2) with regard to a private education centre where—

(a) it considers that the education centre has not met any or all of the criteria for registration as an education centre,

(b) a review conducted under section 16 indicates that the education centre does not, or is not likely to, meet all or any of the criteria for registration as a private education centre,
(c) the head teacher of the education centre have breached or are breaching their statutory duties in relation to the education centre under this or any other written law, or

(d) it has reasonable grounds to believe that serious criminal activity has or is occurring in the education centre

(2) Where the County Education Board is satisfied that any ground specified under subsection (1) exists in relation to an education centre registered under section 18, it may take one or more of the following action —

(a) issue the head teacher of the education centre with a notice to comply in the prescribed form,

(b) require the head teacher of the education centre to inform parents of the children in the centre that the centre is not meeting the criteria for registration as a private education centre,

(c) impose conditions on the continued registration of the education centre pursuant to section 17 of this Act,

(d) take any action specified under paragraphs (a) to (c), and suspend the education centre's registration, or

(e) cancel the education centre's registration in accordance with section 24

(3) Any action taken by the County Education Board under subsection (2)

(a) shall be proportionate to the seriousness of the action or inaction by the education centre, and

(b) is in addition to any fine incurred or other penalty imposed under this Act, or under any other written law

23 (1) The County Education Board may at any time suspend the registration of an education centre registered under section 18 if it has reasonable grounds to believe that the welfare of the children at the education centre is at risk, and—

(a) that it is unlikely that the risk can be managed by
any practicable means other than by suspension of the registration, or

(b) that, although the risk could be managed by means other than by suspension of the registration, the amount of time necessary to do so is likely, in the opinion of the County Education Board, to be excessive

(2) An education centre shall remain suspended under subsection (1) until the County Education Board —

(a) is satisfied that the head teacher of the centre has complied with all requirements imposed by it, or

(b) cancels the registration of the education centre in accordance with section 24

(3) A suspension under subsection (1) shall continue in force until the County Education Board —

(a) is satisfied that the welfare of the children in the education centre is no longer at risk, or

(b) cancels the registration of the education centre in accordance with section 24, after issuing the head teacher of the education centre with a notice to comply in accordance with section 22

24 (1) The County Education Board may cancel the registration of an education centre if, following an action taken by it under paragraphs (a) to (d) of section 22 (2)—

(a) the education centre—

(i) does not improve sufficiently to meet the criteria for registration under section 17, and

(ii) is not, in the opinion of the County Education Board, likely to meet the criteria, within a further reasonable time,

(b) the head teacher of the education centre is continuing in breach of their statutory duties in relation to the centre, or

(c) serious criminal activity has or continues to occur in the education centre

(2) Before cancelling the registration certificate of an education centre under subsection (1), the County Education Board shall—
(a) take reasonable steps to obtain and consider any relevant information, including any report by a review officer appointed by the County Education Board for that purpose,

(b) give written notice to the head teacher of the education centre that he/she is considering cancelling the registration of the education centre, and give reasons, and

(c) give the head teacher of the education centre a reasonable opportunity to respond to the notice

25 (1) Education centres shall be categorized as—

(a) private education centres established, owned or operated by private persons or FBOs, and

(b) public education centres and sponsored public education centres (feeder) established, owned or operated by the county government

(2) A public education centre shall not be converted to a private education centre or to any other private status unless the County Education Board has approved such conversion

(3) The County Education Board shall make regulations for the conversion of a private education centre into a public education centre

26 (1) A public education centre may be sponsored by a private person or religious institution

(2) A sponsorship entered into under subsection (1) shall be used to enhance the educational programmes in an education centre and contribute directly or indirectly to the quality of education administered in an education centre under this Act

(3) A sponsor shall not influence the curriculum administered in an education centre, compromise the implementation of any written law applicable to the education centre or compromise the professional standards and ethics of teachers in the early education centre

(4) Notwithstanding the generality of subsection (2), the role of the sponsor under subsection (1) shall be—

(a) to participate and make recommendations of review of syllabus, curriculum, books and other teaching aids,
(c) manage the early education programme in the centre in ensuring the provision of quality early childhood education,

(d) identify local resources necessary to equip the education centre and identify sources for, and undertake fundraising activities to raise funds for the education centre,

(e) ensure the provision of quality early education services in the education centre in accordance with the standards prescribed under this Act,

(f) ensure the provision of adequate equipment and facilities within the education centre and that such equipment and facilities are well maintained,

(g) carry out advocacy in relation to the needs and the rights of the child in relation to early childhood education, and

(h) carry out such other functions as may be necessary for the implementation of this Act within the education centre

30 The Board of Management of an early childhood education centre may establish such committees as the Board may consider appropriate to perform such functions and discharge such responsibilities as the Board may deem necessary.

