

NANDI COUNTY ASSEMBLY
NANDI COUNTY EDUCATION FUND BILL, 2016
BILL NO. _____ OF 2016
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A Bill for–

AN ACT of the County Assembly of Nandi to provide for the establishment of the County Education Fund; to provide for the management, governance and administration of the Fund; and for connected purposes.

ENACTED by the County Assembly of Nandi as follows —

PART I – PRELIMINARY

- Short title.** 1. This Act may be cited as the Nandi County Education Fund Act, 2016.
- Interpretation.** 2. In this Act, unless the context otherwise requires–
- “access” means the right or opportunity to use or benefit from education;
- “Board” means the Higher Education Loans Management Board established under Section 3 of the Higher Education Loans Board Act;
- [Cap. 213 A] “chief officer” means the county chief officer as appointed under Section 45 of the County Governments Act, 2012, responsible to the County Executive Committee member for the time being responsible for education;
- [Act No. 17 of 2012] “Committee” means a sub-county Education Fund Committee established under Section 12 of this Act and/or a standing committee established under Section 14 of this Act;
- “community” means residents of a particular geographical area or region defined as county ward,, location, sub location or village and having common interests;
- “county” means the County Government of Nandi;
- “County Education Fund Committee” means the

standing committee established under section 14 of this Act;

“County Executive Committee member” means the County Executive Committee member for the time being responsible for matters relating to Education, Research and Vocational Training;

“education improvement” means making education better in all ways;

“eligible person” means any person, who being a resident of Nandi County has met minimum entry requirements and has been admitted to a recognized institution of learning to complete a full course;

“equity” means the act of being fair and impartial in considering a matter;

“Fund” means the County Education Fund established under section 5 of this Act;

“higher education” means any course of education offered by an institution above the standard of Kenya Certificate of Secondary Education or any equivalent certificate approved by the County Government;

“Loanee” means any person granted a loan under this Act;

“scholarship” means a grant, gift or donation given to a successful applicant;

“Sub-County Committee” means the Education Fund Committee established in each Sub-County under Section 12 of this Act;

“tertiary education” means education provided for by polytechnics, colleges and universities

“ward” means an electoral unit within a

constituency delimited in accordance with Article 89 of the Constitution; and

“youth” means a person who has attained the age of eighteen years but has not attained the age of thirty-five years.

Objectives of the Act.

3. The objectives of this Act are to establish a legal and institutional framework to facilitate—
 - a) Improved access to education by all residents of Nandi County by providing funds to grant bursaries and scholarships;
 - b) Enhanced Equity in education for all residents of Nandi County;
 - c) Improvement of literacy level within Nandi County; and
 - d) Ensuring that a specific portion of the County annual budget is devoted to the Education Fund for the purposes of this Act.

Guiding principles.

4. The guiding principles that shall govern the application of this Act shall be—
 - (i) human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized;
 - (ii) good governance, integrity, transparency and accountability; and
 - (iii) sustainable development.

PART II – ESTABLISHMENT OF THE EDUCATION FUND

Establishment of the Fund.

5. (1) There is established a fund, to be known as

the Nandi County Education Fund.

(2) The Fund shall consist of—

- (a) monies as allocated by the County Assembly for the purposes of the Fund, of an amount of not less than 1% (one per centum) of all the county government annual budget in every financial year;
- (b) any grants, scholarship, gifts, donations, loans or other endowments received by the County Government for the purpose of this Fund; and
- (c) such monies as may vest in or accrue to the Fund.

Application of the Fund.

6. The resources of the fund shall be utilized for—
- a) securing the attendance to an educational institution of the nature of a youth polytechnic, middle level colleges and home craft centers or any other institution that may be recognized by the County Government pursuant to this Act as a bursary;
 - b) securing attendance to an educational institution of a nature of middle level colleges and universities or any other institution recognized by the county government pursuant to this Act as an Education loan; and
 - c) enhancing equity in educational services provided in accordance with this Act.

Administration of the Fund.

7. (1) The County Executive Committee member of finance shall designate a person who shall administer the Nandi County Education Fund.
- (2) The Fund administrator appointed under subsection (1) above shall be the accounting officer of the Fund.
- (3) The Fund Administrator shall:
 - i) Prepare and keep the accounts of the Fund in each financial year;
 - ii) Not later than three (3) months after the end of each financial year, submit financial statements relating to those accounts to the Auditor-General; and
 - iii) Present financial statements to the County Assembly.
- (4) The Fund Administrator shall cause an account to be opened in any commercial bank, approved by the County Treasury, and such an account shall be known as the “Nandi County Education Fund Account”.
- (5) The signatories of the account stated in subsection (4) above shall include the Fund Administrator and two other members who shall be assigned by the County Executive Committee Member responsible for finance.
- (6) The Fund Administrator will ensure that the accounts resources are used for the purpose for which they were intended and shall ensure that the earnings of, or accruals to the Fund are

retained in the Fund.

