

THE SAMBURU COUNTY BURSARIES FUND BILL, 2014

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A Bill for

AN ACT of Samburu County Assembly to provide for the establishment, management and administration of the Samburu County Bursaries Fund and for connected purposes: ô

ENACTED by the County Assembly of Samburu as follows:

PART I—PRELIMINARY

- Short Title and Commencement. **1.** This Act may be cited as the Samburu County Bursary Fund Act, 2014 and shall come into operation on the date of publication in the Gazette.
- Interpretation. **2.** In this Act unless the context otherwise requires:ô
- ôbursaryö means an amount of money awarded to a student to pay for studies at a recognized educational institution of learning;
- ôbeneficiaryö means a person who receives money from the Samburu County Bursary Fund to pay for studies at a recognized educational institution;
- "Chief Officer" means the Chief officer for the time being responsible for matters relating to finance and economic planning appointed under Section 45 of the County Governments Act 2012;
- ôCommittee" means the County Bursary Committee established under section 7 ;
- ôExecutive Committee Memberö means the County Executive Committee Member for the time being responsible for matters relating to Education;
- "Fund" means the Samburu County Bursary Fund established under section 6;
- ôneedy studentö means a student who is having financial strain and is unable to pay for his or her studies at a recognized educational institution of learning;
- "Ward Committee" means the Ward Bursaries Committee established under section 16.
- Object and Purpose of the Act. **3.** The purpose of the Act is to provide for the Bursary Fund and procedures for efficient allocation and disbursement of bursaries and other related scholarships by the County Government of Samburu.

PART II - ESTABLISHMENT AND ADMINISTRATION OF THE BURSARIES FUND.

Establishment of
the Fund

4. (1) There is established the Samburu County Bursaries Fund.

(2) The Fund shall consist of:-

- (a) such monies as may be appropriated by the County Assembly;
- (b) sums received as contributions, gifts or grants from any lawful source;
- (c) monies earned or arising from any investment of the Fund; and
- (d) any money that may be payable or vested in the Fund.

(3) The Fund shall be used for: -

- (a) providing education bursary to students enrolled in secondary schools and special primary or secondary schools;
- (b) granting scholarships in accordance with the criteria set out under this Act; and
- (c) meeting any expenditure related to administration of the Fund as may be approved by the Executive Member:

Provided that not more than three per cent of the total monies consisting of the Fund shall be utilized for administration of the Fund.

(4) Notwithstanding subsection (3), the County Assembly may appropriate such monies, or the county government may receive such grants to be disbursed through the Fund as scholarships for poor students who qualify in accordance with such criteria as may be prescribed.

(5) The Fund shall be disbursed through the Wards.

(6) An amount totaling to seventy five per cent of the amount set aside for disbursement under this Act shall be allocated equally to all the Wards and the remaining twenty five per cent shall be allocated in accordance with the prescribed formula determined in accordance with the population of secondary school going children and poverty levels and such other criteria as may be prescribed.

5. (1) There shall be a Bursary Coordinator who shall be the officer administering the fund.

Bursary

- Coordinator
- (2) The duties and responsibilities of the Bursary Coordinator shall be:
 - ó (a) running the day-to-day activities in the administration of the fund;
 - ó (b) the AIE holder of the Fund and an *ex-official* to the Committee;
 - ó (c) keep all records in regard to the fund; and
 - ó (d) any other duty relating to the bursaries fund.
 - (3) The qualifications of the Bursary Coordinator shall be:
 - ó (a) has a degree from a recognized university;
 - ó (b) has knowledge and experience of at least three years in matters relating to finance management or any other related field; and
 - ó (c) has had a distinguished career in their respective fields.
- Establishment of the Samburu County Bursary Committee
6. (1) The management of the Fund shall vest in the Samburu County Bursaries Committee.
- (2) The Committee shall consist of
 - ó (a) a Chairperson who shall be a professional from the education sector with a degree from a recognized university or its equivalent.
 - ó (b) the Chief Officer for the time being responsible for matters relating to education who shall be the secretary to the Committee; ;
 - ó (c) two persons representing faith based organizations and non-governmental organizations respectively;
 - ó (d) one person representing recognized educational institution; and
 - ó (e) three other persons representing the youth, gender and disability;
- (3) The members of the Committee shall be appointed by the County Executive Committee member in consultation with the Governor.
- (4) They shall hold office for a period of three years and shall be eligible for re-appointment for one further term.
- (5) A person shall be qualified for appointment as a member appointed under subsection (2) if the person:
 - ó (d) has a post secondary qualification;
 - ó (e) has knowledge and experience of at least three years in matters relating to finance management or any other related field; and
 - ó (f) has had a distinguished career in their respective fields.
- Functions of the Committee
7. (1) The functions of the Committee shall be to -
 - ó (a) formulate policies for the management of the Fund;
 - ó (b) set the criteria and conditions for granting of bursaries;
 - ó (c) distribute the Bursary Funds among the wards in the county;

