

Approved for tabling in the House.

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SNA  
14/4/2022




REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – SIXTH SESSION

DEPARTMENTAL COMMITTEE ON EDUCATION AND RESEARCH

REPORT ON-

CONSIDERATION OF THE BASIC EDUCATION (AMENDMENT) BILL, 2021  
(SENATE BILL NO. 4 OF 2021) BY SEN. BEATRICE KWAMBOKA, MP

 THE NATIONAL ASSEMBLY OF KENYA PAPERS LAID	
DATE:	14 APR 2022
DAY:	THURC.
TABLED BY:	HON. FLORENCE MUTUA, MP CHAIR EDUCATION
CLERK-AT THE TABLE:	CHRISTINE NJIRIYU

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## **CHAIRPERSONS FOREWARD**

The Basic Education (Amendment) Bill, 2021 (Senate Bill No. 4 of 2021), sponsored by Sen. Beatrice Kwamboka, MP was read a First Time on Wednesday 13, October, 2021 and committed to the Departmental Committee on Education and Research for consideration and reporting to the House, pursuant to Standing Order 127(1).

The object of the Bill is to amend the Basic Education Act to ensure that school going children in Kenya are provided with milk.

Pursuant to Article 118(1) (b) of the Constitution and Standing Orders 127(3), adverts were placed in “Daily Nation” and the “Standard” newspapers of 24<sup>th</sup> February, 2022 inviting the public to submit representations they may have on the Bill. (Annex 1).

The Committee received one written memorandum from the Cabinet Secretary for the Ministry of Education which is contained in this report.

Further, in considering the Bill the Committee held three (3) meetings to consider the Bill and submission from the Cabinet Secretary.

The Committee, having considered the proposed clause in the Basic Education (Amendment) Bill, 2021 (Senate Bill No. 4 of 2021) and taking into account views and recommendations of the Ministry of Education pursuant to Standing Order 127(3A), made observations and recommendations contained in section 4.0 and 5.0 of this Report.

### **Acknowledgement**

The Committee is thankful to the Office of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings.

On behalf of the Committee, and pursuant to Standing Order 127(4), it is my pleasant duty to table the Report of the Departmental Committee on Education and Research on its consideration of the Basic Education (Amendment) Bill, 2021 (Senate Bill No. 4 of 2021).

**HON. FLORENCE MUTUA, CBS, MP**  
**DEPARTMENTAL COMMITTEE ON EDUCATION, RESEARCH AND TECHNOLOGY**

## **1.0 PREFACE**

### **1.1 Mandate of the Committee**

1. The Departmental Committee on Education and Research was constituted pursuant to the provisions of Standing Order No. 216(1) of the National Assembly Standing Orders. Pursuant to the Standing Order 216 (5) read together with the Second Schedule to the Standing Orders, the functions of the Committee are to: -
  - (i) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the Ministry of Education;
  - (ii) study the programme and policy objectives of Ministry and the Departments of the Ministry, and the effectiveness of the implementation;
  - (iii) study and review all legislation referred to it;
  - (iv) study, assess and analyze the relative success of the relevant Ministry as measured by the results obtained as compared with their stated objectives and,
  - (v) investigate and inquire into all matters relating to the as may be necessary, and as may be referred to the Committee by the House;
  - (vi) to vet and report on all appointments where the Constitution or any law requires the National Assembly and by extension, the Committee to approve;
  - (vii) make reports and recommendations relating to the functions of the relevant Ministry to the House as often as possible, including recommendation of proposed legislation;
  - (viii) make recommendations to the House as often as possible, including recommendation of proposes legislation;
  - (ix) consider reports of the relevant commissions and independent offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
  - (x) examine any questions raised by Members on a matter within the mandate of the Committee.

### **1.2 Subjects**

The Committee, according to the Second Schedule of the Standing Orders, examines the following subjects:

- i) Education;
- ii) Training; and
- iii) Research.

The Committee oversights the following government entities: -

- (a) Ministry of Education comprising the following State Departments:
  - (i) State Department for Early Learning and Basic Education
  - (ii) State Department for University Education and Research
  - (iii) State Department for Vocational and Technical Training
  - (iv) State Department for Post Training and Skills Development
  - (v) State Department for Implementation of Curriculum Reforms
- (b) The Teachers Service Commission.



### 1.3 Committee Membership

The Committee comprises of the following Members: -

#### **Chairperson**

Hon. Florence Mutua, CBS, MP  
Busia County

**Orange Democratic Movement Party**

#### **Vice Chairperson**

Hon. Ngunjiri Wambugu, CBS, MP  
Nyeri Town Constituency

**Jubilee Party**

Hon. Geoffrey Makokha Odanga, MP  
Matayos Constituency  
**Orange Democratic Movement Party**

Hon. Joseph Tonui, MP  
Kuresoi South Constituency  
**Jubilee Party**

Hon. (Dr.) Pamela Ochieng, MP  
Migori County  
**Orange Democratic Movement Party**

Hon. Omboko Milemba, MP  
Emuhuya Constituency  
**Amani National Congress**

Hon. (Eng.) Nzambia Kithua, MP  
Kilome Constituency  
**Wiper Democratic Movement Kenya**

Hon. Peter Lochakapong, MP  
Sigor Constituency  
**Jubilee Party**

Hon. (Prof.) Zadoc Abel Ogutu, MP  
Bomachoge Borabu Constituency  
**Independent**

Hon. Wilson Sossion, MP  
**Nominated Member**

Hon. Eric Muchangi Njiru, MP  
Runyenjes Constituency  
**Jubilee Party**

Hon. Wilson Kogo, MP  
Chesumei Constituency  
**Jubilee Party**

Hon. Eve Obara, MBS, MP  
Kabondo Kasipul Constituency  
**Orange Democratic Movement Party**

Hon. (Dr.) Daniel K Tuitoek, MP  
Mogotio Constituency  
**Jubilee Party**

Hon. Jackson Lekumontare, MP  
Samburu East Constituency  
**KANU Party**

Hon. Gichuki Mugambi, MP  
Othaya Constituency  
**Jubilee Party**

Hon. Jerusha Momanyi, MP  
Nyamira County  
**Jubilee Party**

Hon. John Mwirigi, MP  
Igembe South Constituency  
**Independent**

Hon. Ali Mohammed Lokiru, MP  
Turkana East Constituency  
**Orange Democratic Movement Party**

