

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY

OFFICIAL REPORT

Wednesday, 26th June, 2019

The House met at 10.34 a.m.

[The Speaker (Hon. (Mrs.) Mwangangi) in the Chair]

PRAYERS

Hon. Speaker: Good morning, Hon. Members.

COMMUNICATION FROM THE CHAIR
COMPOSITION OF CASA AD HOC COMMITTEE

Hon. Speaker: Yesterday, 25th June, 2019, I indicated I will communicate a considered communication on the matter of composition of the *ad hoc* committee for CASA games. Because of the shortage of time and the matters that I have been handling, I was not able to do that communication and so I will communicate on 3rd July, 2019, next week at 2.30 p.m.

PETITION
EXPEDITING APPROVAL CIDP AND ADP

Hon. Speaker: We have a petition; normally the petition is prosecuted or advanced before this Assembly by the Chair because you appreciate the members who bring the petition don't sit in the plenary and so I have looked at a Petition that came through the office of the Clerk pursuant to Standing Order 194 from Machakos County Civil Network, requesting the county Assembly to expedite the approval of the County Integrated Development Plan (CIDP) and the Annual Development Plan (ADP) and thereafter publish and publicize the same so that the public can be able to appreciate the contents.

The petition is dated 13th May, 2019 and was received in the Assembly on 14th May, 2019. Hon. Members, the following are the issues raised in the petition;

1. That the CIDP and ADP were submitted to the County Assembly by September, 2018 but they have not been published.
2. That the CEC Member responsible for planning and economic planning has not been able to publish and publicize the documents as provided for in Section 126(4) of the PFM Act.
3. That the ongoing budget is based on the premise of an approved published and publicized CIDP and ADP which is not the case thus an illegality.

4. That Machakos County Civil Society Network has requested for the status of a CIDP and ADP from the Assembly vide a letter dated 5th December but has not yet received any response.

The petitioner's prayer is as follows:

That the County Assembly expedites and approves the CIDP and ADP and thereafter publishes and publicizes them.

Hon. Members, Standing Order 200 provides the speaker may allow comments, observations or clarifications in relation to a petition presented or reported and such total time shall not exceed 30 minutes. Further, Standing Order 201 provides that every petition presented or reported pursuant to this part, shall stand committed to the relevant sectoral committee.

Hon. Members, I would want to hear a few comments from the Members before I give directions on this petition. Remember you are not going to vote, it is just a comment that you appreciate where we are coming from. Hon. Majority Leader.

Hon. Muendo: Thank you, Madam Speaker. The public is our employer; it is on that strength on my party side, the Majority in the House, we are going to support the petition and allow the House to proceed with the approval of the CIDP. Thank you, Madam Speaker.

Hon. Speaker: Thank you Majority Leader. Hon. Ndawa.

Hon. Ndawa: Thank you, Madam Speaker. I also wish to give my input; Madam Speaker, it is a legal requirement to have a CIDP and ADP, so it is very important we have both documents published as it is required in the law.

The only appeal that I will do to the Hon. House is that the delay is not on the side of the Executive; it is on the side of the Assembly because we have never exhausted what we ought to have done on the issue of CIDP and ADP. So, I call upon the Members to move with speed to ensure that the CIDP is discussed and approved so that we can have the Executive the same. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Ndawa. Hon. Kiteng'u.

Hon. Kiteng'u: Thank you, Hon. Speaker. Hon. Speaker, as you are aware that we have pending business when it comes to CIDP and CEC and Madam Speaker, you remember we discussed this when we had a meeting with the Governor and these are pending businesses whereby we cannot be able to proceed with CEC unless we pass the CIDP and *vice versa*. What I would like to ask the Hon. House is with the unity in the House, we all proceed and agree together so that we can pass this pending business. Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Members. The sentiments of the Members who have just spoken are clear and what I would direct is.....we all know where we have come from and we know there issues with the appointments of the CECs in particular and even COs and some of those matters have been resolved, be it through the courts, be it through other means.

So, what I would direct at this moment for purposes of this petition and also for onward movement, is that the petition is committed to the committee on Trade, Economic planning and industrialization and unlike what the Standing Order 201(2) provides, that the committee is to

prosecute and table a report in this House in sixty days; that committee is directed to file a report for discussion in this House in two weeks, that is 14 days.

What will happen if the committee has matters pending because there were issues as to them liaising with the relevant CECs, there are COs that have been approved in this House. They can go ahead if there is anything they want to clarify, let them clarify within that time and the report be brought to this House in two weeks' time. Thank you.

MOTION

Hon. Speaker: Hon. Members, under this Order, we have one business by the Hon. Kiilu.

REPORT ON MACHAKOS COUNTY BURSARY FUND REGULATIONS, 2019

Hon. Kiilu: Thank you, Madam Speaker.

Madam Speaker, aware that the constitution of Kenya 2010, Article 43(1)(f), provides that every person has the right to education and aware that section 116(1) of the Public Finance Management Act 2012, provides that the County Executive Committee member for finance may establish other public funds with the approval of County Executive Committee and the County Assembly; Further aware that the County Assembly of Machakos enacted the Machakos County Bursary Fund Regulation 2014 whereby the elected Member of the County Assembly from the ward had a role to play in section 11(1), which is contrary to section 9(2) of the County Government Act 2012; Noting that the regulations were operational since enactment until 25th January, 2018 when the Executive Committee Member for finance and economic planning received a letter from the office of the Controller of Budget directing the regulation to be reviewed in order to limit the role of Members of the County Assembly to oversight, representation and legislation; Aware that Article 228(5) of constitution of Kenya provides that the Controller of Budget shall not approve any withdraws from the public funds unless satisfied that the withdrawal is authorized by law, I wish to move the motion that, this Hon. House discusses and approves the joint committee report on education and delegated county legislation on consideration of the Public Finance Management (Machakos County Bursary Fund Regulations 2019).

Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Kiilu.

Hon. Kiilu: Allow me to request Hon. Ngunga to second the motion. Thank you, Madam Speaker.

Hon. Speaker: Hon. Ngunga.

Hon. Ngunga: Thank you, Madam Speaker. Thank you Mr. Chairman, education. I rise to second the proposal. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Kiilu and Hon. Ngunga. Hon. Kiilu, you are proceeding? Provide some water for the Hon. Member.

Hon. Kiilu: Report of the joint committee on education and delegated county legislation on consideration of the Public Finance Management (Machakos County Bursary Fund) Regulations, 2019.

Hon. Speaker: Point of order by Hon. Ndawa

Hon. Ndawa: Madam Speaker, we are requesting if we can be provided with the report because we don't have it.

Hon. Speaker: It is not in the Ipads; the office of the Clerk, you are failing the Members, what is happening?

(Loud consultations)

(The Report was supplied to Hon. Members)

You want to go back to paper work; why? The consensus was that you are techno-savvy, we just need to straighten up the operations of the ICT office and the network.