(7) The Fund Administrator of a county public fund shall ensure that the accounts for the Fund and the annual financial statements relating to those accounts comply with the accounting standards prescribed and published by the Accounting Standards Board from time to time.

**Responsibilities of the
Fund Administrator.**

8. (1) The Fund Administrator referred to in Section 7 (1) is accountable to the county assembly for ensuring that the resources of the Fund for which the officer is designated are used in a way that is—

(a) lawful and authorized; and

(b) effective, efficient, economical and transparent.

[Act No. 18 of 2012]

(2) In carrying out a responsibility imposed by subsection (1), the Fund Administrator, in respect of the Fund—

(a) ensure that all expenditure made by the Fund complies with subsection (1) above;

(b) ensure that the Fund keeps financial and accounting records that comply with the Public Finance Management Act;

(c) ensure that all financial and accounting records that the Fund keeps in any form including in electronic form are adequately protected and backed up;

- (d) ensure that all contracts entered into on behalf of the Fund are lawful and are complied with;
- (e) ensure that all applicable accounting procedures are followed when acquiring or disposing of goods and services and that, in the case of goods, adequate arrangements are made for their custody, safe guarding and maintenance;
- (f) bring a matter to the attention of the County Executive Committee member if, in the accounting officer's opinion a decision or policy or proposed decision or policy of the Fund may result in resources being used in a way that is contrary to subsection (1);
- (j) submit the estimates of the Fund to the County Executive Committee member who, after approving it, shall forward it to the County Executive Committee member for finance;
- (k) not later than three months after the end of each financial year, prepare annual financial statements for that financial year and submit them to the Auditor-General for audit, with a copy to the County Treasury;
- (l) try to resolve any issues resulting from an audit that remain outstanding;

- (m) manage the assets of the Fund to ensure that it receives value for money when acquiring, using or disposing of its assets;
 - (n) dispose of assets at the most competitive price and at the lowest possible cost ensuring that the proceeds from all asset disposals are deposited in a bank account of the Corporation;
 - (o) ensure that the Fund has adequate systems and processes in place to plan for, procure, account for, maintain, store and dispose of assets, including an asset register that is current, accurate and available to the relevant County Treasury or the Auditor-General;
 - (p) provide the County Treasury with any information it requires to fulfill its functions under this Act;
 - (q) provide information on any frauds, losses, or any violations of subsection (1) and provide explanations for the actions taken to prevent similar conduct in future; and
 - (r) carry out such other responsibilities as may be specified in regulations by the County Executive Committee member for finance.
- (3) Not later than three (3) months after the

county assembly has adopted a report by a committee of the county assembly with respect to a report submitted by the Controller of Budget under Article 228 (6) of the Constitution, the Fund Administrator shall—

(a) prepare a report on actions taken by the Fund to implement any recommendations made in the committee's report as adopted by the county assembly; and

(b) submit the report to the county assembly with a copy to the County Treasury.

(4) Not later than one month after receiving a report by the Fund Administrator under subsection (3), the County Treasury shall submit to the county assembly the accounting officer's report and may include any comments on the report by the County Treasury.

(5) The report referred to in subsection (3) shall be published and publicized.

**Management of assets
and liabilities of the
Fund.**

9. (1) The Fund Administrator—

(a) is responsible for the management of the Fund's assets and liabilities; and

(b) shall manage those assets in such a way as to ensure that the Fund achieves value for money in acquiring, using or disposing of those assets.

(2) The Fund Administrator shall dispose of

[Act No. 3 of 2005]

assets only in terms of the Public Procurement and Disposal Act and pursuant to Article 227 of the Constitution, and shall ensure that the proceeds from all asset disposals are credited into the Fund's bank account.

Reports.

10. (1) At the end of each financial year, the Fund Administrator shall prepare financial statements in respect of the Fund in formats to be prescribed by the Accounting Standards Board.

(2) The Fund Administrator shall include in the financial statements—

a) appropriation accounts, showing—

(i) the services for which the appropriated money was spent;

(ii) the amounts actually spent on each service;

(iii) a statement explaining any variations between the actual expenditure and the sums Voted; and

(iv) any other information specified by the County Treasury;

b) a statement of the Fund's debt that is outstanding at the end of the financial year;

c) a statement of the Fund's assets and liabilities as at the end of the financial year;

d) a statement of the accounting policies followed in preparing the financial statement; and

e) a statement of the Fund's performance against predetermined objectives.

