

SPECIAL ISSUE

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LEGAL NOTICE NO 1

THE PUBLIC FINANCE MANAGEMENT ACT

(No 18 of 2012)

IN EXERCISE of the powers conferred pursuant to section 116 of the Public Finance Management Act No 18 of 2012 the County Executive Member for Finance and Economic Planning makes the following Regulations—

BOMET COUNTY EDUCATION REVOLVING FUND REGULATIONS 2019

PART I—PRELIMINARY

Citation

1 These Regulations shall be cited as the Bomet County Education Revolving Fund Regulations 2019

Interpretation

2 In these Regulations unless the context requires otherwise—

tertiary institutions ' means vocational training centres and accredited higher education institutions which are licensed to offer certificate diploma degree master courses and above

policy means the Bomet County Education Revolving Fund Policy

'regulations' means the Bomet County Education Revolving Fund Regulations 2019

'applicant' means a person who applies for the loan

loan beneficiary" means a person who has secured a loan from the committee

committee ' means the Bomet County Loans Committee established under these Regulations

discontinued student means a student who is granted a loan and fails to continue with his studies either for poor academic performance misconduct or has absconded from the institution of learning

eligible student means a student from Bomet County who fulfils conditions stipulated under the Policy and these Regulations

executive member ' means executive member in charge of Education or Finance whenever the context so admits

higher education means education provided leading to the award of certificate Diplomas Degrees Masters and above

'HELB' means the Higher Education Loans Board established under the Higher Education Loans Board Act Cap 213 A Laws of Kenya

"loan" means amount awarded to eligible loan applicant under these Regulations

“repeating student” means a student who is granted a loan and for any reason is compelled to repeat the previous academic year

‘ student means any person admitted to a learning institution

“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

fund’ means the Bomet County Education Revolving Fund established under section 12(1)

ward’ has the meaning assigned to it in section 2 of the County Governments Act 2012

Establishment of the Fund

3 (1) There is established a fund to be known as Bomet County Education Revolving Fund to be managed by HELB through a memorandum of understanding Service Contract agreement or any other arrangement approved by the County Executive Committee to provide loans to eligible students from the County

(2) These regulations shall apply to the functions of the Bomet County Education Revolving Fund established under these Regulations

(3) The Fund shall consist of—

- (a) monies appropriated from the County Revenue Fund
- (b) monies from the repayments of any loan granted to a student by the County
- (c) any gifts donations grants and endowments made to the Fund and
- (d) such funds as may vest in or accrue to the Fund in the performance of its functions under these Regulations or any other written law

Administration of the Fund

4 (1) The County Executive Committee Member for finance shall designate the accounting officer for the department responsible to be the administrator of the Fund

(2) the duties of the administrator are to—

- (a) supervise and control the administration of the Fund
- (b) be the accounting officer of the Fund
- (c) prepare a budget and such plans for better administration of the Fund to be approved by the County Executive Committee
- (d) cause to be kept proper books of accounts and other books and records in relation to the Fund as well as to all the various activities and undertakings of the fund
- (e) prepare sign and transmit to the Auditor-General in respect of each financial year and within three months after the end thereof a statement of accounts relating to the Fund in accordance with Public Finance and Management Act 2012 and in such details as the County Treasury may from time to time direct

- (f) furnish such additional information as may be required for examination and audit by the Auditor General or under any law

(3) There is established a County Education Loans Committee which shall be the committee overseeing the Fund. The Bomet County Education Loans Committee shall designate the Chief Officer in charge of Education as the person to constantly liaise with the fund administrator on among others—

- (a) supervision and control the administration of the Fund
- (b) ensure proper accounting procedures for the Fund
- (c) participate in the budgetary process so as to ensure proper administration of the Fund
- (d) propose conditions or restrictions on the use of any expenditure arising from the Fund
- (e) cause to be kept proper books of accounts and other books and records in relation to the fund as well as to all the various activities and undertakings of the Fund
- (f) ensure proper presentation and transmission to the Auditor General statement of accounts relating to the fund in accordance with the Public Audit Act 2003 and in such details as the County Treasury shall from time to time direct at the end of each financial year
- (g) ensure any additional information as shall be required for examination and audit by the Auditor General or under any law and
- (h) where need be designate staff as shall be necessary to assist in the management of the Fund

Fund Expenditure

5 (1) The Fund shall be used for—

- (a) providing education support to eligible students of Bomet County enrolled in Vocational Training Centres universities and tertiary colleges both public and private
- (b) provide loans on agreed terms to qualified students to institutions approved under the criteria in these Regulations and
- (c) meeting any expenditure related to administration of the Fund as shall 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