(Loud consultations)

Every Member has a way of accessing this report now and you will have to sit a little bit closer to each other as we print more and as your iPads are also being uploaded. So, Hon. Kiilu, please carry on.

Hon. Kiilu: Thank you, Madam Speaker.

PREFACE

Madam Speaker, Standing Order 182(1) of the Machakos County Assembly Standing Orders states that two Committees of the County Assembly considering similar matters may, with the approval by Speaker, hold joint sittings. In this regard, the Select Committee on Delegated County Legislation and Sectoral Committee on Education were assigned to hold a joint sitting to consider the Machakos County Bursary Fund Regulations, 2019.

COMMITTEE MANDATE

Madam Speaker, the Select Committee on Delegated County Legislation is established under Standing Order 190 while the Committee on Education is established under Standing Order 192 (??) of the Machakos County Assembly Standing Orders. The mandate of the Committee on Education is stated under Standing Order 192(5) (??) and includes among others to make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

Madam Speaker, the Select Committee on Delegated County Legislation executes its mandate in accordance with the provisions of Section 13 of the Statutory Instruments Act, 2013

and Standing Order 190(3) of the new Machakos County Assembly Standing Orders which states that, the Committee shall consider in respect of any statutory instrument whether it;

- a. Is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written law;
- b. Infringes on fundamental rights and freedoms of the public;
- c. Contains a matter which in the opinion of the committee should more properly be dealt with in an Act of the County Assembly;
- d. Contains imposition of taxation;
- e. Directly or indirectly bars the jurisdiction of the courts;
- f. Gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power;
- g. Involves expenditure from the County Revenue Fund or other public revenues;
- h. Is defective in its drafting or for any reason the form or purport of the statutory instrument calls for any elucidation;
- i. Appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;
- j. Appears to have had unjustifiable delay in its publication or laying before County Assembly;
- k. Makes rights, liberties or obligations unduly dependent upon non-reviewable decisions;
- l. Makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
- m. Inappropriately delegates legislative powers;
- n. Imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
- o. Appears for any reason to infringe on the rule of law;
- p. Inadequately subjects the exercise of legislative power to County Assembly Scrutiny; and,
- q. Accords to any other reason that the Committee considers fit to examine.

COMMITTEE MEMBERSHIP

Madam Speaker, the joint Committee comprised of the following Members:

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| 1. | Hon. Patrick Kituku | -Chairperson, Delegated Legislation |
| 2. | Hon. Daniel Kiilu | -Chairperson, Education |
| 3. | Hon. George Kingori | -Vice Chairperson, Delegated Legislation |
| 4. | Hon. Hellen Ndeti | -Vice Chairperson, Education |
| 5. | Hon. Alice Nzioka | Member |
| 6. | Hon. Angela Munyasya | “ |
| 7. | Hon. Benedette Musyoka | “ |
| 8. | Hon. Geoffrey Kamulu | “ |
| 9. | Hon. Francis Kioko | “ |
| 10. | Hon. Ikusya Kaloki | “ |
| 11. | Hon. Jane Nyawira | “ |
| 12. | Hon. Joseph Musau | “ |
| 13. | Hon. Margaret Ndalana | “ |

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| 14. Hon. Phoebe Koki | “ |
| 15. Hon. Judas Ndawa | “ |
| 16. Hon. Josphat Kasyoki | “ |
| 17. Hon. Cosmas Kieti | “ |
| 18. Hon. Mark Muendo | “ |
| 19. Hon. Thomas Mutinda | “ |
| 20. Hon. John Nzomo Musyimi | “ |
| 21. Hon. Nicholas Mutuku | “ |
| 22. Hon. Paul Nyanzi | “ |
| 23. Hon. Michael Mutiso | “ |

BACKGROUND INFORMATION

Hon. Speaker, the Constitution of Kenya 2010 Article 43(1)(f) provides that every person has the right to education and in furtherance of this provision, the County Assembly of Machakos enacted the Machakos County (Bursary Fund) Regulations 2014 pursuant to Section 116(1) of the Public Finance Management Act 2012.

The Regulations were operational since the enactment until 25th January, 2018 when the Executive Committee Member for Finance and Economic Planning received a letter from the Office of the Controller of Budget which proposed that they be reviewed.

The Controller of Budget referred to Article 228(5) of the constitution of Kenya which provides that the Controller of Budget shall not approve any withdrawals from public funds unless satisfied that the withdrawal is authorized by law. Based on this provision, the Controller of Budget reviewed the Machakos County Bursary Fund Regulation, 2014 and made the following observations;

- (a) That Regulation 11(1) provides for establishment of a Bursary Committee in each ward while Regulation 12 gives the functions of the Ward Bursary Committee Regulation. The CoB observes that the functions listed under Regulation 12 do not support the establishment of a seven Member Committee thus Regulation 11(1) is contrary to the principle of prudence and fiscal responsibility provided for under Article 201(d) of the Constitution which states that 'public money shall be used in a prudent and responsible way.

The Controller of Budget further observed that the County Governments Act 2012 provides for elaborate structures up to the Ward level which can be utilized in the running of the fund. The Controller of Budget recommended that Regulation 11(1) should be amended to reflect the principle espoused under Article 201(d) of the Constitution to ensure full utilization of the structures established under County Governments Act 2012.

- (b) Regulation 11(2)(c) provides for composition of Bursary Committee to include the Member of the County Assembly or his representative. The CoB observes that Section 9(2) of the County Governments Act 2012 expressly bars Members of County Assembly from direct or indirect involvement in the executive functions of the County Government and its administration.

The COB recommended that pursuant to this provision of County Governments Act 2012, the role of Members of the County Assembly should be limited to oversight, representation and legislation and therefore the MCA should not be a member of the Ward Bursary Committee.

MEMBERS REACTION ON COMMITTEE RECOMMENDATIONS

Madam Speaker, on 14th May, 2019, the Joint committee tabled its report on consideration of the Public Finance Management (Machakos County Bursary Fund) Regulations, 2019 where by in the course of the debate, Members raised grave concerns on non-involvement of the Members of the County Assembly on matters pertaining bursaries.

This prompted the Chair to suspend the debate in order to give guidance on the way forward particularly on the matters concerning the role of the Members of the County Assembly in the Bursary Fund.

CONSIDERED OPINION ON MACHAKOS COUNTY BURSARY FUND REGULATIONS 2019

In the Communication from the Chair which was made on 15th May, 2019, during *Bunge Mashinani* forum held at Ndithini ward, the Hon. Chair noted that the Bursary Fund is of great public importance to the people as it provides a way of enabling the needy students to access education. In addition, the Chair said that the regulations have not been fully actualized because the procedure of identifying the beneficiaries and awarding of the bursaries is still unclear.

Based on the aforementioned, the Hon. Chair re-committed the report on amendment of the Machakos Bursary Fund regulation to the Joint committee to re-look the views of the Hon. Members and especially guided by the Constitution, County Governments Act and the Public Finance Management Act.