31 (1) Every public and private education centre shall establish a parent teachers association which shall be constituted and carry out its affairs as prescribed in this Act.

(2) The functions of the parent teachers association shall be to—

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

(b) maintain good working relationship between teachers and parents,

(c) discuss, explore and advise the parents on ways to raise funds for the physical development and maintenance,

(d) explore ways to motivate the teachers and pupils to improve their performance in academic and co-
curricular activities,

(e) discuss and recommend charges to be levied on children or parents,

(f) assist the Board of Management in the monitoring, guidance, counseling and disciplining of children, and

(g) discuss and recommend measures for uplifting the welfare of staff and children

32 Every public education centre shall submit an annual report to the County Executive Committee Member

33 Head teacher of an education centre shall keep, and make available to the County Executive Committee Member on request—

(a) a register of the children who attend or have attended the early childhood education centre, specifying the date of birth of each child,

(b) a record of the attendance of children at the education centre,

(c) a record of all fees and other charges paid in respect of children’s attendance at the education centre,

(d) evidence that parents of children attending the education centre, and who so desire, have regularly examined the attendance record, and

(e) such other records that are necessary to enable the center’s performance to be monitored adequately

34 (1) An education centre shall not employ an early childhood education teacher or care giver unless such person—

(a) is at least eighteen years of age,

(b) holds at least a certificate in early childhood development and education from an institution recognized by the Ministry of education,

(c) is registered as a teacher by the Teachers Service Commission and recruited as a teacher or caregiver by the County Public Service Board,

(d) holds a certificate of good conduct and a medical
(e) Meets such other requirements as the County Executive Committee Member may prescribe

(2) An education centre shall not employ a person as a head teacher in an education centre unless such person —

(a) holds at least a diploma in early childhood education and development,

(b) is registered as a teacher by the Teachers Service Commission and recruited as a teacher by the County Public Service Board, and

(c) meets 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 Assembly 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 as per the Salaries and Remuneration Commission recommendation

35 The County Public Service Board shall not recruit any person as an early childhood development teacher unless such person meets the requirements set out under section 34 (1)

PART V—ADMINISTRATION OF THE EARLY CHILDHOOD EDUCATION SYSTEM

36 (1) The county government shall be responsible for the overall governance and management of early childhood education

(2) The County Executive Committee Member shall determine the early childhood education resource and infrastructure requirements within the County

37 (1) The County Public Service Board may establish an early childhood education recruitment panel which shall consist of —

(a) the chairperson of the county public service board
or a person designated by him or her in writing,

(b) the County Executive Committee Member or a person designated by him or her in writing,

(c) one representative of the Teachers Service Commission nominated by the Commission, and

(d) a person from the community with expert knowledge in early childhood education nominated by the recruitment panel

(e) two persons representing the faith-based organizations in the county

(2) The County Public Service Board recruitment panel shall be responsible for the recruitment of early childhood education teachers within the county

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

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

(5) The County Public Service Board in consultation with Teachers Service Commission shall exercise disciplinary and professional control over the early childhood education teachers

(6) Notwithstanding subsection (5), the County Public Service Board may —

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

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

38 (1) A person shall not charge or collect any fee for the purpose of admitting a child into any public education centre

(2) Notwithstanding subsection (1) —

(a) admission fees may be payable by persons who are not Kenyan citizens,

(b) other charges may be imposed in a public education centre
centre with the approval of the County Executive Committee Member provided that no child shall be refused to attend school because of failure to pay such charges, and

(c) a person who collect levies under this section shall issue an official receipt