(3) The Fund Administrator shall prepare the financial statements in a form that complies with relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.

(4) Within three (3) months after the end of each financial year, the Fund Administrator shall—

(a) submit the Fund's financial statements to the Auditor-General; and

(b) deliver a copy of the statements to the relevant County Treasury, the Controller of Budget, and the Commission on Revenue Allocation.

(5) The Fund Administrator shall submit a copy of the Fund's financial statements to the County Executive Committee member who shall approve and forward the statements to the County Executive Committee member for finance.

Quarterly reports.

11. (1) The Fund Administrator shall prepare a report for each quarter of the financial year in respect of the Fund.

(2) In preparing the quarterly report, the Fund Administrator shall ensure that the report—

a) contains information on the financial and non-financial performance of the Fund; and

b) is in a form determined by the Accounting Standards Board.

(3) Not later than fifteen (15) days after the end of each quarter, the Fund Administrator for the Fund shall submit a copy of the quarterly report to the County Executive Committee member, who, upon approving it, shall submit a copy to the County Executive Committee member for finance.

PART III – ESTABLISHMENT OF FUND COMMITTEES

Establishment of Sub-County Committees.

12. (1) There is established in each Sub-County, a Sub-County Education Fund Committee which shall consist of–

(a) the Sub-County Administrator who shall be the Secretary and an ex – officio member;

(b) A representative from each ward domiciled in that specific Ward; and

(c) A chairperson who shall be appointed by the County Executive Committee member.

(2) The selection of members of each Sub-County Committee under Section 12 (1) (b) and (c) shall–

(i) take into account representation of men

and women, persons with disabilities and youth; and

- (ii) meet the requirements, standards and values of Articles 10, 27 (4), 56 (c) and 232 (1) of the Constitution of Kenya.

(3) The members under Section 12 (1) (b) shall possess a minimum requirement of a certificate in post primary education.

(4) The Chairperson shall be a holder of Bachelor's degree in Education, administration, economics, management, law, finance, accounting, business or any related field from a recognized university.

(5) The Vice – Chairperson shall be elected by the members of the Sub–County Committee from among themselves.

(6) The chairperson and Vice – Chairperson shall be of opposite sex.

(7) The term of office for members appointed under sub – section (1) (b) and (c) shall be three (3) years, which shall be non – renewable.

(8) The Sub–County Administrator shall forward the names of members of the Sub–County Committees to the County Executive Committee Member who shall cause the names of persons appointed as members of the Sub–County Committee to be published in the Kenya Gazette.

(9) The quorum of the Sub–County Committees shall be a simple majority.

(10) Whenever a vacancy occurs in the Sub–County 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.

Functions of the Sub-County Committees.

13. (1) The chairperson of the Sub-County committee shall convene meetings from time to time–
 - (i) as and when the resources are available in their respective wards; and
 - (ii) when a decision has to be made by the members of eligible successful applicants in relation to access of the fund.
- (2) Each Sub-County Committee shall come up with a list of fund applicants to be submitted to the County Education Fund Committee for fund disbursement.
- (3) Each Sub-County Committee shall come up with a list of beneficiaries to be submitted to the fund manager for disbursement.
- (4) The secretary to the Sub-County Committee shall compile proper records and minutes and make returns thereof to the Standing Committee.
- (5) any other function assigned to it by the county education fund committee.

Establishment of the Standing Committee.

14. (1) There is established a standing committee to be known as the County Education Fund Committee which shall consist of–

- a) six (6) members from the sub – counties;
- b) a chairperson chosen by the County Executive Committee member; and
- c) the chief officer who shall be the secretary and ex – officio member of the Standing Committee.

(2) The selection of members of the Standing Committee under sub – section (1) (a) and (b) shall–

- (i) take into account representation of men and women, persons with disabilities and youth; and
- (ii) meet the requirements, standards and values of Articles 10, 27 (4), 56 (c) and 232 (1) of the Constitution of Kenya. (3) Election and nomination of members of the Committee shall take into account the principles of equality and non-discrimination, regional balance and gender parity.

(3) A person shall not be selected as a chairperson under subsection (1) (b) unless the person–

- (a) holds a minimum requirement of a bachelor’s degree in economics, law, finance, accounting, business or any related field from a recognized university; and
- (b) has experience of at least five years in senior level management in public or private sector.

(4) A person shall not qualify to be selected as a member under subsection (1) (a) unless they hold a certificate in post secondary education.