Further, the committee was advised to interrogate the Chief Officer, Department of Education and Controller of Budget on the observations which were stated in the letter dated 25th January, 2018 on Machakos County Bursary Fund Regulations

DISCUSSION WITH THE CHIEF OFFICER, DEPARTMENT OF EDUCATION

Hon. Speaker, the Committee met with the Chief Officer from the Department of Education on 27th May 2019 at 10.00 a.m. and the matter deliberated upon during the meeting was:

- i. A Letter from Controller of Budget Ref: COB/MKS/004/1 dated 25th January, 2018 Machakos County Bursary Fund Regulations, 2014.
- ii. A letter from Machakos County Law Office, Letter Ref: GM/11/CLO/GEN dated 6th May, 2019 Public Finance Management (Amendment) (Machakos County Bursary Fund) Regulations, 2019.

Response by the Chief Officer on the above mentioned letters

The Chief Officer informed the members that on 25th January, 2018, the Executive Committee Member for Finance and Economic Planning received a letter from the Office of the Controller of Budget which proposed for a review of Machakos Bursary Fund Regulations 2014.

The Controller of Budget referred to Article 228(5) of the constitution of Kenya which provides that the Controller of Budget shall not approve any withdrawals from public funds unless satisfied that the withdrawal is authorized by law.

Based on this provision, the Controller of Budget has approved only Ksh. 30 Million which has been disbursed out of Ksh. 120 Million allocated for the award of bursary in 2018/2019 Financial Year.

In addition to the above, the Chief Officer said that the Controller of Budget has rejected to approve the Ksh. 45 Million which the department had requested to make the second disbursement due to lack of amendments to the Bursary Fund Regulations.

Despite the above submission, the Chief Officer said that the Member of County Assembly (MCA) can be involved in the following areas:

- i. Providing the final list of beneficiaries.
- ii. Awarding of bursaries.
- iii. Issuance of bursary forms which will be serialized through the Education Committee.
- iv. Creation of a board to vet and approve the following members who shall be part of the membership forming the ward bursary committee:
 - a. One person with at least a diploma in a relevant field with experience in matters relating to education who has ordinarily been residing in the ward for at least five years preceding the appointment and who shall be the Chairperson.
 - b. A woman and a man who have ordinarily been residing in the County for at least five years preceding the appointment with experience in public administration, public affairs or management and education.

DISCUSSION WITH MR. TUTI WAWERU, MANAGER, LEGAL AFFAIRS AT OFFICE OF CONTROLLER OF BUDGET

Hon. Speaker, the Committee met with the Manager, Legal Affairs from the office of the Controller of Budget on 3rd June 2019 at 9.00 a.m. and the matter deliberated upon during the meeting was the letter Ref: COB/MKS/004/1 dated 25th January, 2018. (See appendix 3)

Response to the letter dated 25th January, 2018 by Mr. Tuti the Manager Legal Officer

Outlining the mandate of the controller of Budget, Mr. Tuti informed the members that the office of the Controller of Budget was established under Article 228 of the Constitution since 2016 with the following core mandate:

- Oversee budget implementation for both national and county governments.
- Approve withdrawals from the consolidated funds of the 47 county revenue accounts and the equalization fund and any other fund which the law gives the office mandate to authorize withdrawals from.
- Issue budget implementation review reports every four months to both parliament and county Assemblies.

On issues pertaining approval for withdrawals from Revenue Fund made for County Governments, Mr. Tuti informed the members that Article 207(2)(b) provides that the money can only be withdrawn from the County Revenue Fund once authorized by an Act of either parliament or the County Assembly that appropriates money. This has been reiterated in Section 109(6) of the Public Finance Management (PFM) Act which requires that any withdrawal from the County Revenue Fund must be approved by the County Assembly.

Section 11(1) of the Bursary Fund Regulations, 2014 provides for the establishment of ward bursary committees with seven members in each ward and looking at the current wage bill, 280 members who are supposed to be remunerated from that particular fund does not fall into

prudence and fiscal responsibility as provided for under Article 201(d) of the Constitution which states that 'public money shall be used in a prudent and responsible way.'

Based on the above provision, Mr. Tuti said that the functions listed under Regulation 12 does not support the establishment of a seven-Member Committee and that the regulation 11(1) should be reviewed to reduce the membership of the ward bursary committee to a lean number by ensuring a full utilization of the structures established under County Governments Act 2012.

Under Regulation 11(2)(c) which provides the composition of ward Bursary Committee to include Member of the County Assembly or his/her representative, Mr. Tuti informed the members that Section 9(2) of the County Governments Act, 2012 expressly bars Members of County Assembly from direct or indirect involvement in the executive functions of the County Government and its administration.

Based on the aforementioned, Mr. Tuti informed the members that the oversight role is a continuous process and that the Members of the County Assembly need to tighten selection criteria and ensure that public funds are utilized without contravening the Law.

Further, Mr. Tuti informed the Members that Section 6 of Public Finance Management Act has set the administration fees for the funds at three percent out of all total disbursements made in every financial year and that the administration cost for the regulations should not exceed 3 per cent as specified in Part VI of the Public Finance Management Act, 2012.

SCRUTINY BY THE COMMITTEE

Madam Speaker, the Committee analyzed the submissions made by the Chief Officer during a Committee meeting held on 27th May, 2019 and that was made by the Controller of Budget on 3rd June, 2019 and they were convinced by the submissions made by the Controller of Budget which had considered the applicable laws like the Constitution of Kenya 2010, the County Governments Act and the Public Finance Management Act.

Madam Speaker, based on the aforementioned, the committee therefore made the following amendments to the Public Finance Management (Machakos County Bursary Fund) Regulations, 2019:

Hon. Speaker: Hon. Kiilu, do you want that it reads 'made the following recommendations for amendments' because the committee could not decide to amend; you are making recommendations. So what you need to do is state 'the committee therefore made the following recommendations for amendments.'

Hon. Kiilu: Noted, Madam Speaker. Madam Speaker, based on the aforementioned, the committee therefore made the following recommendations for amendments to the Public Finance Management (Machakos County Bursary Fund) Regulations, 2019:

Amendment 1

Allocation for administrative cost

The committee proposed that a new provision be made in the regulation setting a side 3 per cent of all total disbursements made in every financial year for administrative costs incurred pursuant to the objects and purposes of the fund.