39 (1) A child shall be admitted in an education centre at the commencement of the academic year or within such other extended period as may be prescribed by an education centre

(2) The person responsible for admission of children in an education centre shall not discriminate against any child seeking admission on any ground including ethnicity, gender, religion, race, age, disability, language or culture

40 (1) All children shall be eligible for admission to an education centre upon attaining the age of four years

(2) For purposes of subsection (1), the Head teacher of an education centre may, in determining the age of a child, use the immunization card or birth certificate of the child

(3) Entry into an early education centre may be determined using the County Assessment Tools prescribed by the department responsible for education within the county

41 A public or private education centre under this Act shall not administer examinations for the purpose of determining admission into the education centre

42 The children shall, upon admission into an education centre under this Act, be grouped according to age, interest and ability for learning purposes which shall be based on activities and not the administration of subjects, and through play

43 (1) Children shall be given appropriate incentives to learn and complete early childhood education

(2) No child admitted in an education centre shall, subject to subsection (3), be held back in any class or expelled from the centre

(3) Subject to subsection (1) the County Executive Committee Member may, make regulations to prescribe
expulsion or the discipline of a delinquent child for whom all other corrective measures have been exhausted and only after such child and parent or guardian have been afforded an opportunity of being heard.

Provided that such a child may be admitted to an institution that focuses on correction in the context of education.

44 (1) The education administered in a private education centre registered under this Act shall be of a suitable standard and not of a lower standard than that administered to children enrolled in a public education centre of the same class levels.

(2) In assessing the standard of tuition, the mode of curriculum delivery and the regularity of instruction shall be considered.

45 (1) The Kenya Institute of Curriculum Development shall be responsible for the development of the early childhood education curricula to be applied in the county.

(2) The county executive committee member in consultation with the Kenya Institute of Curriculum development may review the curriculum framework to be applied by all licensed education centres within the county to suit the specific or special needs of children within the county.

(3) In reviewing the curriculum under subsection (2), the county executive committee member shall ensure that the curriculum—

(a) adheres to the policy and guidelines on curricula developed by the Cabinet Secretary under the Basic Education Act, and

(b) meets the standards approved by the Kenya Institute of Curriculum Development pursuant to the Kenya Institute of Curriculum Development Act.

(4) A review of the curriculum under subsection (2) shall not be carried out unless the County Executive Committee Member has consulted with those organizations that appear to him or her to be representative of persons...
likely to be substantially affected by the curriculum framework or the amendment, as the case may be

(5) As soon as practicable after reviewing the curriculum framework, the County Executive Committee Member shall publish by notice in the Gazette —

(a) the curriculum framework that has been prescribed or, as the case may be, reviewed, and

(b) the curriculum framework or the amendment to the curriculum framework in its entirety, or a notice as to the manner in which a copy of the curriculum framework or the amendment to the curriculum framework can be obtained by members of the public.

(6) If a curriculum framework is reviewed under this section, every service provider for a registered education centre and to whom that curriculum framework applies, shall implement that curriculum framework in accordance with any requirements prescribed in regulations made under this Act.

46 In developing or reviewing the curriculum of early childhood education within the county under section 45, the County Executive Committee Member shall ensure that

(a) the curriculum does not require the children in the education centre to be subjected to written examinations,

(b) the curriculum incorporates holistic learning including basic life skills,

(c) learning is activity based,

(d) child centred teaching methodologies are incorporated in imparting education, and

(e) it incorporates strategies to ensure creativity and ensure support to the learning of every child in the institution.

47 (1) A public education centre shall not charge or cause any parent or guardian to pay tuition fee for or on behalf of any pupil in the education centre.