(5) The Vice-Chairperson shall be elected by the members of the Committee from among themselves.

(6) The chairperson and the vice chairperson shall be of the opposite gender.

(7) The term of office for members appointed under sub – section (1) (a) and (b) shall be three (3) years, which shall be non – renewable.

(8) The County Executive Committee member shall cause the names of persons appointed as members of the Standing Committee to be published in the Kenya Gazette.

(9) The quorum of the Standing Committee shall be a simple majority.

(10) Whenever a vacancy occurs in the Standing 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.

**Functions of the
Standing Committee.**

15. (1) The Standing Committee shall–

- (a) select eligible candidates for the award of the Nandi County Government Social Responsibility throughout the county;
- (b) resolve disputes arising from the Sub–County Committees;
- (c) receive and deliberate on reports from the

Sub-County Committees to ensure that fairness and equity was adhered to in making the awards; and

(d) receive, deliberate and approve applications for education loans.

(2) The awards specified under subsection (1) (a) shall not exceed twenty percent of the total allocation made to the Fund in every financial year.

(3) The secretary to the Standing Committee shall compile proper records and minutes and make returns thereof to the County Executive Committee member.

Conduct of meetings.

16. The meetings of the Committees shall be done as provided for in the First Schedule.

Declaration of interest.

17. (1) A member who has an interest in any matter presented at a meeting shall at the meeting and 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.

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

(3) A member of the Committee who contravenes subparagraph (1) shall cease to be a member of the Committee subject to the direction of the County Executive Committee member.

(4) A member who contravenes the provisions of this Act commits an offence.

Removal from office.

18. (1) The office of a person appointed as the chairperson or as a member of a Committee shall become vacant, if such chairperson or member—
- (a) is, on the recommendation of the members of the Committee, removed by the County Executive Committee member;
 - (b) dies;
 - (c) resigns from office in writing to County Executive Committee member;
 - (d) is convicted of an offence punishable by a term of imprisonment exceeding three (3) months;
 - (e) violates the provisions of Chapter Six of the Constitution;
 - (f) is culpable of gross misconduct, whether in the performance of the member's functions;
 - (g) is incapable of performing the official functions of the office due to physical or mental incapacity;
 - (h) is absent from three consecutive meeting without good cause;
 - (i) is adjudged bankrupt; or
 - (j) is incompetent or unfit to discharge official duties.

(2) Before removal from office under Subsection (1) (a), a member shall be accorded a fair opportunity to be heard by the County Executive Committee member.

(3) An appointment to fill a vacancy shall be for the remainder of the term of the member being replaced and shall be eligible to reappointment.

PART IV – EDUCATION GRANTS AND BURSARY AWARDS

Principles of making education grants or bursary awards.

19. A Committee shall adhere to the following principles while making bursary awards–
- (a) equitability and fairness;
 - (b) inclusivity and nondiscrimination;
 - (c) public participation; and
 - (d) accountability and transparency.

Eligibility for award of bursary or scholarship.

20. An applicant may be eligible for award of bursary or scholarship if–
- (a) has a parent or guardian who has been a resident in the ward or county for at least three (3) years;
 - (b) is a full–time student or enrolled student attending a youth polytechnic, middle level college, home craft center or other institution;
 - (c) is not financially capable of making payment of the school fees; and
 - (d) meets the conditions set out under section 20 of this Act.

Conditions for

21. An education grant, or bursary, or scholarship,

**education grant,
bursary or scholarship.**

under this Act shall only be granted to a person who is–

- a) an orphan;
- b) vulnerable due to family or social setting;
or
- c) disabled, or has special needs; or
- d) poor and whose parents have no means of providing financial support towards the person’s education.

**Application for a
bursary.**

22. (1) An eligible applicant may apply to the Sub-County Committee in the form set out under the Second Schedule.

(2) Each Sub-County Committee shall ensure that the application forms are accessible in at least–

- a) the office of each Member of County Assembly;
- b) the department’s office;
- c) the county government registry; and
- d) the county government website.

(3) Notwithstanding subsection (2), the Sub-County Committee may partner or collaborate with education stake holders such as schools, faith based or nongovernmental or community based organizations for provision of the forms to eligible students.

(4) An applicant shall not be charged any fee for accessing the forms prescribed under this section.

Agreement with the Board.