- (d) approve disbursement of bursaries to awarded students;
- (e) monitor allocations of bursaries to ensure needy students benefit;
- (f) maintain an upto date database of all applicants and beneficiaries of the Fund;
- (g) raise and solicit funds and other assistance for the Fund;
- (h) receive gifts, donations, grants or endowments made to the Fund and Committee;
- (i) grant bursaries to eligible students upon recommendation of the relevant committees;
- (j) produce and share disbursement reports with the Governor and the County Assembly every three months.
- (k) consider and entertain appeals from the Ward Bursaries Committees;
- (l) perform and exercise all other functions and powers conferred on the Committee by this Act or any other law.

(2) In awarding bursary, the Committee shall be guided by the following principles-

- (a) fairness in allocating monies;
- (b) equitable distribution of allocation of monies to all parts of the ward;
- (c) inclusivity and non discrimination in ensuring that all residents are included in the process;
- (d) public participation;
- (e) accountability and transparency;
- (f) efficiency in funds disbursement

Removal from
and vacancy of
office

8. (1) The Chairman or a member of the Committee may be removed from office for: ó

- (a) violation of the Constitution or any other law;
- (b) gross misconduct, whether in the performance of the member's functions or otherwise;
- (c) physical or mental incapacity to perform the functions of office; or
- (d) incompetence or neglect of duty.

(2) The Executive Committee Member may, upon the recommendation of the Committee terminate the appointment of a member of the Committee on any of

the grounds specified under sub section (1).

(3) The office of a member of the Committee, shall become vacant if the member ó

- (a) resigns in writing addressed to the Governor through the Secretary;
- (b) is adjudged bankrupt by a competent court of law;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months, or if the offence directly or adversely downgrade his or her status as a member of the Committee;
- (d) is absent from three consecutive meetings of the Committee without a reasonable excuse; or
- (e) dies.

(4) Before a member is removed from office under subsection (1), the member shall be given an opportunity to to be heard.

(5) Where the office of chairperson or member becomes vacant under subsection (3), the Secretary shall forthwith notify the vacancy to the appointing authority for appropriate action.

Meetings of the Committee.

9. (1) The Committee shall meet at least three times in a year but the Chairperson ó

- (a) may convene a special meeting of the Committee if there is need to do so; and
- (b) shall convene a special meeting upon the request, in writing, by at least four members of the Committee.

(2) The chairperson shall preside at all the meetings of the Committee and in his or her absent the members present shall elect one of their number to preside at that meeting.

(3) All questions at a meeting of the Committee shall be determined by a simple majority of the votes of the members present and voting.

(4) The chairperson shall, in case of equality of votes, have an original and a casting vote.

(5) The Secretary shall cause the proceedings of the meetings of the Committee to be kept and entered into the Minute-Book kept for that purpose.

(6) Subject to the provisions of this Act, the Committee shall regulate its own proceedings.

Chief Executive Officer and Secretary to the Committee.

- 10.** (1) The Chief Executive Officer shall beó
- (a) responsible for the management of the day-to-day activities of the Committee.
 - (b) the head of the Secretariat and shall be responsible to the Committee in ensuring that the Secretariat carries out duties and performs functions assigned to it by the Committee.
 - (c) an ex officio member of the Committee and shall have no right to vote at the meetings of the Committee.

Delegation of powers.

11. The Committee may delegate its powers and duties to any of the members, officers or the Ward Bursaries Committee as it may deem necessary.

Ward Committees.