(2) Notwithstanding subsection (1), a public education centre—
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(a) may charge tuition fees for the education of children who are not citizens of Kenya, and

(b) may, with the approval of the County Executive Committee Member impose such other charges as he/she may consider necessary for the management of the education centre

(3) Notwithstanding subsection (2)(b), a public education centre shall not refrain a child from attending the education centre only for the reason that the charges imposed have not been paid by the parent or guardian of the child

(4) Where a public education centre levies any charges under this section, such centre shall issue an official receipt to the person making such payments

48 (1) In administering early childhood education, an education centre shall—

(a) provide appropriate and adequate learning and play materials, and

(b) emphasize and carry out activities aimed at enhancing creativity amongst the children and use of learning materials,

(c) emphasize the need for the child centered approach in individual learning for the development of each individual child

(2) An education centre may offer any of the following programmes during a weekday—

(a) a half-day programme which commences at 8 00 a.m. and ends at 12 noon, or

(b) a full-day programme which commences as 8 00 a.m. and ends at 3 00 p.m.

(3) Where an education centre offers the programme specified under subsection (2) (b), the children shall be afforded an opportunity to rest during the afternoon period commencing at 2 00 p.m.

(4) An education centre shall not, in offering the programmes specified under subsection (2), exceed the time period specified therein
49 An education centre shall not undertake early childhood education services nor offer tuition during school holidays or on a day declared to be a public holiday under the Constitution or the Public Holidays Act.

50 The County Executive Committee Member may carry out feeding programmes in relation to early childhood education centres under this Act and shall —

(a) issue guidelines and support efforts for the feeding programmes, and

(b) ensure that the feeding programmes provide adequate and nutritious foods based on the physiological and regional demands.

51 The teacher to child ratio in an education centre under this Act shall be as prescribed by the County Executive Committee Member.

52 An education centre under this Act shall not offer boarding facilities unless such centre is a child care centre and is registered in accordance with the law regulating child care facilities.

PART VI — ACCREDITATION

53 An education centre administering or intending to administer a foreign curriculum shall apply to the County Education Board for accreditation in the manner specified under this Part.

54 (1) An education centre which intends to apply for accreditation shall make an application to the County Education Board in the prescribed form.

(2) The County Education Board may grant to an applicant for full accreditation, interim accreditation for the purpose of enabling the education centre to address any areas of non-compliance with the accreditation standards prior to issuing to the education centre, a certificate of full accreditation.

(3) An education centre to which a certificate of interim accreditation is issued under subsection (2) shall address any areas of non-compliance within such period as may be specified by the County Education Board not exceeding six months from the date on which the certificate is issued.
(4) Full accreditation shall be for a period of five years and shall be renewable subject to the education centre meeting the conditions prescribed by the County Education Board.

(5) Where an education centre under subsection (3) fails to meet the accreditation standards within the period specified by the County Education Board, the certificate shall be deemed to have expired.

**55 (1)** An education centre may make an application for renewal of its accreditation to the County Education Board.

(2) An application for renewal of accreditation shall be made at least ninety days before the expiry of the certificate of accreditation.

**56** Upon receipt of an application under section 54 or 55 the County Education Board shall—

(a) acknowledge receipt within a period of seven days of such receipt,

(b) consider the application to determine if the applicant has submitted the required information, and

(c) carry out a site visit to the education centre.

**57 (1)** The County Education Board shall carry out a site visit of the education centre within a period of sixty days from the date of the application for accreditation.

(2) The County Education Board shall, in carrying out a site visit, authenticate the information submitted by the education centre and evaluate the institution to determine whether it meets the standards for the registration of an education centre under this Act.

**58 (1)** The County Education Board shall, upon considering an application for accreditation or renewal under section 54 and 55, conduct a site visit under section 57 and upon being satisfied that the education centre meets the requirements under this Act—

(a) grant the applicant a certificate of full accreditation or renewal as the case may be, or

(b) reject the application for the grant of or renewal of accreditation.
(2) The County Education Board may defer its decision to grant or renew an application for accreditation and require the education centre to submit to it such additional information or take such corrective measures as it may consider necessary.

59 An education centre to which a certificate of accreditation is issued under section 58 shall —

(a) adhere to the standards and conditions for accreditation throughout the period of accreditation,

(b) ensure that the curriculum administered in the centre meets the standards set out under section 46 and such further standards as may be determined by the Kenya Institute of Curriculum Development in consultation with the County Education Board.

60 A certificate of accreditation issued by the County Education Board under this Act shall remain the property of the County Education Board and shall, upon revocation or expiry, be surrendered to the County Education Board.