23. (1) The County Executive Committee member in charge of finance shall cause there to be a partnership between the County Government and the Board.
- (2) The pact in the above sub-section (1) shall be entered into through a legal agreement.
- (3) The objectives of the partnership shall be to—
- (a) grant loans, with or without security, to some of the eligible and successful loan applicants of the Board domiciled in Nandi County, to enable them to meet the cost of higher education;
 - (b) receive a list of the eligible and successful loan applicants from the Board, and to approve, withhold or reject applicants for the grant of the loans; and
 - (c) perform other functions relating to the granting of students' loans in accordance with the provisions of this Act.
- (4) After approval of eligible and successful loan applicants as per sub-section (3) (b), the County Executive Committee member shall forward the approved list to the Fund Administrator to effect the necessary payments.
- (5) Any administrative expenses of executing the agreement shall be dealt with in a manner prescribed in the contract agreement.

Eligibility and qualification for the

24. (1) An applicant who wishes to be considered in

higher education loans.

the scheme mentioned under Section 23 shall make an application to the Board as per the regulations set out in the Third Schedule in consultation with the Standing Committee.

(2) The Standing Committee shall identify successful candidates who qualify to be awarded loans as per the Criteria and Means Testing Instrument established by the Standing Committee.

(3) The Standing Committee shall then submit the list of the successful candidates to the County Executive Committee member who shall then forward the list to the Fund Administrator to effect payment thereof as per Section 23 (4) of this Act using the most efficient way, and thereafter recover the loan as per the loan agreement between the County Government and loan applicant.

(4) If the Standing Committee rejects the list submitted by the Board as per Section 23 (3) (b), it shall notify the Board of its decision within 14 days with reasons of such rejection and recommendations thereof.

(5) Upon receipt of the notice of rejection of the Standing Committee, the Board shall prepare a rejoinder and submit it to the Standing Committee within 21 days.

(6) An unsuccessful candidate may appeal to the Standing Committee for reconsideration of their loan application.

Application of higher education loans.

25. Notwithstanding any other provision in this Act, the provisions of Sections 23 and 24 shall apply to applicants from colleges in public and private universities who for any reasons cannot access National Government higher education loans kitty, or where access thereof is insufficient that cannot see them through their studies.

Review of the applications.

26. The Sub-County Committee shall receive and consider the applications submitted under section 20 within fourteen days after the expiry of the stipulated date of submission.

Awarding education grants.

27. (1) A Committee shall consider the following categories of applicants in determining the amount of education grant or scholarship award-
- (a) family status ranked as total orphan, partial orphan, or an applicant with parents in financial need;
 - (b) affirmative action or special circumstances such as girl child, boy child, children from informal settlements, marginalized areas or of special needs, or with disability;
 - (c) discipline ranked as excellent, very good, good, average or below average;
 - (d) academic performance ranked as excellent, very good, good, average or below average; and
 - (e) such other category as may be

prescribe by the County Executive Committee member.

(2) A Committee shall award scores under each category out of a possible one hundred marks, and the applicants with the highest scores shall be the successful candidates.

(3) A Committee shall ensure proper and up-to-date minutes are maintained.

(4) In considering the applications under this section, a Committee shall liaise, where applicable, with other relevant public or private entities to ascertain whether an applicant has been awarded an educational award or scholarship under a similar scheme to cater for the same year and whether the amount has been awarded.

(5) Where a Committee establishes that an applicant has been awarded an education grant, bursary or scholarship under subsection (4), it may make additional award to the applicant to meet the remaining fee deficit:

Provided that the Committee shall give priority to applicants who have not received any educational grant, bursary or scholarship.

Verification of information.

28. A Committee shall have powers to verify information provided by an applicant and may, subject to the relevant laws–
- (a) visit the residence of the applicant;
 - (b) seek further information to support the

application; or

(c) invite the applicant to appear in person before the Committee.

Disbursements.

29. (1) Each Committee shall submit the list of beneficiaries, together with minutes of the deliberation and award proceedings to the County Executive Committee member for approval and preparation of payment for the grant, bursary or scholarship.

(2) The list of beneficiaries shall be in the summary form set out under the Fourth schedule.

(3) Where an applicant who is not eligible under this Act is awarded a grant, bursary or scholarship by any Committee, the County Executive Committee member may cancel the grant, bursary or scholarship, and provide reason thereof to the committee.

(4) The County Executive Committee member shall then forward a certified list of beneficiaries to the Fund Administrator for processing of payment.

(5) The Fund Administrator shall make payments in favor of, and directly to, the designated educational institution's account, and there shall be no direct payments to any eligible successful candidates.

(6) The Fund Administrator shall ensure that all payments—

(a) in case of continuing eligible students,

not later than 31st January of each year;

(b) in case of new successful applicants, not later than the last day of February each year or as specified by the educational institution.