12. (1) There is established a Ward Bursaries Committee in each ward in the County.

(2) The ward bursary committee shall consist of the following:-

- (a) an educationist who shall be the chairperson to the ward bursary committee;
- (b) the Ward Administrator who shall be the secretary;
- (c) four members of the public representing special interest groups including youth, marginalized groups, persons with disabilities and faith based organizations; and
- (d) A representative from the office of the elected Ward Representative.

(3) Members of the ward committee under subsection (3) (a) and (c) shall be nominated by their respective groups or forums and forward the names to the Chief Officer for Education for formal appointment.

(4) The members of the Committee other than the Ward Administrator and a representative from the office of the elected member of the County Assembly shall hold office for a term of three years and shall be eligible for re-appointment for one further term.

(5) The office of a member of the Committee, other than the Secretary and a representative from the office of the elected member of the County Assembly shall fall vacant:ô

- (a) if the member resigns in writing under his or her hand to the Chief Officer through the Secretary;
- (b) if the Chief Officer is satisfied that a member is by reason of physical or

- mental infirmity is unable to execute the functions of the office;
- (c) if the member has been adjudged bankrupt by a competent court of law or has committed a criminal offence which directly or otherwise reflects adversely on the status of the member of the Committee;
- (d) if the member is found to have been in contravention of Chapter Six of the Constitution of Kenya; or
- (e) upon death.

(6) Where the office of a member becomes vacant under subsection (5) the Secretary shall forthwith notify the vacancy to the appointing authority for appropriate action

(7) A person shall be qualified for appointment as a member under sub-section

(2) (a) if the person:

- (a) holds at least a post secondary qualification or its equivalent;
- (b) has knowledge and experience of at least two years in matters relating to finance, local development, or any other related field; and
- (c) must be a resident of the Ward.

Functions of the
Ward Committee.

13. (1) The functions of the Ward Committee shall be to:

- (a) invite, receive and consider bursary applications in the ward and award bursaries to eligible students and forward the list of the Bursary Coordinator;
- (b) scrutinize and verify all applicants supporting documents submitted by the applicants;
- (c) conduct research and maintain data on the eligibility of students for bursaries;
- (d) monitor the academic performance of the students awarded bursaries;
- (e) perform and exercise all other functions and powers conferred on the Ward Committee by this Act or the Committee;
- (f) prepare a data base of all the beneficiaries of the Fund in the ward;
- (g) sensitizing the community on procedures for application, time for application and deadlines and qualifications for funding;
- (h) prepare and display separate list of applicants and beneficiaries indicating the amount awarded per beneficiary for public viewing; and
- (i) forward to the County Bursary Committee minutes and records of nominated bursary beneficiaries.

(2) The Ward Committee shall verify all the information provided by the applicant and may:-

- (a) visit the residence of an applicant;

(b) seek further information to support the application; or invite the applicant to appear in person before the Committee.

Chairperson of the Ward Bursary Committee **14.** The Chairperson of the Ward Committee shall schedule and convene Ward Committee meetings and chair committee meetings and in his or her absence a member appointed by the committee in that sitting will chair the meeting.

Secretary of the Ward Bursary Committee **15.** The Secretary to the Ward Committee shall -
(a) receive bursary applications on behalf of the Ward committee;
(b) Keep records of the Ward Committee deliberations;
(c) Take minutes during the Ward bursary Committee meetings and circulate the same to the members; and
(d) advice the members of the Ward Committee on the procedure and practice concerning the bursaries Fund.

Protection from personal liability. **16.** Nothing done by a member of the Committee, Ward Committee or by any officer, member of staff, or agent of the Committee shall, if the matter or thing is done for executing the functions, powers or duties of the Committee under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

PART III – APPLICATION FOR BURSARIES

Application for Bursaries **17.** (1) Any student who wishes to benefit from the Fund shall make an application to the relevant Ward Committee in a prescribed form.

(2) The criteria for granting a bursary from the Fund shall be in accordance with the regulations made under this Act.

(3) A Committee shall consider all applications submitted to it within fourteen days after the expiry of the stipulated date of submission in accordance with the criteria set under subsection (2) and may accordingly accept or reject any application for a bursary.

(4) Where it accepts any application, the Ward Committee shall award the bursary to the qualifying student.