(2) The monies of the Fund shall be disbursed through HELB

Establishment of the County Education Loans Committee

6 (1) A committee which shall oversee the Fund will be established to be known as the County Education Loans Committee herein referred to as the Committee

(2) The composition of the County Education Loans Committee shall consist of the following persons appointed by the Governor on recommendation of The County

Executive Committee Member at the time responsible for Education and Vocational Training—

- (a) chairperson appointed by the Governor
- (b) CEC Member responsible for Finance
- (c) CEC Member responsible for Education and Vocational Training
- (d) chief Officer for Education and Vocational Training who will be the secretary
- (e) county Director of Education (National Government) who shall be an ex officio member
- (f) county Education Board chairman
- (g) one person representing faith based organizations and
- (h) three persons appointed by CEC member for Education and Vocational Training each representing women youth and persons living with disability

(3) The appointment of chairperson and members above shall be gazetted in Bomet County gazette notice within 14 days of appointment

(4) The appointment of chairperson and members shall be subject to such persons—

- (a) being registered voters in Bomet County
- (b) meeting the requirements of Chapter Six of the Constitution of Kenya
- (c) the Chairperson shall be a holder of at least a bachelor's degree from a recognized university in Kenya and with 5 years working experience in business education sector or institution of higher learning from a faith based organization of five years or any relevant working field
- (d) members appointed shall be holders of at least a bachelor's degree from a recognized university in Kenya and with 5 years working experience in business education sector or institution of higher learning from a faith based organization of five years or any relevant working field and
- (e) the members other than the Executive Committee members and the Chief Officers shall be appointed for a term of three years and be eligible for one further term

Functions of the County Education Loans Committee

7 Functions of the committee shall be—

- (a) to advise the CEC member for Education on loan disbursements and loans awarding
- (b) approve the list of beneficiaries to be granted loans
- (c) to provide oversight and supervisory role in giving loans to students from the funds outsourced to the HELB by the County
- (d) to fundraise in support of the County Education Revolving Fund

- (e) to receive any gifts donations grants or endowments made to the committee and to make legitimate disbursements there from
- (f) to determine the maximum number of eligible persons or students to be granted loans in a particular year
- (g) in consultation with HELB set up the criteria conditions and formulate policies governing the granting and disbursement and management of loans
- (h) liaise with HELB in the approval of disbursement of financial assistance
- (i) receive quarterly reports from HELB concerning the management of the project in the agreed format
- (j) consider and grant waiver/amnesty of bad debts as deemed appropriate
- (k) inform HELB of proposed changes deemed appropriate from time to time
- (l) pay all administrative fees in the mode in the fee schedule and
- (m) to perform any other functions for implementation of these Regulations

Conduct of business

8 The conduct and regulation of the business and affairs of the Committee shall be as set out by the Committee

Allowances

9 Members of the committees shall be paid such allowances as approved by SRC and shall be determined by the County Treasury

Guiding principles

10 In awarding a loan the Committee shall be guided by the following principles—

- (a) fairness in allocating monies
- (b) equitable distribution and allocation of monies to all parts of the County
- (c) inclusivity and non discrimination in ensuring that all residents are included in the process
- (e) accountability and transparency
- (f) efficiency in funds disbursement and
- (g) special needs of the applicant for example young single mothers persons with disabilities among others will be given priority

Eligibility for loans

11 (1) All applications for loans shall be made to HELB in the form available in their portal

(2) An applicant shall be eligible for an award for a Loan if the applicant is a resident of the County and meets the criteria set jointly by the County Education Loans Committee and HELB

Conditions for granting a loan

12 A loan granted under these Regulations shall only be granted to a person who is —

- (a) an orphan,
- (b) vulnerable due to family or social setting
- (c) person with disability or has special needs or
- (d) financially disadvantaged and whose parents or guardians have no means of providing adequate financial education support

Application for educational loan

13 (1) Students eligible loans shall meet criteria deemed necessary and set out by the Committee prior to the application process

(2) Notwithstanding any provision of these Regulations a student shall be given priority in consideration for loans if the applicant is —

- (a) a financially disadvantaged with disability
- (b) pursuing or intending to pursue the requested course which is a skill set in the demand by the county for development or to enhance capacity as shall be determined by the Committee from time to time in consultation with the Executive Member and the County Public Service Board
- (c) a special need as the Committee shall determine from time to time and
- (d) having a special talent in other areas including sports Art and non examinable skills