**Application of
disbursed funds.**

30. The monies disbursed for an educational grant, bursary or scholarship may be applied towards any or all of the following uses depending on each successful candidates needs–

(a) the tuition fees in the designated educational institution in which the successful candidate is registered;

(b) the cost of books and other course related materials;

(c) the cost of school uniform; and

(d) where the successful candidates are enrolled in a designated educational institution outside the ward in which they are residents and are required to board in such institutions, the cost of boarding and lodging of the successful candidate and such necessary supplies in reasonable quantities as may be approved by the school institution.

**Publication of list of
beneficiaries.**

31. (1) The County Executive Committee member shall publish the list of successful candidates in–

(a) the office of the Ward Administrator;

(b) the office of the Member of County Assembly of that Ward;

(c) the office of the county officer in charge

of education in the Ward;

(d) the County Executive Committee member's office;

(e) the County website and such other media platform; or

(f) such other office as may be determined by the County Executive Committee member.

(2) The Standing Committee shall ensure that the list of beneficiaries is accessible to the public.

PART V – MISCELLANEOUS

Minimum award per student.

32. The County Government shall make an award with respect to this Act to each successful candidate of not less than ten thousand shillings.

Offenses – false or misleading statements.

33. (1) A person must not make a statement in connection with this Act which that person knows to be false or misleading-

a) in connection with an application for the grant of an investment certificate under Section 36; or

b) generally, when providing information required under this Act.

(2) If a person contravenes subsection (1), the person is guilty of an offence and is punishable on conviction by a fine not exceeding 250, 000/= shillings or imprisonment of one year, or both.

General penalty.

34. A person who commits an offence under this Act

shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two (2) years or to both.

No action maintainable against County Executive Committee Members , etc.

35. Neither the County Executive Committee Members nor any other person or body of persons shall be personally liable to any action or proceedings for or in respect of any act or thing done or omitted to be done in good faith in the performance or exercise or intended performance or exercise of any duty or power imposed or conferred by or under this Act.

Prosecution of matters under this Act.

36. The County Government shall liaise with the Office of the Director of Public Prosecution to provide a special prosecutor to prosecute matters for and on behalf of the County Government under this Act.

Fines.

37. Fines payable under this Act shall be remitted to the County Revenue Fund.

Regulations.

38. The County Executive Committee member shall make regulations for–

- (a) process of submitting requests for a grant, bursary or scholarship award;
- (b) submission of application forms deadlines;
- (c) format of the application forms for bursary awards;
- (d) serialization of list of successful candidates;
- (e) criteria to be used in making awards under the Nandi County Government Social

Responsibility on education category;

- (f) maximum or minimum grant, bursary or scholarship an applicant can get;
- (g) the receipt, processing and approval of applications for loans and the granting of loans to students;
- (h) the preparation and maintenance of loanees' records;
- (i) the withdrawal, recovery and cancellation of loans already granted;
- (j) the waiver or exemption from repayment of loans;
- (k) persons who being loanees are or have been living outside Kenya; or
- (l) any other matter the County Executive Committee member may deem necessary for the proper carrying out of this Act.

Repeal and savings.

- 39. (1) The Nandi County Education Fund Act (NACEF), 2014, is hereby repealed.
- (2) Notwithstanding the repeal of the Nandi County Education Fund Act (NACEF), 2014:
 - a) all successful candidates of the repealed law shall be deemed to be successful candidates under this Act; and
 - b) any orders, directions, appointments and other acts lawfully made or done under any of the provisions of the repealed Act and in force immediately before the

commencement of this Act shall be deemed to have been made or done under the corresponding provisions of this Act and shall continue to have effect accordingly.

SCHEDULES

FIRST SCHEDULE

(S. 16)

CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEE

Tenure of office.

1. The Chairperson or a member of the Committee other than ex officio members shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for appointment for not more than two terms.

Vacation of office.

2. (1) A member other than an ex officio member may—
 - (a) at any time resign from office by notice in writing to the County Executive Committee member; or
 - (b) be removed from office by the County Executive Committee member on recommendation of the Committee if the member—
 - i) has been absent from three consecutive meetings of the Committee without its permission;
 - ii) is convicted of a criminal offence that amounts to a felony under the laws of Kenya;
 - iii) is incapacitated by prolonged physical or mental illness for a period exceeding six months; or
 - iv) is otherwise unable or unfit to discharge his functions.

(2) The Chairperson shall not be removed from office unless such removal is in accordance with subparagraph (1).

Meetings.