Amendment 2

County bursary committee

The Members proposed that the membership of the county bursary committee be reviewed as follows:

- a. One person with a degree in education, with experience in matters relating to education who has ordinarily been residing in the County for at least 10 years preceding the appointment and who shall be the Chairperson.
- b. The Chief Officer who shall be the secretary of the Committee and an *ex-officio* member with no voting rights.
- c. A woman and a man who have ordinarily been residing in the county for at least 10 years preceding the appointment representing faith based organizations involved in education matters in the county.
- d. A woman and a man who have ordinarily been residing in the county for at least 10 years preceding the appointment representing the youth in the county and who are involved in education matters in the county.
- e. A woman and a man who have ordinarily been residing in the county for at least 10 years preceding the appointment representing persons with disabilities and who are involved in education matters in the county.
- f. A woman and a man who have ordinarily been residing in the county for at least five years preceding the appointment with experience in public administration, public affairs or management and education

Amendment 3

Provision for the ward bursary committee

The committee proposed that the Ward Bursary Committee be retained but the committee membership be reduced from seven to five. The committee further, recommends the removal of the MCA as the members of the ward bursary committee. This is in compliance with the recommendation by the Controller of Budget vide letter dated January, 2018.

The new membership of the ward bursary committee is as follows:

- (a) One person with at least a diploma in a relevant field, with experience in matters relating to education who has ordinarily been residing in the Ward for at least five years preceding the appointment and who shall be the chairperson;
- (b) The Ward Administrator;
- (c) The County officer from the education department and who is responsible for matters relating to education in the Ward and who shall be the secretary of the Committee and an *ex officio* member with no voting rights;
- (d) A woman and a man who have ordinarily been residing in the County for at least five years preceding the appointment with experience in public administration, education, public affairs or management.

Amendment 4

Public participation

The Committee proposed for enhancement of public participation in the process of awarding the bursaries. In this regard, the committee proposed for inclusion of a provision in the regulation that there be public participation meetings in every village for purposes of identifying the beneficiaries. This exercise will be undertaken by the ward bursary committee.

RECOMMENDATION

Madam Speaker, the joint Committee on Education and Delegated County Legislation recommends as follows:

1. That the County Executive Committee Member for Finance, upon taking into consideration the amendment proposed by the committee, forward the amendment to the Bursary Regulations, 2019 back to the Assembly for approval in accordance with the Statutory Instrument Act, 2013.
2. That the County Executive Committee Member for finance to forward the explanatory memorandum and Regulatory Impact Statement to the Assembly as relates to the proposed amendment to the Bursary Regulations, 2019 when forwarding the amendment to the Assembly.
3. The committee recommends for overhaul of the 2014 regulations and adoption of the new regulations considering that there are major changes that the committee proposed to be incorporated.

CONCLUSION AND ACKNOWLEDGEMENT

Hon. Speaker, the joint Committee on delegated county legislation and Committee on education is grateful to the Office of the Speaker and that of the Clerk for support accorded to it in compiling this report.

It is therefore my pleasant duty and privilege, on behalf of joint Committee to table this report on consideration of the Public Finance Management (Machakos County Bursary Fund) Regulations, 2019 for approval. Thank you, Hon. Speaker.

Hon. Speaker: Before you fall out, Hon. Kiilu, on recommendation No. 3, what you need to state is recommending repeal not overhaul. If it is repeal, it means cancellation or doing away with the old regulations but an overhaul means like repairing them. So, it should be recommends a repeal.

Hon. Kiilu: Thank you Madam Speaker for that correction. Allow me to repeat recommendation No. 3. The committee recommends for a repeal of the 2014 Regulations and regulations considering that there are major changes that the committee proposed to be incorporated.

Hon. Speaker: That is okay.

Hon. Kiilu: May I continue?

Hon. Speaker: You had said it. It is just a correction. So you had already finished.

Hon. Kiilu: Thank you, Madam Speaker.

Hon. Speaker: Thank you very much, Hon. Kiilu.

(Question proposed)

Hon. Members, I now invite you to debate the motion. Hon. Ndawa.

Hon. Ndawa: Thank you, Madam Speaker. I want first of all to congratulate the chairperson and the two committees that is education and also delegated legislation committee for the elaborate report that has been tabled before this House. Madam Speaker, I would wish to say that the report is now friendly; it is not like the one that was tabled before. Madam Speaker, the only bit which was making the MCAs to be unhappy is the issue of the MCA being sidelined and not to have even a single word or not to have any say in the issuance of bursaries.

Madam Speaker, I personally sat in that committee which came up with this report and there are some observations that we made that may not have been captured here. Madam Speaker, the letter which was written by the Controller of Budget was talking about issuance of bursaries and when we sat with the Controller of Budget, Madam Speaker, we made it very clear to the Controller because there was a representative who was sent to come and shed light on the letter. We agreed that there is a difference between issuance of bursaries and formation of the committees that is what we agreed.

The issuance of bursaries and formation of committees are two distinct things and we agreed that the letter was not talking about the formation of the committees; it only emphasized on the issuance of bursaries. So, Madam Speaker, I want to make it clear to these Hon. Members that when it comes to the formation of the committees, the MCA should not sit aside because the letter does not bar him from taking part in the formation.

If the MCA can be able to front somebody of his choice to be the chair or to take part in that committee, even if the member is not sitting and your person is sitting it means your interests are being taken care of. So, Madam Speaker, I request this Hon. House to adopt the report and pass it as soon as possible so that we can have the Ksh. 45 million released so that we can issue the bursaries to our needy kids who have been sent home because of failure to pay fees. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Ndawa. Hon. Wambua.

Hon. Wambua: Thank you, Madam Speaker. Madam Speaker, first and foremost may I thank our able chairpersons. I do sit in that committee, education committee and he propelled us so well such that we could come out with this good report, Madam Speaker. Madam Speaker, the issue of bursaries is touching especially given this time our economy is in recess and our children must go to school. However, Madam Speaker, I have noted one very critical omission in page seven of this report.

Roman IV, clause (a); a when person a Diploma in education. I believe Madam Speaker, whoever printed omitted the word 'at least a Diploma' because if it is left as it is, it will limit only a person with a Diploma to be the Chair but I believe a person with a Degree still stands a chance to be the Chair. So it should read 'one person with at least a Diploma' so that we may accommodate---

Hon. Speaker: Point of information Hon. Musau from Hon. Ndawa.

Hon. Ndawa: Thank you, Madam Speaker. I want to inform the Hon. Member that the issue he is raising was discussed it and it took a lot of time. I am very sure those with Degrees are very busy working in Nairobi and other areas. So, that is why we reduced from Degree to a Diploma so that we can have somebody in the ward who can take care. That is the only in formation I want to give.

Hon. Speaker: The only concern which Hon. Ndawa, thank you; just resume your seat. The only concern which Mheshimiwa Wambua is raising is that you are limiting this to those who have a diploma and it makes some sense. If somebody who has a degree is willing to come and serve, let them serve because they are making it even better so what you need to say is one person with a minimum qualification of a Diploma.

So that you do not go below a Diploma but you can go above a Diploma that even if they have PhD and they want to sit there they can. You get it? That is the point Hon. Wambua? Had you finished?