(3) A student shall not be eligible for loans in relation to an academic year if he—

- (a) is a beneficiary of another loan bursary scholarship or grant in relation to the same academic year in the County or
- (b) has a questionable credit history as advised by the Credit Reference Bureau

Application Procedure

14 (1) An eligible student applying for an education loan under these Regulations shall apply to the Committee in the prescribed form

(2) The County Education Loans Committee in conjunction with HELB shall ensure that the forms are accessible in the HELB website

(3) The particulars given in the application form shall form part of the contract with the Committee and HELB

(4) All duly filled application form shall be submitted to the County Education office for onward submission to HELB

(5) An applicant shall not be charged any fee for accessing the forms prescribed under these Regulations

(6) An applicant shall submit an application form in the prescribed manner on HELB portal or as per the advertisement issued

Awarding education bursary or scholarships

15 (1) The Committee shall after considering an application under Regulation 14 award an education bursary scholarship or grant as the case shall be in accordance with the criteria set out under Paragraph (2) and the guidelines issued by the County Education Loans Committee in regard to specific amounts that shall be awarded to each category of applicant

(2) The Committee shall consider the following categories of applicants in determining the amount of the education loan awarded—

- (a) family status ranked as total orphan partial orphan single parent or 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 and
- (c) such other categories prescribed in these Regulations by the Executive Member

(3) The Committee shall ensure that proper minutes and records of all the meetings are maintained

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

(5) Where the Committee establishes that an applicant has been awarded an education loan grant bursary or scholarship under subsection (5) it shall award additional educational grant or bursary to the applicant to meet the remaining fees deficit Provided that the Committee shall give priority to applicants who have not received any education loan grant bursary or scholarship from any source

Verification of information

16 The 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
- (c) invite the applicant to appear in person before it or
- (d) invite the parent or guardian to appear before it

17 (1) The Committee upon receiving the applications shall forward them to HELB

(2) The Committee shall—

- (a) peruse and scrutinize the application forms for the purpose of verification and compliance and
- (b) where necessary require the applicant to supply such information and fulfil such conditions for any further consideration of the application to be made

Determination in applications for loans

18 (1) HELB shall submit the list of beneficiaries to the County Education Loans Committee for final approval and determination of loans amount to be awarded

(2) Where an applicant who is not eligible under these Regulations is awarded an education loan by HELB the Committee shall cancel the loan and give further directives to HELB

(3) The Committee shall submit the final list of beneficiaries to HELB for the processing of payments

(4) HELB shall make payments in favor of and directly to the designated educational institutions in which the eligible students are enrolled and there shall be no direct payment to any eligible students

(5) The County Treasury shall ensure that all the appropriated budgetary allocation is disbursed to the Fund account by the 4th quarter of the financial year

Report from HELB

19 (1) HELB shall prepare and submit a report to the Committee upon receiving funds from the Revolving Fund Account before the closure of the financial year. The Committee shall ensure that this report is furnished to CECM Finance and Planning on time for transmission to the Controller of Budget and audit offices

(2) HELB shall submit—

- (a) a list and addresses of all applicants who made application for loans in the reporting cycle
- (b) a list and addresses of successful applicants
- (c) a list and addresses of candidates who did not meet the criteria and
- (d) any other information as shall be necessary or the committee shall demand

Use of Disbursed Funds

20 The monies disbursed for an education loan shall be applied towards the tuition fees in the designated educational institution in which the eligible student is registered

Appeals

21 (1) A person who is aggrieved by the decision of HELB shall appeal to the committee

(2) The Committee shall uphold the decision of HELB or make further recommendation to HELB within fourteen days after receiving an appeal under sub section (1)

Publication of list of beneficiaries

22 (1) The Committee shall publish the list of beneficiaries in—

- (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 co ordination of National Government functions in the ward and such other place as the Committee shall determine and
- (e) social halls within the respective areas
- (2) the Committee shall ensure that list of beneficiaries is accessible to the

public

Register

23 (1) The Committee shall maintain register which shall contain the particulars of the applicant that shall include home and postal address name and address of surety or persons standing as surety and the institution of learning

(2) The register shall be accessible to the public upon request from any member of the public or the borrower or surety

Disbursement

24 (1) Committee shall after granting the loan the students submit a report to the County Executive detailing—

(a) the amount and details of loans disbursements or

(b) for the purpose of implementing this Regulations all monies appropriated for loans and administered by HELB on the behalf of the County Education Loans Committee shall be transferred from the County account into the Bomet County Education Revolving Fund account