## 1.4 Committee Secretariat

The Committee secretariat comprise of: -

Mr. Philip Lekarkar  
**Clerk Assistant II**  
**Lead Clerk**

Ms. Grace Wahu  
**Clerk Assistant III**

Ms. Mercy Wanyonyi  
**Legal Counsel I**

Ms. Winnie Kulei  
**Research Officer II**

Mr. Eric Kanyi  
**Fiscal Analyst II**

Ms. Deborah Mupusi  
**Media Relations Officer**

Ms. Catherine Mukunyi  
**Serjeant-At-Arms**

Mr. Collins Mahamba  
**Audio Recording Officer**

## **2.0 CONSIDERATION OF THE BILL BY THE COMMITTEE**

### **2.1 Committal of the Bill**

The Basic Education (Amendment) Bill, 2021 (Senate Bill No. 4 of 2021) sponsored by Sen. Beatrice Kwamboka, MP was read a First Time on Wednesday, 13<sup>th</sup> October, 2021 and committed to the Departmental Committee on Education and Research for consideration and reporting to the House, pursuant to Standing Order 127(1).

### **2.2 Memorandum of Objects and Reasons for the Bill**

The main object of this Bill is to amend the Basic Education Act to ensure that school going children in Kenya are provided with milk. Through this amendment, the national government shall be required through the respective County Directors of Education to supply milk to all pre-primary and primary schools in Kenya.

School milk programs not only positively contribute to the growth of the dairy sector, but they also improve nutrition and increase school attendance. The schools taking part in the program provide a guaranteed market for milk for smallholder farmers, who produce about 80 percent of Kenyan milk.

School health and nutrition interventions have been recognised as critical in addressing the Millennium Development Goals (MDGs) of universal basic education and gender equality in educational access.

Internationally, in the United Kingdom school feeding was the first component of the welfare reform in 1906, while in Brazil, the school feeding programme is prioritised within the Zero Hunger Strategy to address hunger and ensure the human right to adequate food for all.

School health and nutrition programmes, particularly when embedded within broader child development strategies, are in integral part of the long-term development of a child. As part of an inclusive of maternal and child health as well as early child hood development, school health and nutrition programmes are a critical step to ensuring a child is able to reach their full potential.

In the long-term, counties will begin to rise above poverty as more children complete their education.

### **2.3 Public Participation on the Bill**

Pursuant to Article 118(1) (b) of the Constitution and Standing Orders 127(3), adverts were placed in the “Daily Nation” and the “Standard” newspapers on 24<sup>th</sup> February, 2022 inviting interested members of the public to submit any representations they may have on the Bill. (Annex 1). The Committee received written memoranda from the Cabinet Secretary for the Ministry of Education and University of Nairobi African Studies Centre Women’s Economic Empowerment Hub. The submissions was considered by the Committee.

Further, in considering the Bill the Committee held a total of three (3) meetings to receive and consider the submissions from the stakeholders.

## 2.4 Submissions from the Cabinet Secretary for Ministry of Education

The Committee received memoranda from the Cabinet Secretary for the Ministry of Education as follows:-

Provision and distribution of milk to learners enrolled in pre-primary schools be carried out by the County Government while provision and distribution of milk to learners enrolled in primary schools be carried out by the National Government.

Clearly demarcating the role of the National Government from that of County Government as set out in the Constitution is necessary to avoid conflict on who is responsible.

The implementation of the amendment would amount to expanding the current school meals programme. In seeking to provide milk for learners, other school meals would be affected owing to budgetary shortfalls.

That prescriptions on the expansion of the school meals programme are firstly relegated to policy before they become legislated.

## 3.0 COMMITTEE CONSIDERATION OF THE SUBMISSION

C	Provision in the Principal Act	Proposed Amendment	Received Memoranda	Rationale/ Justification	Committee Observations / Committee Resolution
1		The Short Title of the Bill			
2	2. Interpretation  “ <b>learner</b> ” means a person undergoing instruction in an educational institution;	Section 2 of the principal Act is amended by inserting in the proper alphabetical sequence the following new definition— “ <b>learner</b> ” has the meaning assigned to it under section 2 of the Teachers Service Commission Act;			
3	<b>38. Prohibition against employment of a child of compulsory school age.</b>	Section 38 of the principal Act is amended by inserting the following new	<b><u>MINISTRY OF EDUCATION</u></b> Provision and distribution of milk to learners enrolled in pre-primary	The respective roles of the National and County Governments	



<p>(1) No person shall employ a child of compulsory school age in any labour or occupation that prevents such child from attending school.</p> <p>(2) Any person who employs or prevents a child who is subject to compulsory attendance from attending school is guilty of an offence and is liable to a fine not exceeding five million or to a period not exceeding five years or to both.</p>	<p>section immediately after section 38 —</p> <p><b>38A. (1)</b> The National Government shall in consultation with County Governments and, in a bid to increase school enrollment and to ensure the nutritional wellbeing of learners, provide milk to learners enrolled in pre-primary and primary schools.</p> <p><b>(2)</b> The milk provided to learners under subsection (1) shall be distributed through the respective County Director of Education.</p> <p><b>(3)</b> The Cabinet Secretary may, by regulation prescribe the criteria for the supply of milk to schools and the implementation of other school feeding programmes.</p>	<p>schools be carried out by the County Government while provision and distribution of milk to learners enrolled in primary schools be carried out by the National Government. Clearly demarcating the role of the National Government from that of County Government as set out in the Constitution is necessary to avoid conflict on who is responsible.</p> <p>The implementation of the amendment would amount to expanding the current school meals programme. In seeking to provide milk for learners, other school meals would be affected owing to budgetary shortfalls.</p> <p><b>Proposal:</b> that prescriptions on the expansion of the school meals programme are firstly relegated to policy before they become legislated.</p>	<p>should be delineated so as to avoid any potential conflict.</p> <p>Pre-primary education is a devolved function as it falls under the functions and powers of the County Government as set out in part 2 of the Fourth Schedule of the Constitution while primary schools falls under the functions and powers of the National Government as set out in part 1 of the Fourth Schedule of the Constitution.</p>	
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#### 4.0 COMMITTEE OBSERVATIONS

The Committee observed as follows: -

1. The provision and distribution of milk to learners enrolled in pre-primary schools should be carried out by the County Governments while the provision and distribution of milk to learners enrolled in primary schools be carried out by the National Government. Clearly demarcating the role of the National Government from that of County Government as set out in the Fourth Schedule to the Constitution will avoid any potential conflict on the roles of the National and County Governments.
2. The implementation of the amendment would amount to expanding the current school meals programme. In seeking to provide milk for learners, other school meals would be affected owing to budgetary shortfalls.
3. The school feeding programme should first be fully implemented. The proposal on the expansion of the school meals programme to include the provision of milk should be firstly relegated to policy before legislation.