Hon. Wambua: Thank you Madam Speaker for the guidance. If you allow me Madam Speaker, Hon. Ndawa you will turn with me page 10---

Hon. Speaker: I have finished with Hon. Ndawa. Hon. Wambua, do not continue following Hon. Ndawa. You have finished?

Hon. Wambua: Actually, I have observed Madam Speaker, the correction has been made in page 10---

Hon. Speaker: Page 10.

Hon. Wambua: Yes, in the provision for the ward bursary committee. Point (a) has rectified that omission. Thank you, Madam Speaker.

Hon. Speaker: Right, thank you, Hon. Steve Mwanthi.

Hon. Mwanthi: Thank you, Madam Speaker. Madam Speaker, I want members to refer to page 10 whereby we have the provision of the ward bursary committee. Madam Speaker, if you go to the composition of members of those ward committees, you will realize that only four members can vote because the (c) which we have the county officer from education department is an *ex officio* who cannot vote so I think we need some amendment there to include another person who I think if I were to suggest should be a person nominated by the Member of County Assembly in that particular ward so that we may have an even number in those wards.

Again on the same page Madam Speaker, I am also worrying if this Assembly has been working---

Hon. Speaker: Point of information Hon. Stephen from Hon. King'ori.

Hon. Kingo'ri: Madam Speaker, to nominate somebody is not allowed by the law according to the section which prohibits us from being associated with the Fund because the only person who is supposed to do it is the executive. If you nominate somebody you become part and parcel of the process which is wrong. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Kingo'ri. I think this remains a thorny issue even up to now. Did you find out, Hon. Kiilu, how the members of the National Assembly work on bursaries because they are always distributing bursaries and that is what makes you people be

fought by the public when they ask you and where is the county bursary. Did you check out what happens with them?

Hon. Kiilu: Thank you, Madam Speaker. I believe the two committees discussed at length on the same and what I want to assure the members is that this is the only friendly way that we could make these committees. And to second what Hon. Kingo'ri...I want to clarify to make it clear---

Hon. Speaker: Before you clarify answer my question; did you find out what happens with the Members of the National Assembly on bursary issues?

Hon. Kiilu: Yes.

Hon. Speaker: Do they sit in the committees that decide or that write on the bursaries? What is their role?

Hon. Kiilu: Their role is oversight, Madam Speaker.

Hon. Speaker: Including the distribution of the cheques?

Hon. Kiilu: We have said in this committee there is no problem in distributing the problem is involvement.

Hon. Speaker: Sitting in the committee.

Hon. Kiilu: Sitting in the committee, that is the problem.

Hon. Speaker: And yet many of the members are---

Hon. Kiilu: Madam Speaker, that is why Hon. King'ori is saying and is trying to advise the member; the regulation says that a member will not be directly or in directly involved. Once you nominate a member, then you are indirectly involved and the consequences are that they will not release the funds.

Hon. Speaker: Thank you, Hon. Kiilu. The most important thing is to ensure that your input particularly on the identification of the beneficiaries and I saw the committee has been quite innovative on page 10 where they---

(Hon. (Ms.) C. Nzioki spoke off record)

Hon. Speaker: Do not inform the Speaker when the Speaker is talking.

Hon. (Ms.) C. Nzioki: Sorry, Madam Speaker.

Hon. Speaker: What is happening; Hon. Constance, I should be informing you not you informing me.

Hon. (Ms.) C. Nzioki: Sorry, Madam Speaker. I had something to say.

Hon. Speaker: Yes, but you do not say it when the Speaker, is talking.

Hon. (Ms.) C. Nzioki: Okay, Madam Speaker.

Hon. Speaker: What is happening? You do not say it when the Speaker, is Speaking and I am putting a point across on what I have seen please because now that is going to be disorderly contact. If I get any member doing that any communication from the Chair should be in utter silence from all of you. Utter silence, so let us go on.

If you look at page 10, public participation the committee was quite innovative and it went out of its way to talk about public participation which you can actually frame on Article 196 of the Constitution and then it means that it is that public participation where you must be present and watching and talking. Isn't it? And because you are the ones who know the people in your wards who are very needy then members of the public will also be appearing and making their contributions? Wouldn't that be sufficient for you for purposes of identifying the needy persons? Wouldn't it be sufficient?

Other than wanting to sit in the committee which clearly whether it is somebody you have nominated or whether it is yourself, it is contrary to the law. Are we saying something? Yes, so, Hon. Stephen Mwanthi was saying that there is still a member should be able to nominate somebody to sit in that committee and it will still be you and that is what Hon. King'ori was saying when he was contributing and Hon. Kiilu is in agreement and I am also in agreement so that we do not stall the process but you must be participating on oversight of the selection of those members through this Assembly.

You can reject proposals on this floor then again when it comes to public participation you then also have to be actively involved. Hon. Stephen Mwanthi, you had not finished; please continue and finish. Now we continue and finish he has been sufficiently informed.

Hon. Mwanthi: Thank you, Madam Speaker. Much as I appreciate the work that has been done by the two committees, Madam Speaker, you see on the same page I am still worried--
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Hon. Speaker: Page?

Hon. Mwanthi: Page 10 of 11. You see the committee further recommends the removal of the MCA as the members of the ward bursary committee and this is in compliance with the recommendations by the Controller of Budgets vide letter. So it means now we are basing our debate on a letter not any Regulation or Act or any law anywhere so we are just responding---

Hon. Speaker: Doesn't the letter cite provisions of the constitution and---

Hon. Mwanthi: Madam Speaker, I was expecting maybe for the committee to quote because if we are responding to that letter, then it means we are responding to the Controller of Budget which should not be the case, Madam Speaker. So, my request is on the issue of voting,

if at all we are going to add another member, we have to because only four members here can vote and it should not be the case.

Then the other issue will be the body to be nominating the ward committees. They have elaborated very well on how to get the County Bursary Committees, remember we have two committees here but now who will be nominating then the ward committee members. Thank you, Madam Speaker.

Hon. Speaker: Okay, Members. Hon. Mueni.

Hon. (Ms.) Mueni: Thank you, Madam Speaker. I am a member of this committee and mine is to tell the elected members; you keep on saying that you be in the committee, you will end up not getting the bursary because you have to watch the money which is given by the executive---

(Hon. Mwanthi spoke off record)

Hon. Speaker: Hon. Mueni.

Hon. (Ms.) Mueni: Protect me, Madam Speaker, so that---

Hon. Speaker: Hon. Mueni, I will protect you but I will not protect you from being informed. Let us hear what information he has.

Hon. Mwanthi: Yes, Madam Speaker. I think I need to inform the Member that 'let her refer to Nyandarua County and Bungoma County.' A Member of the County Assembly like in Bungoma, the Member of County Assembly is a patron and in Bungoma the member is *ex officio* and I believe they are giving the same.

Hon. Speaker: Is it the fact that Bungoma and others are doing it? Does it make it legal? Does it make it constitutional? Let us not emulate those who are breaking the law; let us emulate those who are following the law.