61 (1) The County Education Board may revoke a certificate of accreditation granted to an education centre where such centre —

(a) fails to comply with a standard of accreditation, or

(b) fails to correct any deficiency noted and communicated to the institution by the County Education Board.

(2) An education centre shall, upon the revocation of the certificate of accreditation, surrender the certificate to the County Education Board within seven days of the revocation.

(3) The County Education Board shall not revoke a certificate of accreditation unless it grants the education centre, a right to be heard on the revocation.

(4) An education centre whose certificate has been revoked may apply for accreditation after a period of not less than twelve months from the date of revocation of accreditation.
The County Executive Committee Member shall maintain a register of accredited education centres and shall publish such register annually in the county newsletter and on County website or such other media as he/she may consider appropriate.

PART VII—QUALITY ASSURANCE AND STANDARDS OF EDUCATION

63 (1) There is established a committee known as the county early childhood education quality assurance committee which shall consist of—

(a) two persons, not being public officers, appointed by the Governor by notice in the County Gazette and who have knowledge and at least ten years’ experience in matters relating to early childhood education or education quality assurance,

(b) two public officers in the department responsible for education, nominated by the County Executive Committee Member,

(c) one representative of the Education Standards and Quality Assurance Council, and

(d) one person with knowledge and experience in matters relating to education nominated by the County Executive Committee Member.

(2) The members of the committee shall appoint a chairperson from amongst its members on its first sitting.

(3) The director for Early Childhood Education or his/her appointee shall be the secretary to the committee.

(4) The quality assurance committee shall—

(a) ensure the implementation and adherence to standards and guidelines on quality assurance in education centres in the County in accordance with the national standards developed by the Education, Standards and Quality Assurance Council,

(b) ensure that the standards and quality of education offered in education centres under this Act and under any other written law are adhered to and maintained,

(c) monitor and evaluate and where appropriate,
review the standards and guidelines on quality assurance in the county, and

(d) in consultation with the Education Standards and Quality Assurance Council, ensure —

(i) the implementation of the policies formulated by the Council, and

(ii) monitor the implementation of such standards

64 The county early childhood education quality assurance committee may establish such offices in such decentralized units of the county established pursuant to the County Governments Act as it may consider necessary for the effective and efficient performance of its functions under this Act

65 (1) The county early childhood education quality assurance committee may, in consultation with the County Executive Committee Member, authorize in writing such quality assurance officers as it may consider necessary to exercise the powers specified

(2) The quality assurance officers shall be competitively recruited and appointed by the County Public Service Board

(3) Any person holding an authorization under subsection (1) may, at any reasonable time—

(a) enter and inspect any registered education centre,

(b) inspect, photocopy, print out, or copy onto disk any documents, whether held in electronic or paper form, that the person believes on reasonable grounds to be those of the board of the education centre, or

(c) remove any document specified in paragraph (b), whether in its original form or as an electronic or paper copy

(4) Where any original documents are removed from an education centre under subsection (3)(c), the person who removes the documents shall—

(a) leave at the education centre a list of the documents removed, and

(b) return the documents, or a copy of them, to the
centre as soon as practicable unless to do so would prejudice any investigation being or to be carried out by the county early childhood education quality assurance

(5) Every written authorisation under subsection (1) shall contain—

(a) a reference to this section,
(b) the full name of the person authorised, and
(c) a statement of the powers conferred on that person by this section

(6) Every person exercising any power under subsection (1) shall, at the time of inspection, possess the appropriate written authorisation, 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 books, records, or accounts concerned—

(a) on first entering the premises, and
(b) whenever subsequently reasonably required to do so by the person in charge

(7) For the purposes of this section, inspection, in relation to any education centre, includes—

(a) access to the written and recorded work of the children enrolled there, and-
(b) meeting and talking with children enrolled there

PART VIII—SAFETY AND PROTECTION OF CHILDREN IN AN EDUCATION CENTRE

66 (1) The board of management in each education 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 institution,
(c) put in place firefighting equipment, first aid and other emergency equipment and non-prescription
medicine as the county executive committee member may prescribe, and

(d) have a list of the contacts of emergency service providers including hospitals, readily available to all members of staff