#### 5.0 COMMITTEE RECOMMENDATION

The Committee recommends that—

##### Clause 2

THAT clause 2 of the Bill be deleted.

*Justification: Definition not necessary as clause 3 where the term is proposed to be used is proposed to be deleted.*

##### Clause 3

THAT clause 3 of the Bill be deleted.

*Justification: The proposed amendment may not be implementable as the implementation would amount to expanding the current school feeding programme which is yet to be fully implemented owing to budgetary shortfalls.*

SIGNED \_\_\_\_\_



DATE \_\_\_\_\_

13/04/2022

HON. FLORENCE MUTUA, CBS, MP  
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON EDUCATION AND RESEARCH

## **ANNEXURES**

I - REPORT ADOPTION LIST

II - MINUTES

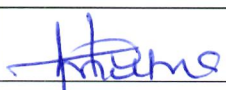
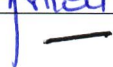
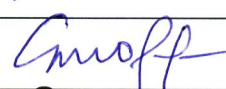










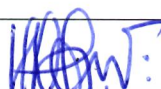





III - NEWSPAPERS ADVERTS

IV – SUBMISSION FROM STAKEHOLDERS

KENYA NATIONAL ASSEMBLY

COMMITTEE ON EDUCATION AND RESEARCH

Adoption List of the Report on the Basic Education (Amendment) Bill, 2021  
(Senate Bill No. 4 of 2021) by Sen. Beatrice Kwamboka

	NAME	
1.	Hon. Florence Mutua, CBS, MP - Chairperson	
2.	Hon. Ngunjiri Wambugu, CBS, MP - Vice Chairperson	
3.	Hon. Geoffrey Odanga, MP	
4.	Hon. (Dr.) Pamela Ochieng, MP	
5.	Hon. (Eng.) Nzambia Kithua, MP	
6.	Hon. (Prof.) Zadoc Ogutu, MP	
7.	Hon. Eric Muchangi, MP	
8.	Hon. Eve Obara, MBS, MP	
9.	Hon. Jackson Lekumontare, MP	
10.	Hon. Jerusha Momanyi, MP	
11.	Hon. Joseph Tonui, MP	
12.	Hon. Omboko Milemba, MP	
13.	Hon. Peter Lochakapong, MP	
14.	Hon. Wilson Sossion, MP	
15.	Hon. (Dr.) Wilson Kogo, MP	
16.	Hon. (Dr.) Daniel Kamuren Tuitoek, MP	
17.	Hon. James Gichuki Mugambi, MP	
18.	Hon. John Paul Mwirigi, MP	
19.	Hon. Mohammed Ali Lokiru, MP	



**MINUTES OF THE 13<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON EDUCATION AND RESEARCH HELD ON THURSDAY 31<sup>ST</sup> MARCH 2022, IN 2<sup>ND</sup> FLOOR COMMITTEE BOARD ROOM, CONTINENTAL HOUSE, AT 12.00 NOON**

**PRESENT**

1. Hon. Florence M. Mutua, CBS, MP – **Chairperson**
2. Hon. Geoffrey Odanga, MP
3. Hon. (Dr.) Pamela Ochieng, MP
4. Hon. (Eng.) Nzambia Kithua, MP
5. Hon. (Prof.) Zadoc Ogutu, MP
6. Hon. Eric Muchangi, MP
7. Hon. Jerusha Momanyi, MP
8. Hon. Joseph Tonui, MP
9. Hon. (Dr.) Wilson Kogo, MP
10. Wilson Sossion, MP
11. Hon. John Paul Mwirigi, MP

**ABSENT WITH APOLOGY**

1. Hon. Wambugu Ngunjiri, MP – **Vice- Chairperson**
2. Hon. Eve Obara, MBS, MP
3. Hon. Omboko Milemba, MP
4. Hon. Jackson Lekumontare, MP
5. Hon. Peter Lochakapong, MP
6. Hon. Gichuki Mugambi, MP
7. Hon. (Dr.) Daniel Kamuren Tuitoek, MP
8. Hon. Mohammed Ali Lokiru, MP

**COMMITTEE SECRETARIAT**

1. Mr. Philip Lekarkar – Clerk Assistant II
2. Mr. Grace Wahu – Clerk Assistant II
3. Ms. Mercy Wanyonyi – Legal Counsel I
4. Ms. Winnie Kulei – Research Officer II
5. Mr. David Milimu – Hansard Officer III
6. Ms. Rhoda Muchori – Hansard Officer III
7. Mr. Collins Mahamba – Audio Officer

**MIN. NO. EDUC/2022/061: PRELIMINARIES**

The meeting was called to order at 12.15 pm. The agenda of the meeting was adopted having been proposed by Hon. Jerusha Momanyi, MP, and seconded by Hon. (Eng.) Nzambia Kithua, MP.

**MIN. NO. EDUC/2022/062: CONFIRMATION OF MINUTES**

Confirmation of minutes was deferred to the next sitting.

**MIN. NO. EDUC/2022/063: ADOPTION OF REPORTS ON BILLS AND LEGISLATIVE PROPOSALS.**

The Committee considered the following Reports as follows: -

## **I. Report on Consideration of the Basic Education (Amendment) Bill, 2021 Senate Bill No. 4 of 2021 by Sen. Beatrice Kwamboka.**

### **Committee Observations**

The Committee observed as follows: -

- (i) The provision and distribution of milk to learners enrolled in pre-primary schools should be carried out by the County Governments while the provision and distribution of milk to learners enrolled in primary schools be carried out by the National Government. Clearly demarcating the role of the National Government from that of County Government as set out in the Fourth Schedule to the Constitution will avoid any potential conflict on the roles of the National and County Governments.
- (ii) The implementation of the amendment would amount to expanding the current school meals programme. In seeking to provide milk for learners, other school meals would be affected owing to budgetary shortfalls.
- (iii) The school feeding programme should first be fully implemented and the proposal on the expansion of the school meals programme to include the provision of milk should be firstly relegated to policy before legislation.