(5) Where a Committee rejects any application it shall immediately notify the applicant in writing giving the reasons for rejection.

Mode of Application	<p>18. (1) The Committee shall ensure the forms are accessible in the office of the Ward Administrator, the office of the elected member of the County Assembly, the County website and any other specified office.</p> <p>(2) Duly completed application forms accompanied with all required attachments shall be returned to the secretary of the respective Ward Committee.</p> <p>(3)The secretary shall register all applications in an official register kept for that purpose.</p>
Minimum eligibility criteria	<p>19. An applicant shall qualify to benefit from the Bursary Fund if he or she is ó</p> <ul style="list-style-type: none"> (a) a resident of the ward in which the bursary is being sought; (b) admitted or is a continuing student in a special school, secondary school, technical college, medium level college, vocational training centre or recognized university within or outside the country; (c) a student of good academic standing and moral character; and (d) pursuing a course in a profession that is of a high demand in the county.
Special category applicants.	<p>20. (1) Special category applicants shall include the following-</p> <ul style="list-style-type: none"> a) poor and high performing students; b) high performing students but total orphans without financially stable guardians; and c) high performing students with disability. <p>(2) In awarding bursaries from the Bursary Fund, the Ward Committee and the Committee shall give priority to special category applicants.</p>
Double Funding.	<p>21. (1) Any applicant being supported by other donors or funds through a full scholarship shall not be considered in the bursary disbursement.</p>
Grant of a bursary.	<p>22. (1) The Committee shall, after receiving the list of the beneficiaries from the relevant Ward Committee, disburse bursary to the qualifying students with or without any condition.</p>
Publishing the list of the beneficiaries	<p>(2) The Committee shall publish the list of beneficiaries in: ó</p> <ul style="list-style-type: none"> a. the office of the Ward Administrator; b. the office of the Member of County Assembly;

- c. the office of the county officer in charge of education in the Ward;
- d. the office of the national government officer responsible for coordination of national government functions in the ward; and
- e. such other place as the Executive Member may determine.

Busary
Disbursement

23. The Bursary Funds shall be-

- (a) allocated twice in every financial year; and
- (b) disbursed directly to the respective institutions by way of banker's cheque or direct funds transfer.

Appeal to the
Committee.

24. Any applicant aggrieved by the decision of a Ward Committee may appeal to the Committee within thirty days of receipt of the Ward Committee's decision and the Committee may, after giving the applicant a hearing, confirm or reverse the decision of the Ward Committee.

PART IV- FINANCIAL PROVISIONS

Capitalization of
fund.

25. The Fund shall consist of:

- (a) moneys allocated and appropriated to the Fund from the County Revenue Fund, from time to time, by the County Assembly;
- (b) any grants, gifts, donations, loans or other endowments given to the Fund;
- (c) moneys that may accrue to the Fund in the course of the exercise or performance of the functions of the Committee under this Act; and
- (d) moneys from any other lawful source accruing to the Fund.

Administration of
Fund.

26. Notwithstanding the provisions of this Act, the Committee may, if it considers it appropriate to do so, appoint a financial institution to administer the Fund on its behalf.

Bank account.

27. (1) The Committee shall open a bank account of the Fund and such other accounts of the Ward Committee in commercial banks decided by the Committee with the approval of the Executive Committee Member of Finance.

(2) The signatories to the bank accounts maintained under subsection (1) shall be the Chairperson, Secretary and the Bursary Coordinator with the approval of the Executive Committee Member of Finance.

(3) The signing instructions shall be such that the signature of the Secretary to

the Committee shall be mandatory on all payment cheques or other instrument intended for actual release of money from the Fund and any other signatory.

Estimates of
income and
expenditure

28. (1) At least three months before the commencement of each financial year, the Committee shall cause to be prepared estimates of the revenue and expenditure of the Committee and the Fund for that year.

(2) The annual estimates shall make provisions for all the estimates of expenditure of the Committee and the Fund for the relevant financial year and shall provide for: ó

- (a) the estimated amount for the grant of bursaries to qualifying students;
- (b) the cost of the administration and operations of the Committee, including payment of allowances and other charges payable to the members of the Committee; and
- (c) the payment and reimbursement of members of the Committee of monies in respect of expenses incurred during the attendance of the meetings of the Committee.