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

(3) The equipment and medicine under subsection (1) shall be maintained or kept by a centre in such manner as to ensure that it is out of the reach of children and ensures that the safety of the 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

67 (1) No teacher or any staff of an education centre shall administer corporal punishment

(2) A child in an education centre shall not be subject to emotional or psychological abuse

(3) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand or to imprisonment for a term not exceeding two years, or to both

PART IX—TRANSITIONAL PROVISIONS

68 (1) Subject to subsections (2), (3), and (6), every education centre that, immediately before the commencement of this Act, was registered as an education centre shall be deemed to be registered as an education centre under this Act, and continues to be so licensed for the relevant period of registration subject to such conditions of registration as may be imposed under this Act

(2) Despite subsection (1), the County Executive Committee Member may give written notice to the registered owner of an education centre registered under subsection (1), requiring the service provider who operates that centre to apply for registration under section 16 within three months of the date of that notice, and—

(a) if that service provider fails to make such an application within the specified period, the centre
ceases to be registered under subsection (1) at the end of that period, or

(b) if that service provider makes such an application within the required period, the centre continues to be registered under subsection (1) until that application has been determined

(3) Despite subsection (1), if subsection (4) applies, the County Executive Committee Member may, by written notice to the service provider who operates an education centre that is deemed to be registered under subsection (1), declare that the centre is no longer registered under subsection (1) and the notice takes effect accordingly

(4) The County Executive Committee Member may give a notice under subsection (3) only if he/she is satisfied that the service provider or the centre—

(a) has failed to comply with this Act on the requirements of registration, or

(b) fails to comply with any conditions for registration

(5) The County Executive Committee Member may, despite the fact that the centre concerned does not meet the minimum requirements for registration under section 13 or 16, issue to the service provider operating the centre a transitional certificate in such manner as the County Executive Committee Member may prescribe and subject to such conditions as he or she may impose

(6) Where the County Executive Committee Member is not satisfied that the conditions specified in a certificate issued under subsection (5) are being complied with, the County Executive Committee Member may by written notice to the service provider operating the centre, cancel the certificate

(7) Every notice under subsection (3) or subsection (6) shall set out the reasons for the action taken

(8) Subsections (1) to (6) shall not limit any powers to cancel or suspend the registration of an education centre in the manner prescribed by the County Executive Committee Member

PART X—FINANCIAL PROVISIONS

69 The funds of the Department of Early Childhood Education...
Education which shall be used to promote early childhood education in public institutions shall consist of—

(a) monies appropriated by the County Assembly for the purposes of the Department,

(b) any funds provided by bilateral or multilateral donors, for the purpose of the basic education,

(c) monies that may accrue to or vest in the course of the exercise of its functions under this Act,

(d) gifts, grants, donations or endowments as may be given to the Department,

(e) monies that may be borrowed by the Department for the discharge of the functions of the Department,

(f) fees for services rendered to any designated institution in terms of a service agreement, and

(g) monies from any other source provided for the Department or relevant educational institution or programme

70 All such monies as provided for in Section 69 (a) to (g) shall be deposited in the departmental accounts and managed by the Accounting Officer for the department of pre-primary education pursuant to the Public Finance Management Act

71 The financial year of the Department of Early Childhood Education shall be the government’s financial year

72 (1) Before the commencement of each financial year, the Executive Committee Member shall prepare estimates of revenue and expenditure of the Department for that year

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

(a) the payment of salaries, allowances and other changes in respect of the staff of the Department,

(b) the payment of pensions, gratuity and other changes in respect of retirement benefits which are payable out of the funds of the Department,
(c) the acquisition, maintenance, repair and replacement of the equipment, facilities and other movable properties of the Department,

(d) the proper maintenance of buildings and grounds of the Department,

(e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment or in respect of such other matter as the department may deem as appropriate,

(f) the establishment of a feeding programme,

(g) capitation to facilitate free early childhood education,

(h) field operation activities of the department, and

(i) the infrastructural development

(3) The annual estimates shall be approved by the County Assembly before the commencement of the financial year to which they relate

73 (1) The departmental accounting officer shall keep all proper books and records of accounts of the income, expenditure, assets and liabilities of the Department