### **Committee Recommendation**

The Committee recommended that—

#### **Clause 2**

That clause 2 of the Bill be deleted.

*Justification: Definition not necessary as clause 3 where the term is proposed to be used is proposed to be deleted.*

#### **Clause 3**

That clause 3 of the Bill be deleted.

*Justification: The proposed amendment may not be implementable as the implementation would amount to expanding the current school feeding programme which is yet to be fully implemented owing to budgetary shortfalls.*

Report on Consideration of the Basic Education (Amendment) Bill, 2021 Senate Bill No. 4 of 2021 by Sen. Beatrice Kwamboka was unanimously adopted having been proposed by Hon. (Prof.) Zadoc Ogutu, MP and seconded Hon. Eric Muchangi, MP.

## **II. Report on Consideration of the Higher Education Loans Board (Amendment) Bill by Hon. Gideon Koske MP.**

### **Committee Observations**

The Committee observed as follows: -

- (i) The Bill seeks to expressly provide that the Higher Education Loans Board shall not deny a loan to a student who has not attained the age of eighteen years and to require a person granted an education loan by the Board who is under the age of eighteen years to have his or her parents or guardian as co-signatories to the loan.



- (ii) The expansion of the definition of a loanee to include a parent and guardian will make it possible to award education loan to a minor who co-signs with a parent or guardian. This will address the issue of under-age applicants.

### **Committee Recommendations**

The Committee recommended that—

#### **New Clause**

THAT the Bill be amended by inserting the following new clause immediately after clause 1—  
“Section 2 of the Higher Education Loans Board Act No.3 of 1995 is amended in the definition of the term “loanee” by inserting the words ‘including a parent or guardian’ immediately before the words “granted an education loan by the Board”

*Justification: The amendment seeks to expand the definition of a loanee to include a parent and guardian so as to make it possible to award a HELB loan to a student who has not attained the age of eighteen years with a parent or guardian as co-signatories to the loan.*

The Report on Consideration of the Higher Education Loans Board (Amendment) Bill by Hon. Gideon Koske MP was unanimously adopted having been proposed by Hon. Joseph Tonui, MP and seconded by Hon. Wilson Sossion, MP.

### **III. Report on Consideration of the Basic Education (Amendment) Bill, 2021 (Legislative Proposal) by Hon. Mary Wamaua, MP.**

#### **Committee’s Observations**

The Committee observed that-

- (i) The amendment seeks to provide for the establishment of Sub-County Education Boards in every sub county, provide for its functions and membership.
- (ii) The role of the Sub-County Education Board shall include, the establishment of a data bank of all education and training institutions in the sub-county and assessment of the budgetary requirements of all education and training institutions in the sub-county and developing allocation programmes including programmes for allocation to institutional lunch programmes.
- (iii) Further, the sub-county Education Board in consultation with the National Education Board and the County Education Board the national and county level will help in ensuring that all the barriers to the right to quality education are removed and facilitate the realization of the right basic education in line with Article 53(1)(b) of the Constitution.

#### **Committee Recommendations**

Having considered the Legislative Proposal, the Committee recommends that the Legislative Proposal should be published.

The Report on Consideration of the Basic Education (Amendment) Bill, 2021 (Legislative Proposal) by Hon. Mary Wamaua, MP was unanimously adopted having been proposed by Hon. Geoffrey Odanga, MP and seconded by Hon. (Eng.) Nzambia Kithua, MP.

#### **IV. Report on Consideration of the Basic Education (Amendment) Bill, 2021 (Legislative Proposal) by Hon. Anthony Oluoch, MP.**

##### **Committee's Observations**

The Committee observed that-

- (i) The principal object of the Bill is to amend the Basic Education Act, 2013 to ensure Alternative Provision for Basic Education and Training (APBET) schools fall under the definition of basic education.
- (ii) The policy framework for Alternative Provision of Basic Education and Training (APBET) 2009 and the Basic Education Regulations 2015 recognizes different categories of APBET Institutions, including Adult and Continuing Education centres, Non-Formal Education Learning Centres, Vocational Training Centres, Alternative Basic Education Programmes (Non—Formal Schools (NFS), Mobile Schools, Night Schools and Home Schools.
- (iii) The Bill seeks to streamline the Basic Education Act 2013 in line with the APBET policy 2009 and the Basic Education Regulations 2015 in order to fully embrace and mainstream APBET schools into the formal education structures or system.
- (iv) The Committee observed the importance of APBET schools but was of the view that more input from stakeholders was required before the policy framework for Alternative Provision of Basic Education and Training (APBET) 2009 is legislated upon.

##### **Committee Recommendation**

Having considered the Legislative Proposal, the Committee recommended that the Legislative Proposal should not be published.

The Report on Consideration of the Basic Education (Amendment) Bill, 2021 (Legislative Proposal) by Hon. Anthony Oluoch, MP having been proposed by Hon. Jerusha Momanyi, MP and seconded by Hon. Joseph Tonui, MP

#### **V. Report on Consideration of the Basic Education (Amendment) Bill, 2021 (Legislative Proposal) by Hon. Samuel Arama, MP.**

##### **Committee's Observations**

The Committee made the following observations:

- (i) The amendment seeks to mandate the government to provide free meals to school going children who belong to marginalized, vulnerable or disadvantaged groups and are enrolled in public primary and secondary schools.
- (ii) School feeding programme has been used as one of the interventions to promote enrolment, retention and improving learning outcomes in primary schools. The Ministry of Education is currently implementing school feeding programme as a policy in Arid and Semi-Arid regions, urban slums and informal settlements where school going children also face challenges. The objective of the initiative is expected to boost enrolment and retention in the targeted areas.
- (iii) Implementation of the proposed programme requires further sources of sustainable funding and personnel to co-ordinate both at the national and county level of government.