(3) The financial estimates referred to under sub-section (1) and (2) shall -

- (a) differentiate between recurrent and disbursement expenditure; and
- (b) itemize every activity that the Committee intends to undertake in respect of the Fund in the coming financial year under a separate vote head.

(4) The annual estimates shall be approved by the Committee before the commencement of the financial year to which they relate and shall be submitted to the Executive Committee Member for tabling in the County Assembly for its approval.

(5) No expenditure shall be incurred by the Committee except in accordance with the annual estimates approved under subsection (4).

(6) Upon the approval of the estimates by the County Assembly, all monies appropriated for purposes of the Fund and the Committee shall be paid into the relevant accounts established under section 28.

Annual Report

29. (1) The Committee shall, within a period of three months after the end of each financial year or within such longer period as the Executive Committee Member may approve in writing, submit to the Executive Committee Member a report of the operations of the Fund and the Committee during that year.

(2) The Executive Committee Member shall lay the reports before the County Assembly, including the balance sheet and the statements of accounts, within a period of fourteen days of the receipt of the reports and statements, or, if the County Assembly is not sitting, within fourteen days of the commencement of its next sitting.

Accounts and
audit.

30. (1) The Committee shall cause to be kept proper books and records of account of the income, expenditure, assets and liabilities of the Committee and the Fund.

(2) Within a period of three months after the end of each financial year, the Committee shall submit to the Auditor-General the accounts prepared under subsection (1) in respect of that year together with a statement of ó

- (a) the income and expenditure of the Committee during that year;
- (b) the income and expenditure of the Fund; and
- (c) the assets and liabilities of the Committee on the last day of that financial year.

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(3) The annual accounts referred to under this section shall be prepared, audited and reported upon in accordance with the provisions of Articles 226 and 299 of the Constitution and the Public Audit Act.

Financial year.

31. The financial year of the Fund shall be the period of twelve months beginning on the first day of July and ending on the thirtieth day of June in the following year.

PART V - GENERAL PROVISIONS

Dispute
resolution

32. In the event of any dispute regarding bursary disbursement the chairperson of the Ward Committee shall convene a meeting between the complainant and the person complained against to deliberate on the grievances and make appropriate resolution.

(2) Any person, who is aggrieved by the resolution of Ward Committee in sub section (1) above, may within fourteen days from the date of the resolution appeal to the Committee.

Regulations.

33. (1) The Executive Committee Member may, in consultation with the Committee, make regulations for the proper functioning of the Committee.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to regulate the disbursement of bursaries Fund. The establishes the Samburu County Bursary Fund whose purpose is to provide bursaries to needy students in the County, including persons with disabilities in Samburu County.

The structure of the Bill is as follows:

Part I (clauses 1-3) of the Bill contains preliminary provisions. These include the title of the Bill, interpretation of terms as used in the Bill, object and purpose of the Bill. This Part also provide for application of the Bill and provisions on conflict between the Bill and other laws.

Part II (clauses 4-16) of the Bill contains provision on the establishment of the Samburu County Bursary Fund. It also establishes the Samburu County Bursary Committee which shall be the managing body of the Fund. It also provides for its composition, functions and procedure for conduct of business for the committee. It also provide for establishment of the Ward Bursary Committee in every ward of the County. It provides for the composition, functions and procedures of the Ward Committees

Part III (clauses 17-24) provides for the procedure of application for bursary. It sets out the mode of application, minimum eligibility criteria and also the provisions on double funding. It It also contains provision on grant of bursary and appeals to the Committee in case an applicant is not satisfied with the action of the Ward Committee with regards to grant of bursaries.

Part IV (clauses 25-31) contains financial provisions. These include power of the Committee to appoint a fund manager, open bank accounts for the Fund, provision on estimates of income and expenditure, annual reports and publication, provisions on accounts and audit and the financial year of the fund.

Part V (clauses 32-33) of the Bill contains for the general provisions. These include provision on dispute resolution and power of the Committee to make regulations.

The enactment of this Bill shall occasion additional expenditure of public funds to be provided through the estimates.

Dated 10th December, 2014

Hon. Shadrack Lesoipa
Chairperson, Committee on Education