Hon. Mwanthi: Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Stephen Mwathi. Hon. Mueni, please continue.

Hon. (Ms.) Mueni: Thank you, Madam Speaker. I think bursary is goodwill with the Governor and we are working together. When we went to Mombasa for bench-marking, we were taught that they are just given the money and others remain for the Governor. So you just keep quiet and be given the money, you give to your people what is important here is your people to get the money. The Governor and the MCA you are working for the people of Machakos County so if you want to sit in the committee you will never and never because you are the one who has to see how the money is used for the county and if you sit there you will give your people and you will be voting to have your people to vote for whatever is going on.

So, sometimes you have knowledge of understanding and I think the people the MCAs of this Assembly are educated people and they have to understand; when you keep on complaining

you are not given the money and the Governor goes to the ground and gives the money. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Mueni. Hon. Constance?

Hon. (Ms.) C. Nzioki: Thank you, Madam Speaker. I want to say about bursaries it is good for the waheshimiwa to have a say in it but I think the law does not allow I sat in the National Government CDF for Mheshimiwa Munyaka for the last five years and what happens is that the committee has a chairman apart from that MCA. The MCA is not supposed to be there but of course he has a say from wherever he is.

There is a chairman and other committee members and I think here the distribution is what causes the problem because all MCAs want to be seeing to be doing something for their people. They want to go to schools but usually what should happen is that when you are distributing bursaries, it is okay you can be there, but let the chairman of your committee or the committee members take the best part of it so that you are not seeing to be calling people out showing people that you are the person with that money and they must vote for you.

So it is good they can show up once in a while basically and by law they are not supposed to be seeing to distribute that money. Thank you, Madam Speaker.

Hon. Speaker: I knew that it is not going down well with the Members and for good reason Hon. Constance because these Members, the public out there is putting pressure on them to give the bursaries and the public does not care where that money is coming from. So as Mheshimiwa Kiilu is saying is there anything wrong if the members of the County Assembly are going to distribute the bursary cheques just like the MPs do. You know they are politicians and the MPs are also building their political strength from giving those bursaries so what do the MCAs have?

There is discrimination; why should they be discriminated and not give the bursaries also? After all they have already being written it is just delivering and they know the people best. It is just to make sure that they get the right person. I heard some member saying that some cheques even went to Mombasa when they were supposed to be in Machakos County. So it is about just making sure the cheques get to the right person and of course building the MCA; we cannot hide and we cannot run from that fact and if our laws or our practice has allowed the members of the National Assembly even the women rep they have National Government Affirmative Action Fund (NGAAF) which they go and give to the people.

Why shouldn't the MCA have it also and of course if it is the issue of elected versus nominated you can go there the same day and give if the MCA who is elected invites you to do it.

(Loud consultations)

Hon. Speaker: No do not ask me but let us go on. Hon. Kieti

Hon. Kieti: Thank you so much Madam Speaker for giving me this opportunity. I served as the secretary for CDF then that time it was called CDF for Kathiani Constituency and the practice is just as Hon. Constance has stated; what Hon. Members should be involved in is identifying the beneficiaries together with the Committee. There is no problem with Hon.

Member of a given Ward together with the Committee going to meet the people and then they identify the beneficiaries.

By so doing I do not see how the Hon. Member can be misused or can misuse the exercise because he is just there as a stakeholder of the given area where the bursaries are been disbursed so we can participate through and identify the beneficiaries and when the cheques are also ready, there is no problem going with the committee with the chairman taking charge then distributing the cheques to the beneficiaries.

By so doing, this kind of misunderstanding will be sorted and at the same time because we are allowed to participate in Public Participation, I think that is also an exercise of public participation when we are identifying the beneficiaries and when we are distributing the cheques and at the same time we will avoid this idea of cheques going areas where they were not supposed to go because at the moment I have a case of a girl in Mitaboni ABC whose cheque up to now has never reached the school and the girl is at home.

So, Madam Speaker, my proposal is that, let us be involved in identifying the beneficiaries and at the same time let us be involved in distributing the cheques; accompanying the team that is doing that exercise. Thank you, Madam Speaker.

Hon. Speaker: Thank you Hon. Kieti but before you sit down, I looked at the recommended amendment; this is serious because it is going to be the law that is going to guide the process. Can you propose how you want the provision for identifying the beneficiaries to be provided for because if we discuss it here and leave it here, it is not going to help. It has to find its way into the Regulations. What do you propose about identifying the beneficiaries; how do you propose it be done?

Hon. Kieti: Thank you, Madam Speaker. Out of practice in Kathiani, we narrow down to sub-location level so I also propose that we start from sub-location level; all the people within a given sub-location get the announcement, we meet somewhere and then the Members because they belong to different villages, every village stands on its own and then they identify the members from that nuclear stage and then after they have identified the beneficiaries, if they are two beneficiaries from a given village, the list will be compiled just at that point and then the names will be read out so that by the end of the exercise everyone knows the children who have benefited from the bursary and by so doing everyone will be satisfied.

Hon. Speaker: So what is the role of the MCA in this because that is the most important thing?

Hon. Kieti: Just to grace the occasion because your presence there---

(Laughter)

You see you cannot be.....when you are there you are given a chance to talk to your people and also to emphasis the importance of Education and other matters so by so doing just been seen there the bursary will be related to you.

Hon. Speaker: Just being seen there. Thank you. Hon. Kiilu.

Hon. Kiilu: Madam Speaker, can I add something on what he has said?

Hon. Speaker: On identification?

Hon. Kiilu: Yes.

Hon. Speaker: Okay.

Hon. Kiilu: Thank you, Madam Speaker. I think when we were talking about public participation, actually when we quoted public participation here, back in our minds we thought that when we talk about public participation not for the whole Ward because some areas might be far from the others. We thought because we said that we have to involve the Village Administrators they publicize even the MCA. So, once we do the publication, you will trickle down to the sub-locations and those sub-locations that are very vast, you may move down to the villages you meet with the people of that area then you identify the needy pupils.

At that particular time, the MCA can move there, you can send your PA; there is no fear because you are identifying the needy students. From there you can move to the other village then from one village you compile for the sub-location then you compile the needy student for the whole Ward.

Actually, we had thought of for example in my case I have four sub-locations; when I get the funds I divide into four sub-locations then this amount for that sub-location we do the public participation in that particular area. We identify the needy students then we have the names. Thank you, Madam Speaker...

Hon. Speaker: I agree with that; the only thing Hon. Members, why you see I am paying attention to this it is because it's about a law which we are about to make and which is going to affect you and may also determine whether you will come back in 2022 or not because down there they are talking about bursaries. So, if you want it to start from the sub-locational level, you need to say so.