- (iv) There is need to define the terms “marginalized”, “vulnerable” and “disadvantaged groups” as used in the proposed amendments.
- (v) That the provision of free meals to school going children enrolled in public primary schools would increase enrollment in schools particularly by disadvantaged children; and
- (vi) That the provision of free meals should not be limited to school going children who belong to marginalized, vulnerable or disadvantaged groups but to all school going children as it would pose an identification challenge.

**Committee Recommendations**

Having considered the Legislative Proposal, the Committee recommends that the Legislative Proposal should not be published.

Report on Consideration of the Basic Education (Amendment) Bill, 2021 (Legislative Proposal) by Hon. Hon. Samuel Arama, MP was unanimously adopted having been proposed by Hon. Eric Njiru MP and seconded by Hon. Paul Mwirigi, MP.

**MIN. NO. EDUC/2022/064: ANY OTHER BUSINESS**

There was no other business

**MIN. NO. EDUC/2022/065: ADJOURNMENT**

There being no other business, the meeting was adjourned at 12.55 pm. The next meeting will be held on notice.

SIGN  DATE 13/4/2022

**HON. FLORENCE MUTUA, CBS, MP  
CHAIRPERSON, COMMITTEE ON EDUCATION AND RESEARCH**





whose proceeds, he said, had landed in the region and were being used to sway the residents away from him



yatta said. For the nth time, he criticised his deputy for taking credit for the achievements of the government, saying, the Dr Ruto had abandoned his duties to focus on politics.

"Governments are not run from car sunroofs. Let nobody lie to you that they have done anything for you because, when I asked them to join me in delivering first, they took off to engage in politics," Mr Kenyatta said.

He singled out Mathira MP Rigathi Gachagua, a key Ruto ally in whose constituency the meeting was happening, and whom he said was fond of challenging his development record.

"Even your MP cannot show up but stands in the markets I built shouting yet his own hometown did not have electricity when we came into power. You could see a light bulb at State Lodge all the way from his home but now the entire area is connected," he said.

Still using his scorecard, the President sought to defend his party, Jubilee, insisting that it is not dead but has been working to deliver on its promises to the people.

"Jubilee is not dead. Anyone saying that should look at our numbers and the numbers speak the truth," he said. The party, formed in September 2016 and which was just 62 shy of the absolute two-thirds majority in Parliament, meets tomorrow in its Nation-

al Delegates Convention (NDC) a wounded outfit after DP Ruto engineered an exodus to his United Democratic Alliance (UDA).

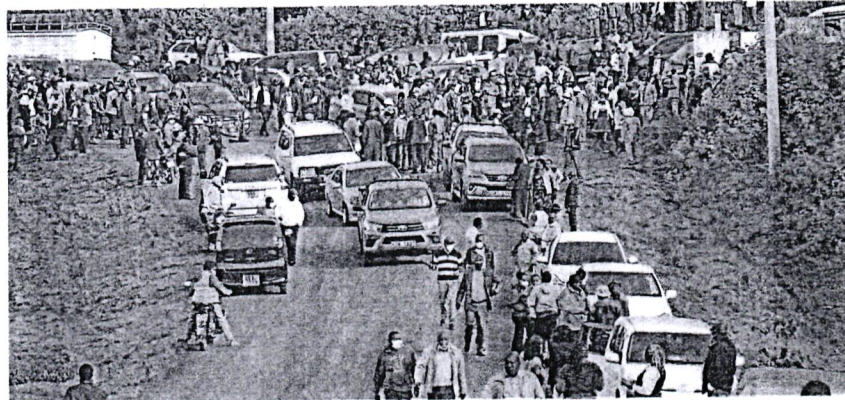
But for President Kenyatta, the move to revive Jubilee was just getting started, even as he opened his arms to fringe parties cropping up in the region, whose rise he said could be attributed to the 2017 Jubilee nominations whose bungling the DP is often blamed for.

Before the meeting, politicians and government officials allied to the President arrived in troops and could be seen herding in groups exchanging pleasantries and discussions.

The most notable ones were hard to miss out, among them Agriculture CS Peter Munya, Health CS Mutahi Kagwe, Interior PS Karanja Kibicho, Governors Kiraitu Murungi, Ndiritu Murithi and Anne Kananu, MPs Kanini Kege, Ngunjiri Wambugu, Anthony Kiai and Maina Kamanda.

Also present were Muranga governor Mwangi wa Iria, Kirinyaga woman rep Wangui Ndiriri and President Kibaki's son, Jimmy. At the same time, notable faces were conspicuously missing. Host governor Mutahi Kahiga and Mr Gachagua, the host MP, were among key faces missing. Politicians allied to DP's UDA were missing in action.

Mr Wakahiu, the Presidential Delivery Unit boss, in his presentation, highlighted key projects



Governments are not run from car sunroofs ... when I asked them to join me in delivering first, they took off to engage in politics.

President Uhuru Kenyatta



among them roads, hospitals, agriculture, higher learning institutions electricity connectivity, markets and stadia as some of the development projects initiated in the region that backed the President in the last three elections.

President Kenyatta was on a mission to recapture his lost support and for him, his scorecard was his primary weapon.

"I took up the role of doing what can help Kenyans. Despite my tribulations, there is no President that has delivered more than me," he said. Along the Tagwa Road snaking through Mt Kenya Forest in Sa-

gana State Lodge, a contingent of heavily armed police officers had been deployed to not only conduct security checks but also keep out uninvited guests amid intelligence reports that hecklers had been mobilised to sabotage it.

At the luxurious Sagana Lodge, hundreds of caterers had been deployed with the mission to keep the delegates refreshed and a battery of local benga and gospel musicians kept the crowd entertained. As for the crowd, the much touted Red Army was highly visible with the mobilised delegates donning Jubilee Party colours.