(2) The departmental accounting officer shall submit—

(a) to the County Assembly the quarterly financial reports of the Department

(b) within a period of three months after the end of each financial year, a statement of income and expenditure and a statement of the assets and liabilities during the year to the Controller of Budget and the Auditor-General

(3) The accounts of the department shall be audited and reported upon in accordance with the provisions of the Public Audit Act, 2003

74 (1) The County Executive Committee Member shall establish mechanisms for school-based auditing

(2) The officers responsible for school-based auditing for public schools shall advise and work with the respective head teachers

(3) Subject to the national law, the County Executive
Committee Member shall make appropriate Regulations on school based auditing for public schools

PART XI — MISCELLANEOUS PROVISIONS

75 (1) For the avoidance of doubt, nothing in this Act may be construed as providing for or dealing with—

(a) taxes,

(b) the imposition of charges on a public fund or the variation or repeal of any of those charges,

(c) the appropriation, receipt, custody, investment or issue of public money,

(d) the raising or guaranteeing of any loan or its repayment, or

(e) matters incidental to any of those matters

(2) There may be established a fund which shall consist of monies specified under subsection (3)

(3) Any expenses that may be occasioned in the implementation of this Act shall be provided from —

(a) such gifts, grants or donations as may be given,

(b) such monies as may, in the future, be provided by the National Assembly for defraying the expenses incurred in the implementation of this Act, and

(c) such other monies that may lawfully accrue in the discharge of the functions under this Act, not being monies accruing pursuant to Article 114 of the Constitution

76 (1) The County Executive Committee member shall make regulations generally for the better carrying out of the provisions of this Act

(2) Without prejudice to the generality of subsection (1), the County Executive Committee Member may, taking into account any policies, standards or regulations applying to all education centres prescribed by the Cabinet Secretary—

(a) prescribe minimum standards relating to the following matters —

(i) premises and facilities,
(ii) programmes of education

(iii) practices in relation to children’s learning and development,

(iv) staffing and parental or caregiver participation,

(v) health and safety,

(vi) implementation of the curriculum framework,

(vii) communication and consultation with parents,

(viii) the operation or administration of early childhood education services in a manner that ensures the health, comfort, care, education, and safety of children attending licensed early childhood services,

(b) limit or regulate the numbers of children who may attend a registered education centre,

(c) provide for the grant, duration, expiry, renewal, suspension, transfer, reclassification, and cancellation of registration certificates of or more specified kinds for service providers for each kind of early childhood service,

(d) prescribe the conditions subject to which such registration certificates may be granted, renewed or transferred and the fees payable in respect of the grant, renewal, and transfer of such certificates,

(e) prescribe conditions governing, or that may be imposed in respect of, registered education centres and the duties of their service providers,

(f) prescribe the records to be kept by education centres in respect of children attending registered centres,

(g) regulate the qualifications to be held by persons managing, teaching or offering any care services in an education centre.

(3) Regulations made under subsection (2) may prescribe different standards and other requirements—

(a) for early childhood services of different types or descriptions, and
(b) in respect of different kinds of registrations

(4) For the purposes of Article 94(6) of the Constitution—

(a) the authority of the County Executive Committee Member to make regulations shall be limited to bringing into effect the provisions of this Act and the fulfillment of the objectives specified under subsection (1), and

(b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013 in relation to subsidiary legislation shall apply to regulations made under this Act

77 A person who contravenes any provision of this Act for which no penalty is specifically provided 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 two years, or to both
FIRST SCHEDULE  (s  20)

CRITERIA FOR DETERMINING THE SUITABILITY OF PREMISES FOR THE CONDUCT OF EARLY CHILDHOOD EDUCATION

1 The number of children admitted into the education centre
2 The size of the classrooms which shall not be less than 8m x 6m and which shall hold not more than thirty children
3 Condition of the premises
4 Adequate ventilation
5 Lockable doors and windows and the existence of emergency exits
6 Ablution blocks suitable for use by children
7 Adequate furniture suitable for use by children
8 Existence of play or psychomotor materials and teaching materials
SECOND SCHEDULE (s 28,)