Remember you are making the regulations so when you say in a blanket that public participation, you need to provide in the regulations that the public participation should start from the sub-locational level and then from there it should go to locational and then from there the way you want it; do not leave anything for guess work because right now you may work with somebody who has the goodwill and who is understanding because you have been discussing with them now but you do not know who is coming tomorrow.

They may decide that they are just going to read what is written in the regulations and that is what happens so that you do not read anything from outside; if you want it to be clear, make it now before you send it out there. Hon. Kiteng'u

Hon. Kiteng'u: Thank you, Hon. Speaker. I would like to comment on these bursary regulations. Hon. Speaker, I would like to let the House know that we do oversight, legislate and represent and we had also local arrangement with the recent Supplementary Budget whereby we were also given projects worth Ksh. 10 Million whereby it is us, as MCAs who are identifying the projects and they are also working and because we keep on trying to pin ourselves to be involved in either way in these bursaries and as far as the law does not allow us, it will not happen.

What I will request Madam Speaker, the committee of Education is, the same way we did and the same way we identify the projects through the Ksh. 10 million the Ksh. 15 million, it goes and applies as well on local arrangements on bursaries. Hon. Speaker, I would also like to quote page nine on application; Madam Speaker, I would like to quote No. 9.2.1. At least in once every year and in consultation with area leaders---

Hon. Speaker: Hon. Kiteng'u, personally I am not with you.....where are you what page number?

Hon. Kiteng'u: Page nine of the regulations.

Hon. Speaker: You are reading the regulation not the report.

Hon. Kiteng'u: Regulations.

Hon. Speaker: We are there.

Hon. Kiteng'u: 21.1

Hon. Speaker: Regulation 21? Public meetings

Hon. Kiteng'u: Yes, public meetings. At least once every year and in consultation with area leaders, the Ward Bursaries Committee shall convene public meetings in every village for purpose of public participation for the award of bursaries. That one, Hon. Speaker I am quoting because of what our chairman Education has just quoted and you requested the information to be but we still have it so---

Hon. Speaker: Do you see how it is at least once a year. Is it just going to be once a year or is it every time that there is bursary to be given out?

Hon. Kiteng'u: It states that at least once a year.

Hon. Speaker: The law will bind you as you frame it so if you frame it at least once a year that is what is going to remain and I have kept on telling you do not leave things for guesswork. Be specific Hon. Kiteng'u that at least once a year it is too little; why should it not be every time there is bursary to be issued because that is when you want to identify the beneficiaries through public participation?

Hon. Kiteng'u: Hon. Speaker, may I, with your guidance and support of the House as well, can I request it to be stated 'every time we are issuing the bursaries.'

Hon. Speaker: Think about it Members. Point of information from Hon. Kamulu.

Hon. Kamulu: Thank you, Madam Speaker. In fact, the public participation is supposed to be every time bursary is being issued because it is the same time during that public participation when they also identify the needy issues on the spot. So it is every time

when we are issuing bursary because the villagers are the ones who give the beneficiaries because they are the ones who know them. Thank you, Madam Speaker.

Hon. Speaker: Hon. Kiilu.

Hon. Kiilu: A slight correction on the same please. Can we agree that let it not be when the bursary is being issued but when the bursary money is available because when you are issuing the bursary you cannot conduct the public participation at that particular time. Whenever the funds are available, we do the public participation.

Hon. Speaker: All at ago?

Hon. Kiilu: Yes.

Hon. Speaker: I am hoping that those who.....(inaudible) are looking at the way forward and I can see Hon. Constance and Hon. Kieti, you have sat in the past in Committees that have dealt with the bursaries but remember much as you draw from past experience, please be informed by what is happening currently and remember also we have the Constitution that is saying it is a right of every child to get education. Some of the practices may have been even before the 2010 Constitution and the fact that it has been done differently does not bind you as long as you are not breaching a law.

You are looking at what is now best currently and in the circumstances of the people you are serving. So, you need to think about it and especially for capturing on the HANSARD for purposes of giving a thoroughly well-done report on these regulations. Once they go back, they will be gazetted and they are out of your hands unless you call for amendments later. Hon. Constance, you want to say something?

Hon. (Ms.) C. Nzioki: Thank you, Madam Speaker. It is some good advice and maybe we compare because what I used to see is we give bursaries we used to give ones a year and then it becomes a problem. Because a child will have a cheque for one term; that term ends and the next term there is no bursary sittings or there is no money.

So the child goes home, we have lost the child and we have lost that money. So my request is if bursaries can come in first term, second term and third term or it comes in total of three times in January so that that child is not sent home. Thank you, Madam Speaker.

Hon. Speaker: And you see that is a very wise advice because it is again for you Members to decide you are going to stipulate in the regulations that bursaries will be issued either three terms you call them three terms every term or for three terms ones in a year to the needy children which means the identification has to be done well in advance. What about those who become needy in the course of the year?

Hon. Kiteng'u: Can I finish, Madam Speaker?

Hon. Speaker: Yes, Hon. Kiteng'u.

Hon. Kiteng'u: Thank you. Hon. Speaker, on page nine, I would like to finalize on number two the Ward Bursary Committee shall publicize the holding of public meetings through local leaders, Government agencies and as widely as possible including in market places, religious forums, through the media and other public gatherings. Hon. Speaker, on the same I would like also to insist on what Mheshimiwa Mwanthi had requested. What happens when there is any division because as the Committee has got only four Members who can be able to vote. Thank you, Hon. Speaker.

Hon. Speaker: Okay. Any further contributions?.... Point of information. Who are you informing Hon. Kiteng'u has finished but unless now we come for a second contribution you had already contributed. I want members who have not.....you cannot inform when a Member has already finished contributing. Hon. Ndawa, we are in the House. Hon. Kamulu

Hon. Kamulu: Thank you, Madam Speaker. Mine is on the composition of the Committee of the Ward.

Hon. Speaker: What page are you referring to?

Hon. Kamulu: Madam Speaker, it is page 10.

Hon. Speaker: Of the report?

Hon. Kamulu: Yes.

Hon. Speaker: Okay.

Hon. Kamulu: At one time, the Members might decide to vote and if it is 2-2 maybe they may not reach a consensus so my proposal is we add one person and I am suggesting that person be one person with disability so that we can cater for that side and we also give a number which actually can vote and make the Committee to make a consensus or a resolution. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: That is a proposal from the Member and you are looking at the composition; the first one and that is the same concern Mheshimiwa Stephen Mwanthi was raising when there is a tie what happens? Because number C cannot vote. Now, if number C is not voting it means one person in A and B and two in D so that makes four. So if there is a tie there is a problem. Now you propose that you add a provision or a person living with disability. Members that is a proposal? A recommendation. Hon. Kiilu has an answer to that.

Hon. Kiilu: Yes. Thank you, Madam Speaker. Let me appreciate what Hon. Kamulu has said. Actually it was an oversight but as we were putting down the figures, we thought the people with disabilities..... although we had not indicated, it is still an oversight would be a person among them, but allow me to support what the Hon. Member suggested that we have another slot for the people with disability. Thank you.