3. (1) The Committee shall meet quarterly 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.
 - (2) Notwithstanding subparagraph (1), the Chairperson may, and upon requisition in writing by at least five (5) members, convene a special meeting of the Committee at any time for the transaction of the business of the

Committee.

(3) Unless three quarters of the total members of the Committee otherwise agree, at least fourteen days' written notice of every meeting of the Committee shall be given to each Committee member.

(4) The quorum for the conduct of the business of the Committee shall be a simple majority.

(5) The Chairperson shall when present, preside at every meeting of the Committee.

(6) 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.

(7) Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by a majority of the votes of the members present and voting, and in case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(8) Subject to subparagraph (4), no proceedings of the Committee shall be invalid by reason only of a vacancy among the members thereof.

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

Disclosure of interest.

4. (1) A member who has an interest in any matter presented at a meeting shall at the meeting and 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.

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

(3) A member of the Committee who contravenes subparagraph (1) shall cease to be a member of the Committee subject to the direction of the

County Executive Committee member.

**Application of
this Schedule.**

5. The provisions of this Schedule shall apply to the conduct of the business of the Ward Education Fund Committee 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.

APPLICATION FORM

FORM NDCG/WARD YEAR

TO: THE CHAIRMAN,
NANDI COUNT EDUCATION FUND,
P.O BOX 802 – 30300,
KAPSABET

REF: SECONDARY AND YOUTH POLYTECHNICS

A. PERSONAL INFORMATION

- i. Name of applicant.....
 - ii. Name of Guardian/Parent.....
 - iii. Occupation.....
...
 - iv. Area of residence
 - a) Ward
 - b) Location
 - c) Sub-Location
 - d) Village
 - v) Name of the institution of learning.....
from..... to
.....
 - vi) Reasons for applying (tick) where appropriate
 - () I am a needy orphan
 - () I am a needy student from a single parent
 - () I hail from a poor family
 - () Any other – Please explain
-

.....
.....
vii) Have you ever been a beneficiary?

() Yes

() No

viii) If yes, which year.....

Amount

Kshs.....

.....
.....
ix) Total cost of your Education per year

Kshs.....

.....
.....
I CERTIFY THAT THE ABOVE INFORMATION IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEVE.

SIGNATURE

STUDENT

DATE.....

B. FOR OFFICIAL USE

i. Ward name.....

ii. Date application received.....

iii. Reasons for not approving.....

Amount recommended Kshs.

„.....

.....

.....

CHAIRMAN – SUB-COUNTY COMMITTEE

SIGNATURE:

DATE:

WARD ADMINISTRATOR

SIGNATURE:

DATE:

ADMINISTRATION OF THE REVOLVING FUND

Application of the higher education loans.

1. Every student wishing to be considered for the grant of a loan shall make an application to the Higher Education Loans Board in the prescribed form when such applications are invited by the Standing Committee, through the Higher Education Loans Board.

Loanee Identification Personal Account Number.

2. Every student who has been awarded a loan shall be issued with a Loanee Identification Personal Account Number (LIPA) by the Board.

Conditions for grant of loan.

3. (1) The Standing Committee may—
 - (a) accept or reject any application for a loan;
 - (b) grant a loan to any student and in so granting impose conditions, demand security and require repayment in installments at such times and within such periods as it deems fit:
Provided that subject to the provisions of this Act, the loan applicant may make a request in the prescribed form to vary—
 - (i) the condition subject to which the loan was made;
 - (ii) security given in relation to the loan; or
 - (iii) any of the terms of repayment of the loan.

Notice to candidate in writing.

4. Where the Standing Committee has resolved to grant a loan to an eligible candidate, it shall notify the applicant in writing, and require him within a specified period not exceeding six (6) months to comply with any conditions, and provide any security which it may have imposed or demanded.

Lapse of the application.

5. Where an applicant fails to comply with the requirements of the notice referred to in paragraph 4 above within the prescribed period, the application shall be deemed to have lapsed.

Loan guarantor.

6. (1) Where in granting a higher education loan to a candidate, and the Standing Committee considers it prudent to request for a guarantor to guarantee any loan granted to a student, in case of any default by the Loanee in the repayment of the loan, such a guarantor shall automatically be wholly liable for the repayment of all or part of the loan together with interest accrued and outstanding sums.
(2) Notice of default of the loan payment for three (3) consecutive months by the Loanee to the guarantor shall be made by the Standing Committee in writing.

Default by the guarantor.

7. (1) Where a guarantor who has been notified by the higher education loan under paragraph 7 above fails or refuses to repay such loan together with any interest accrued thereon, the guarantor shall be guilty of an offence and liable to criminal prosecution or civil proceedings or both in accordance with the provisions of this Act.
(2) A guarantor who fails to pay a loan issued pursuant to this Act commits an offense and shall be liable on conviction to fine not less than six thousand shillings or to imprisonment not exceeding 6 months or to both.