CONDUCT OF AFFAIRS OF BOARD OF MANAGEMENT OF EARLY CHILDHOOD EDUCATION CENTRE

1 (1) The board of management shall meet at least once in a school term to conduct its business

(2) The first meeting of the board shall be convened by the chairperson and the board shall meet subsequently at such a time and place as it shall determine

(3) Notwithstanding the provisions of sub-paragraph (1), the chairperson shall, upon a written request by at least five members of the Board, convene a special meeting of the board at any time where he considers it expedient for the transaction of the business of the board

(4) The members of the board shall elect a vice-person 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

(5) A meeting shall be presided over by the chairperson or in his absence by the vice-chairperson

(6) The board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the board

(7) The proceedings of the board shall not be invalidated by reason of a vacancy within its membership
2 (1) Subject to sub-paragraph (2), the quorum of a meeting the Board shall not be less than half of the members

(2) Where there is a vacancy in the board, the quorum of the meeting shall not be less than three appointed members

(3) Unless a unanimous decision is reached, a decision on any matter before the board shall be by a simple majority of the votes of the members present and voting and in the case of an equality of votes, the chairperson or person presiding over the meeting shall have a casting vote

3 (1) A member of the board who has a direct or indirect personal interest in any matter being considered or to be considered by the board shall, upon the relevant facts concerning the matter having come to his knowledge, disclose the nature of his interest to the board

(2) A disclosure of interest made by a member of the board under sub-section (1) shall be recorded in the minutes of the meeting of the board and the member shall not, unless the Board otherwise determines—

(a) be present during the deliberation on the matter by the board, or

(b) take part in the decision of the board on the matter

(3) A member of the board who makes a disclosure under sub-section (1) shall not—

(a) be present in the meeting of the board held to determine whether or not the member should take part in the deliberations or decision of the Board in relation to the matter, or

(b) influence any other member of the board in arriving at a particular decision in relation to the matter

(4) No member of the board shall transact any business or trade with the education centre

4 (1) Subject to provisions of this Schedule, the board may determine its own procedure and the procedure for any committee of the board

(2) The board shall cause the minutes of all
proceedings of its meetings to be recorded and kept, and the minutes of each meeting shall be confirmed by the board at the next meeting of the board and signed by the chairperson or the person presiding at the meeting.

(3) There shall be an executive board of management for an education center as provided for in the Basic Education Act, 2013.

(4) Unless the appointment of the chair person or a member of the BOM is earlier terminated under this Act, a person appointed as chairperson or as a member, shall hold office for a term of three years from the date of appointment and shall be eligible for re-appointment for one further term of a period not exceeding three years.

(5) A member of the BOM may at any time resign by giving notice in writing to County Executive Committee Member.

(6) A person giving notice under sub-section (1) shall cease to be a member of the BOM from the date specified in the notice or, if no date is specified, from the date of receipt by the County Executive Committee Member of the notice.

(7) The appointment of a member to a BOM may be revoked in accordance with the provisions of the Basic Education Act, No 14 of 2013.
MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to provide a framework for the implementation of early childhood education by the county government of Vihiga in line with its functions as set out under the Fourth Schedule of the Constitution.

**Part I** of the Bill deals with preliminary matters and sets out the objects and purposes of the Bill.

**Part II** of the Bill elaborates on the right to early education as articulated under Article 53 of the Constitution.

**Part III** sets out the procedure for the registration of early childhood education centres.

**Part IV** provides for the management of early childhood education centres.

**Part V** provides for the administration of the early childhood education system in the county.

**Part VI** provides for the accreditation of early childhood education centres.

**Part VII** of the Bill sets out the quality of education and standards required to be maintained in an early childhood education centre.

**Part VIII** makes provision for the maintenance of safety in an education centre and also prohibits the imposition of corporal punishment with respect to children in an education centre.

**Part IX** sets out transitional provisions in relation to existing education centres or schools that offer early childhood education services.

**Part X** provides for the financial provisions for early childhood education programmes.

**Part XI** provides for formulation of regulations by the County Executive Committee member for the better implementation of this Act.

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

VIOLET BAGADA AFANDI,
Chairperson, Education, Science, Technical and Vocational Training Committee.