Heavy traffic leading up to the Sagana State Lodge. PHOTO: IPSCU



REPUBLIC OF KENYA

**THE NATIONAL ASSEMBLY**  
TWELFTH PARLIAMENT - SIXTH SESSION  
DEPARTMENTAL COMMITTEE ON EDUCATION AND RESEARCH

In the Matter of Article 118(1) (b) of the Constitution  
And  
In the Matter of Consideration by National Assembly of:-

1. The Higher Education Loans Board (Amendment) Bill (National Assembly Bill No. 52 of 2021)
2. The Basic Education (Amendment) Bill, 2021 (Senate Bill No. 4 of 2021)
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**PUBLIC PARTICIPATION (SUBMISSION OF MEMORANDA)**

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The Basic Education (Amendment) Bill, 2021 (Senate Bill No. 4 of 2021) seeks to amend the Basic Education Act to ensure that school going children in Kenya are provided with milk. Through this amendment, the national government will be required through the respective County Directors of Education to supply milk to all pupils in Kenyan schools.

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The three (3) Bills have since been Read a First Time and committed to the Departmental Committee on Education and Research for review and reporting to the House.

Now therefore, in compliance with Article 118 (1) (b) of the Constitution and National Assembly Standing Order 127(3), the Departmental Committee on Education and Research hereby invites the general public and stakeholders to submit memoranda on the Bill. Copies of the Bill are available at the National Assembly Table Office, or on [www.parliament.go.ke/the-national-assembly/house-business/bills](http://www.parliament.go.ke/the-national-assembly/house-business/bills).

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MICHAEL R. SIALAI, CBS  
CLERK OF THE NATIONAL ASSEMBLY  
24<sup>th</sup> February 2022

"For the Welfare of Society and the Just Government of the People"



REPUBLIC OF KENYA

**THE NATIONAL ASSEMBLY**  
TWELFTH PARLIAMENT (SIXTH SESSION)  
DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE AND THAT ON  
DEFENCE AND FOREIGN RELATIONS

In the Matter of Article 118 (1)(b) of the Constitution and National Assembly Standing Order 127(3)  
and

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24<sup>th</sup> February 2022

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# First was handshake, then BBI and now new alliance

► This was the third meeting which the president has presided over at the Nyeri venue.

► Uhuru used forum to make Mt Kenya region see his perspective regarding handshake and BBI.

ALLAN MUNGAI, NAIROBI

Sagana, tucked on the edge of the Mt Kenya Forest in Nyeri County, has become symbolic to the 2022 presidential contest.

It was a sort of launching pad for ODM leader Raila Odinga's "hike up the mountain".

That statement became a truism yesterday when President Uhuru Ruto unsurprisingly endorsed his deputy William Ruto. Uhuru hosted delegates from his political base of Mt Kenya for a meeting which was heavily touted as giving the region political direction. It was the third meeting of the sort.

For Uhuru's supporters, the meet-

ing lived up to the billing, complete with the song *Reke Tumanwo* by Peter Kigia whose literal translation is "let us part ways" and which came in perfectly right after the president agreed with an attendee who shouted Raila's name when he (Uhuru) was referring to whom he will hand over office to.

But if the meeting yesterday was the crescendo, then the song itself was composed and started playing much earlier.

It was the undertone in two similar meetings held in Sagana in November 2019 and then again in September 2020.

In 2019, Uhuru attempted to have the region see things from his perspective regarding the Handshake and the Building Bridges Initiative (BBI) taking the country back to the violence that followed the 2007 and 2017 election and the relative calm since.

Slowly by slowly, Uhuru has been building up to the moment when he declares his stand on the election. He gave the first teaser in 2018 when he told supporters that when he ulti-

mately declares the person he wishes to hand power to, Kenyans would be shocked.

First, it was to whip the country's MCA's to support the BBI initiative by promising the most sought after car grants.

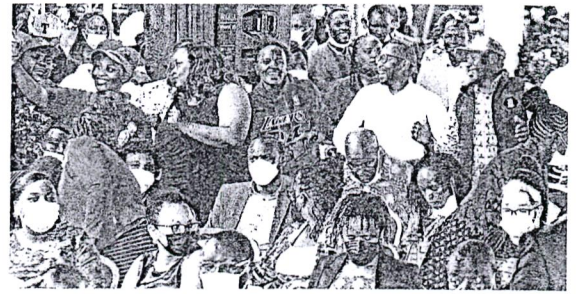
He insisted that BBI was not about the General Elections but their bid to unite the country.

At the outset, it was to sway a region which was lukewarm about his and former Prime Minister Odinga's bid to amend the Constitution.

Uhuru told the meeting then that he and Raila were disparaged as dynasties and hence the BBI being trashed, yet the truth was Mt Kenya has been shortchanged in terms of resource allocation.

The BBI was an expensive affair, he conceded but he rationalised that there was value to the masses, for example by having more constituencies, there would be more funding for bursaries.

An increase in parliamentary seats, he said, was a small price to pay to ensure more resources to the Mt Kenya.



Jubilee leaders and supporters follow President Uhuru Kenyatta's address at the Sagana State Lodge in Nyeri County yesterday. [Mose Sammy, Standard]

Eradication of poverty can only be done through investments done through resources to be made available through passage of BBI, he said.

For Uhuru, Sagana has also become the place of confrontation, a boxing ring of sorts and, according to his Deputy President William Ruto's allies, an echo chamber.

It was also to beat down a wave of discontent from legislators of the region who were proclaiming his deputy's gospel.

While in the past Uhuru has urged the people to accept the "pennies and shillings" that Ruto was handing out in the region "because it is your money".

He asked voters not to sell their

minds by accepting the handouts.

Uhuru used Kibera as an anecdote for the peace that has prevailed since the Handshake. He said it was an indication that it was possible to have peaceful elections and that people did not have to fear for their property because of an election.

Jubilee, on its death bed then, has amputated the gangrenous parts and gained a new lease of life. The clasped hands have let go and TNA's dove is back. Tuko Pamoja has become Mbebe Pamoja.