Bonding the Loanee.

8. (1) The Standing Committee may on approval of a loan application resolve to bond Loanees to offer their services to the County Government after completion of their studies, or in between their study period:
Provided that the bond terms shall not interfere with the study program offered to the Loanee.
(2) The bond forms shall be in the prescribed form and shall be prepared by the legal services department and copied to the Department and the Human Resource Manager.

Default by Loanee.

9. (1) A loanee shall be required, subject to and in accordance with this Act or any regulations made thereunder, within one year of completion of his studies or within such a period as the Standing Committee decides to recall its loan, whichever is earlier—

(a) to inform the Standing Committee of his contact address;

(b) to begin repayment of his loan together with any interest accrued thereon; or

(c) if he is in formal employment, to authorize his employer to deduct the loan repayment and to remit it to the Fund in such manner as the Standing Committee may direct.

(2) Any loanee who fails or neglects to satisfy the requirements of subparagraph (1) within the stipulated time, shall in addition to any other action that the Standing Committee may take against him, be guilty of an offence and liable to a fine of not less than five thousand shillings in respect of each loan deduction that remains unpaid in accordance with provisions of subsection (1), and such fine shall be payable to the Fund.

MEMORANDUM OF REASONS

The purpose of this Bill is to improve access to education by all residents of Nandi County by establishing a County Education Fund that provides for the resources that will secure the attendance to an educational facility of the nature of a youth polytechnic, mid-level college, home craft centers or other institution that may be recognized by the County Government.

Part I of the Act provides for the preliminary provisions and outlines the objectives of the Act as to establish a legal and institutional framework for improved access to education by all residents of Nandi County by providing funds to grant bursaries and scholarships and ensuring that a specific portion of the County annual budget is devoted to the Education Fund. It also sets out the guiding principles of the Act as human dignity, equity, social justice, inclusiveness, equality, non-discrimination and protection of the marginalized among others.

Part II of the Act provides for the establishment of the Nandi County Education Fund. It provides that the application of the resources of the Fund shall be to secure attendance to an educational facility of the nature of a youth polytechnic, mid-level college, home craft centers or other institution that may be recognized by the County Government. That Part also gives provision for the administration of the Fund and in this regard, it provides that the County Executive Committee member responsible for Finance shall designate a person who shall administer the Fund. The Act also gives the Fund Administrator responsibilities which include preparation and keeping of books of accounts, submitting financial records to the Auditor-General and presenting financial statements to the County Assembly.

Part III of the Act provides for the establishment of Fund Committees which shall be the Sub-County Committees and the Standing Committee. The Sub-County Committee shall consist of the Sub-County Administrator of each sub-county (who shall be the secretary), a representative from each ward domiciled within that particular ward and a chairperson who shall be appointed by the County Executive Committee member responsible for Education. Its functions shall include the selection of successful and eligible candidates from the sub-counties for the award of the bursary and/or scholarship awards.

The Standing Committee consists of the chief officer who shall be the secretary, representatives from each sub-county domiciled within that particular sub-county and a chairperson who shall be appointed by the County Executive Committee member responsible for Education. The functions of the Standing Committee include selection of eligible candidates for the award of the Nandi County Government Social Responsibility award, to

resolve disputes arising from the Sub-County Committees, to deliberate on reports from the Sub-County Committees and to deliberate and approve applications for Education Loans in consultation with the Higher Education Loans Board of Kenya.

Part IV of the Act provides for the procedure for the provision of grants and/or bursary loans and awards. That Part provides for the eligibility of a candidate for the award of grants and/or bursary loans and awards, conditions for the education grants and/or bursary loans and awards, process for applying for a bursary and eligibility and qualification for the higher education loans and final disbursement of funds to successful candidates. The Part provides that the County Government shall enter into a legal agreement with the Higher Education Loans Board (herein referred to as the Board) to grant loans to needy Nandi County applicants who applied for the Higher Education Loan but were not successful. The Act also provides that the Board shall provide assistance to the County Government in recovering loan facilities loaned to successful candidates.

Part V of the Act provides for miscellaneous provisions. It provides that the minimum award per successful candidate shall be 10, 000/= . It also provides for offences and general penalty among other miscellaneous provisions. That Part also repeals the Nandi County Education Fund Act (NACEF), 2014.

DANIEL MOIYO,
*Chairperson, Committee on Early childhood Education, Research and
Vocational Training*