(2) The Bomet County Education Loans Committee shall cause to partner with any persons or institutions and enter into agreements to foster its objectives—

(a) ensure the funds are applied for the purposes stated in the Policy and for the avoidance of doubt limited to tuition and upkeep of the successful applicants or

(b) ensure that the loans shall be awarded to needy students undertaking courses in institutions that are recognized in Kenya

Restriction for granting a loan to a beneficiary

25 (1) Where a beneficiary s eligibility for a loan comes to an end the applicant shall not be allowed to be granted a new loan for studying in a different course or institution unless the previous loan has been paid regularly as agreed with the HELB

(2) The student shall not be allowed to offset sums owed from fresh applications to obtain compliance under this Regulation

Obligations as to information

26 (1) The beneficiary is obliged to provide the Committee with information as the Committee considers necessary for the exercise of its functions as soon as practicable and after he is requested to do so including the followings—

(a) he withdraws from or abandons or is expelled from his course

(b) he transfers to another course at the same or a different institution

(c) he is a beneficiary of other schemes either scholarships or bursaries

(d) he ceases to undertake his course and does not intend to or is not permitted to continue with it for the remainder of the academic year

- (e) he is absent from his course for more than 60 days due to illness, or for any period the corresponding institution considers absconding for any other reasons
- (f) the complete schedule of the course with details of commencement and completion and
- (g) changes to his address or telephone number and any contact information that has been changed

(2) If a beneficiary fails to provide information required under these Regulations the Committee shall recall or suspend his loan as appropriate

The Committee shall integrate and include the conditions in this section part of the loan bursary or scholarship agreement

Providing false information

27 Where the Committee is satisfied that a student has provided information which the student knows to be false or has reason to believe that information is false shall determine that the students shall—

- (a) no longer be eligible for any loan managed by the Bomet County Loans Committee or
- (b) be liable for criminal prosecution as provided under any relevant written Laws applicable in Kenya

Refusal or cancellation of loans

28 (1) The Committee has the power to cancel a loan to a student if—

- (a) he neglects his studies fails to complete the studies or fails to pass in any year whilst attending an examination incidental to his course
- (b) unsatisfactory report is made by the institution concerning the student's conduct and academic progress
- (c) the student so requests
- (d) the student is expelled or discontinued from his education institution and
- (e) there is any other reason considered sufficiently by the Committee

(2) The Committee shall refuse to grant the bursary or scholarship to the applicant where—

- (a) the applicant is not qualified for the loan under these Regulations
 - (b) the applicant has failed to fulfil the criteria for the loan applied for
 - (c) the applicant provides false statements or information in any matter contained in application form or in the attached documents
 - (d) he is in breach of any other obligation under these Regulations or policy and
 - (e) he has in the opinion of the Committee shown himself by his conduct to be unfit to receive a loan
- (3) Where the committee has refused to grant a bursary or loan to the applicant it shall direct HELB to inform the student stating the reasons for the decision of the committee

Repayment and Recovery of the Loan

29 (1) The repayment and recovery of the loan shall be the responsibility of HELB and should be in accordance with the agreements entered between HELB and the

committee the HELB Act and the Bomet County Education Revolving Fund Regulations

(2) The interest charged on the loan will form part of the administration fees for the revolving fund payable to HELB

Allowances of the committee members

30 Members of the committees shall be paid such allowances as approved by SRC and shall be determined by the County Treasury

Rules and procedure

31 (1) The County Education Loans Committee shall regulate and make their own rules of procedure

(2) The Committee shall meet as and when advised by the CECM but no more than six times in one financial year

(3) To transact any business two thirds of the members of each of the Committee must be present

Removal from office

32 A member of the County Education Loans Committee shall be removed from office—

- (a) for gross misconduct
- (b) violation of the Constitution or any other law
- (c) mental or physical infirmity
- (d) on being declared bankrupt by a court of law
- (e) upon death or
- (f) upon missing three consecutive Committee meetings

Oversight

33 In the principle of separation of powers the County Assembly shall have overall oversight over the Fund

Winding Up of the Fund

34 The Executive Committee Member may wind up the Fund with the approval of the County Assembly and upon winding up—

- (a) the administrator of the Fund shall pay any amount remaining in the Fund into the County Exchequer Account
- (b) the Executive Committee Member Shall with approval of County Assembly pay any deficit in the fund from the County Exchequer Account and
- (c) all assets of the Fund will be absorbed into the County

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