Billboards bearing Kenyatta's face, which tease a new Jubilee communication to the public that *Tuliahidi, Tumetimiza - We promised, We delivered.* [angige@standardmedia.co.ke](mailto:angige@standardmedia.co.ke)



REPUBLIC OF KENYA

## THE NATIONAL ASSEMBLY TWELFTH PARLIAMENT (SIXTH SESSION)

### DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE AND THAT ON DEFENCE AND FOREIGN RELATIONS

In the Matter of Article 118 (1)(b) of the Constitution and National Assembly Standing Order 127(3) and

In the Matter of consideration by the National Assembly of -

- 1) The Persons With Disabilities Bill, 2021 (National Assembly Bill No.61 of 2021); and
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MICHAEL R. SIALAL, CBS  
CLERK OF THE NATIONAL ASSEMBLY  
24<sup>th</sup> February 2022

"For the Welfare of Society and the Just Government of the People"



REPUBLIC OF KENYA

## THE NATIONAL ASSEMBLY TWELFTH PARLIAMENT – SIXTH SESSION

### DEPARTMENTAL COMMITTEE ON EDUCATION AND RESEARCH

In the Matter of Article 118(1) (b) of the Constitution  
And

In the Matter of Consideration by National Assembly of:-

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24<sup>th</sup> February 2022

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REPUBLIC OF KENYA  
MINISTRY OF EDUCATION  
*Office of the Cabinet Secretary*

Telephone: Nairobi (020) 3318581  
Email: [cabinetsecretarymoe@gmail.com](mailto:cabinetsecretarymoe@gmail.com)  
Website: [www.education.go.ke](http://www.education.go.ke)

Jogoo House "B"  
Harambee Avenue  
P. O. BOX 30040 - 00100  
NAIROBI - Kenya

Ref: MOE/CON/9/6 (12)

March 8, 2022

**Mr. Michael R. Sialai, EBS**  
Clerk of the National Assembly  
Parliament Buildings  
P.O. Box 41842 - 00100  
**NAIROBI**

Dear *Mr. Sialai*

**MEETING WITH THE DEPARTMENTAL COMMITTEE ON EDUCATION AND RESEARCH**

Reference is made to your letter referenced NA/DDC/EDUC/2022/(008) and dated March 1, 2022.

Pursuant to the provisions of Article 118(1)(b) of the Constitution of Kenya and Standing Order 127(3), please find attached hereto the Ministry's submissions on the under-listed Bills for the attention of the National Assembly Committee on Education and Research:

1. The Basic Education (Amendment) Bill, 2021 (Senate Bill No. 4 of 2021);
2. The County Vocational Education and Training Bill (Senate Bill No. 6 of 2021); and
3. The Higher Education Loans Board (Amendment) Bill (National Assembly Bill No. 52 of 2021).

Yours *sincerely*

**Prof. George A. O. Magoha, EGH**  
**CABINET SECRETARY**

**Copy to:**

**Dr. Sara Ruto, CBS**  
Chief Administrative Secretary  
Ministry of Education

**Dr. Margaret Mwakima, CBS**  
Principal Secretary  
Vocational and Technical Training

**Dr. Julius Jwan, CBS**  
Principal Secretary  
Early Learning and Basic Education

**Amb. Simon Nabukwesi, CBS**  
Principal Secretary  
University Education and Research

**A. MEMORANDUM ON THE BASIC EDUCATION (AMENDMENT) BILL, 2021**  
**(SENATE BILLS NO. 4 OF 2021)**

**Clause 3 of the Bill proposes an amendment to Section 38 of the Basic Education Act No. 14 of 2013 by introducing a new section which makes provision for the school feeding programme.**

The proposed Section 38A (1) provides that **the National Government shall in consultation with County Governments** and in a bid to increase school enrollment and to ensure the nutritional wellbeing of learners, **provide milk to learners enrolled in pre-primary and primary school**. Further, sub-section (2) provides that the milk provided to learners under subsection (1) **shall be distributed through the respective County Director of Education**.

On this amendment, we wish to point out that firstly, the respective roles of the National and County Governments should be delineated so as to avoid any potential conflict:

- a) The Constitution provides a clear distinction on the functions and powers of the two levels of government. Pre-primary education is a devolved function as it falls under the functions and powers of the County Government as set out in part 2 of the Fourth Schedule of the Constitution while primary schools falls under the functions and powers of the National Government as set out in part 1 of the Fourth Schedule of the Constitution.
- b) Consequently, the proposed provision creates a role overlap between the National Government and the County Government and it is envisaged that this could be a source of conflict. Furthermore, the proposed use of the County Director of Education, who is a National Government employee, in the distribution of milk to learners in both pre-primary and primary schools is again seen as a source of conflict and a recipe for blame games among the staff in the National and County Government.
- c) It is therefore our view that the provision and distribution of milk to learners enrolled in pre-primary schools be carried out by the County Government while provision and distribution of milk to learners enrolled in primary schools be carried out by the National Government. Clearly demarcating the role of the National Government from that of County Government as set out in the Constitution is necessary to avoid conflict on who is responsible.

Secondly, this amendment pre-supposes that the Ministry is capable of harnessing adequate resources by mandating the Ministry to provide the milk to all learners whose number amounts to as high as 10 million learners. Ensuring that the proposal in this amendment is achieved would amount to expanding the scope of the current school meals programme tenfold. By seeking to provide milk for learners, other school meals would be affected owing to budgetary shortfalls. Without a proper balanced set of meals, legislating in favor of milk for schools therefore falls short of enriching the existing school meals programme.

Consequently, I conclude by proposing that prescriptions on the expansion of the school meals programme are firstly relegated to policy before they become legislated.





UNIVERSITY OF NAIROBI  
 AFRICAN WOMEN STUDIES  
 CENTRE  
 WOMEN'S ECONOMIC  
 EMPOWERMENT HUB  
 P.O Box- 30197-00100 Tel:  
 0204918217  
 Email: [weehub@uonbi.ac.ke](mailto:weehub@uonbi.ac.ke)  
 Web: [www.weehub.org](http://www.weehub.org)



*D/DC*  
*Please deal.*  
*11/03/22*

DATE: 10/03/2022  
*Philip Kkwal*  
*pls facilitate*  
*14/3/22*

To:  
 The Clerk of the National Assembly,  
 P.O.BOX 41842,00100, Nairobi.  
 Dear Sir,

**RE: AWSC- UON WEE HUB PUBLIC PARTICIPATION ON BASIC EDUCATION BILL 2021**

The African Women Studies Centre (AWSC) is a multi-disciplinary institution of the University of Nairobi that focuses on bringing the African women's knowledge on development, socio-political and socio-economic issues to visibility. This is realized through action-oriented research and academic discourse. AWSC also consults and engages governmental and non-governmental organizations in the formulation and development of programmes and policies affecting African women. The AWS also houses the University of Nairobi's Women Economic Empowerment HUB (UON WEE-HUB). The Hub aims to contribute to evidence-based decision making and implementation of policies and programmes informed by what works for WEE in Kenya.

Researchers from AWSC would like to make an input to the Basic Education bill. The AWSC Multi-disciplinary Team comprising of Economists, Development Experts, Agriculturalists, Educationists, Gender Experts, Legal Experts and Population Experts, have researched and come up with suggestions and recommendations. The recommendations on present basic education bill submission by the AWSC is part of a process to meaningfully engage and contribute to the current national development with focus on women, who have been recognized to play a central role in family and development. AWSC is cognizant of the fact that the Proposed basic education Bill focuses on advancing Socio-economic Development through the "Big Four." It is with this in mind that the AWSC has made the recommendations on selected sectors.

It is our prayer that the assembly will consider these recommendations.

Yours Sincerely

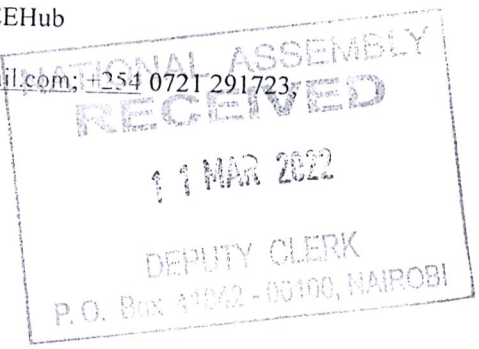
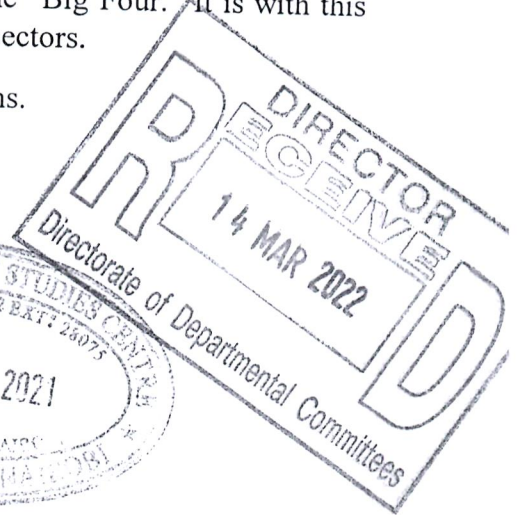
*M. Mbithi*

Dr. Mary Mbithi  
 Director of Research, UON WEE HUB

**Abigael Nyawacha**

Program Manager WEEHub

[Abigael.weehub@gmail.com](mailto:Abigael.weehub@gmail.com); +254 0721 291723







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HUB**

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**Tel: 0204918217**

**Email: [weehub@uonbi.ac.ke](mailto:weehub@uonbi.ac.ke)**

**Web: [www.weehub.org](http://www.weehub.org)**

**Public Participation on the Basic Education (Amendment) Bill, 2021  
Senate Bill No. 4 of 2021**

**PREPARED BY:**

**Prof. Wanjiku Kabira- Hub Leader WEE Hub  
Dr. Mary Mbithi – Director of Research WEE Hub  
Caroline Nyakinyua - Researcher  
Abigael Nyawacha - Program Manager – WEE Hub**

*“Thought Leader in Cutting Edge Research on WEE”*

## INTRODUCTION

The African Women Studies, UON WEE hub has been engaging on Kenya's Fiscal Policy to support women participation in Kenya's Economy. The African Women Studies, UON WEE hub has been focussing on the Kenya's fiscal policy (with view of providing alternative policy choices to policymakers (National Treasury, County Assemblies and Parliament) to improve food security, Women Economic Empowerment, childcare, financial inclusion, social protection amongst other issues. The focus of this issues is drawn from Article 43 and 53 of the Constitution which requires lists the rights of Kenyan Citizens to highest attainable level of healthcare services, be free from hunger, clean and safe water, social security and education. Article 53 further compels Government of Kenya to provide free and compulsory basic education.

The following are sections that the research team would like the National Assembly select committee to consider:

### MEMORANDA FOR THE BASIC EDUCATION (AMMENDMENT) BILL,2021

CLAUSE NUMBER	MARGINAL NOTE	PROPOSED AMMENDMENT	JUSTIFICATION
	Long Title	Should read ...to give effect to <b>Article 53 (b) and (c)</b> and not <b>Article 53</b> .	The Bill only caters for provisions of parts (b) and (c) and not for the rest of the parts of Article 53.
4	Guiding Principles	An additional principle -Recognizing children's rights to adequate food of acceptable quality promoting nutritional status of school going children.	The Bill by recognizing the need for a school feeding program already acknowledges the Constitutional provisions of Article 53(b) and (c) and Article 43(c) and the National school Health policy 2009, under revision). Thus, this should be an additional guiding principle.

5(2)	Establishment and Functions of the Board.	-working with County Directors and all relevant authorities and agents to ensure supply of milk to schools	There is need to have an Authority that is accountable under the Act for implementation/enforceability. Thus, the school feeding program should be one of the functions of the Authority established under the Act.
25(2)	Committees of the County Education Board.	-School Feeding Program Committee	There is need to have a committee that will liaise with other authorities and agents in coordinating, enforcing, and monitoring supply of milk to schools as stipulated under clause 38A (1) on consultation with National government.
38A (2)	School Feeding Program.	<p>The milk provided to learners under subsection (1) shall-</p> <ul style="list-style-type: none"> <li>(a) Be distributed through County Director of Education</li> <li>(b) Be made available to learners of up to and including Grade 6 or it's equivalent</li> <li>(c) Procured from local farmers with 30% of the procurement given to women.</li> <li>(d) Comply with food safety and quality legislations.</li> <li>(e) Allocated an adequate annual budget.</li> <li>(f) Be made available to children of school going age who may not be formally enrolled in school.</li> </ul>	<p>-This is for purposes of practical implementation and sustainability.</p> <p>-This is to help integrate and promote policy goals in education, agriculture, and rural development through intersectoral cooperation.</p> <p>-stimulating inclusive and sustainable procurement and value chains.</p> <p>-stable markets and development opportunities thus promoting local sustainable development</p> <p>-to ensure sustainability of the program.</p>