(Applause)

Hon. Speaker: Alright, thank you. So that should be noted and captured. We carry on Hon. Kituku

Hon. Kituku: Thank you, Madam Speaker for that opportunity to make my input actually this report is very important because actually all the Members have some interest even if we say we are not part and parcel of this. Madam Speaker, it is my view that because the Controller of Budget was also against coming up with a large number of the Ward Committee Members because she is against seven Members.

Now we are heading to six Members what of if we make.....or else we remove the Ward Administrator as a member to vote and we remain with three members because actually the Ward Administrator is representing the County Government and the other three would represent the public.

Actually, I also see another danger of coming up with a large committee which could also have some negative effects on the same. So, Madam Speaker, that is my suggestion; I don't know what the fellow Hon. Members would think about it but I think it is a good suggestion.

Hon. Speaker: Hon. Members, what is your thinking of that. Hon. Musyimi.

Hon. Musyimi: Thank you, Madam Speaker. I stand to support the words talked but Hon. Kituku. Actually, while we were in the committee, the Controller of Budget was arguing about the large number of the committee members so he was trying to reduce the number. So if we try to add another person to become six in number, actually we will go the same way as we were at seven.

So, my suggestion is that we either leave the chair to be given a provision to vote twice or we reduce the ward administrator; we deny the ward administrator to vote---

Hon. Speaker: Hon. Musyimi, put a break where you are, have a seat and let us hear a point of information from Hon. Ndawa.

Hon. Ndawa: Thank you, Chair. According to the report, we have four members and in this report one member is not voting, so we are left with only three members with voting power.

Hon. Speaker: Not three, Hon. Ndawa. Just look at it (a) has one person (b) one person (d) has two a woman and a man so that makes four.

Hon. Ndawa: The other information, Madam Speaker, that I would wish to give this to this Hon. House---

Hon. Speaker: So you withdraw the first one?

Hon. Ndawa: I withdraw the first one. The other information I want to give to this House whatever is not captured in the organizations bylaws or act we use the Kenyan law and the

Kenyan law allows the chairperson to cast a second vote in case of a tie. Thank you, Madam Speaker.

Hon. Speaker: You hear that, Hon. Members. The only thing is because this is a matter that if we agree actually is in the very heart of this House. The proposal by Hon. Kituku is that you have provision that the ward administrator has no vote just like you are saying for the county officer. Now the only problem maybe with that is you will notice that you have removed completely the power of the executive in voting and remember this is a fund that is administered by the executive.

So you cannot remove the executive totally from voting, Hon. Kituku. That would be the danger of saying that the ward administrator is not going to vote because the ward administrator is representing the executive. So, we are still dealing with the issue of too many numbers versus the uneven numbers and the even numbers. Hon. Kieti.

Hon. Kieti: Thank you Hon. Speaker for giving me this chance. I have observed that in the county bursary committee we do not have that is on page nine, we do not have a case like the one we are having in (c) on page 10 where we are talking about the county officer from the education department.

I don't know why in the ward we have included a county officer from the education department while in the county bursary committee, we do not have such kind of portfolio and my take is that we could do away with that---

Hon. Speaker: Point of information Hon. Kieti from Hon. Johana. Let him inform the House.

Hon. Munyao: Madam Speaker, I thought the equivalent of the said officer is the Chief Officer who shall be the secretary of the committee and an *ex officio* with no voting rights.

Hon. Speaker: Yes, Hon. Kieti, you have seen that?

Hon. Kieti: Yes, I had seen that but my argument is that the administrator can act on behalf of the Chief Officer in this second case.

Hon. Speaker: What you are saying is that you don't need a ward administrator as well as a county officer. There is duplication.

Hon. Kieti: Yes, there is duplication.

Hon. Speaker: Hon. Members, can you deal with that?

Hon. Kieti: At the same time, I want to support what Hon. Kamulu suggested that in case of an open slot, we can include a person living with disability because in the first committee for the county bursary, we have (e) where we have a woman or a man of that nature who have been given a chance to serve in the committee.

So, in the second committee for the ward we need a slot for our brothers and sisters of that category and same time Hon. Kiilu suggested that we can have the public participation once when the money is available. I think that will reduce the duration for us---

Hon. King'ori: Point of information, Madam Speaker.

Hon. Speaker: I expected; what time are we now? We will just conclude Hon. Members. So, Hon. Kieti your point is well-noted and what Hon. Kieti is saying is there is over-representation in the ward bursary committees for the executive because the ward administrator then the county officer, whereas when he looked at the county bursary committee there is only the Chief Officer.

Of course, the relevant Chief Officer that is the one for education, so that is the one who is representing the executive. So, he wonders why you cannot substitute, he substitutes one of the two with representation of PWDs. Hon. Johana.

Hon. Munyao: That is a nice observation, Madam Speaker. In fact, the county officer from the education department who is stated at the ward level, happens to be these ECDE teachers, so you realize in a committee sitting the ward administrator who is more senior than the ECDE teacher sits there idling whereas now the ECDE teachers and I am sorry to say who some of them may not be competent to undertake such responsibilities is very actively involved in the running of the whole affairs.

So, I would suggest that we do away with the county officer and maintain the ward administrator who should also double as the secretary to the committee. Thank you, Madam Speaker.

Hon. Speaker: Maybe the information that is coming Hon. Johana from the two Members is that then you have nobody from the education department; that is the effect of it which is really untenable. It is not good. That is the information you were going to give, yes and I saw it coming.

Hon. Munyao: I thought when although when we say we want somebody with a Diploma in education, why are we so specific on having somebody in education. I thought those are people who are serving the almost the same purpose.

Hon. Speaker: That is an outsider; they are not employed by the county government. Hon. Kiilu, give us a solution because we are about to finalize.

Hon. Kiilu: Thank you, Madam Speaker. You know it is always good to be flexible and actually, I thought what Mheshimiwa Kamulu said is the best way to go but also I sat down and again reasoned and realized that if we go that way maybe the Controller of Budget will challenge because of the big wage bill. I have two options; why don't we have where we have said that the woman (f) a woman and a man.

Hon. Speaker: We are on page 10 on the ward bursary committee.

Hon. Kiilu: I am talking about the ward bursary page 10(d) where we have said 'a woman and a man who have ordinarily been residing in the county for at least 10 years preceding the appointment.' Why don't we specify and say that one should be person with disability then we move back and also allow the secretary to give him/her a voting right.

Hon. Speaker: To give the secretary? Rarely will you ever find the normal meetings; a secretary doesn't vote, that is why they are called *ex officio*. Do not spoil the practice of meetings.

Hon. Kiilu: But the last one I think it has augured well.

Hon. Speaker: The last one is okay.

Hon. Kiilu: Okay. Thank you, Madam Speaker.

Hon. Speaker: We are looking for solutions on these issues. We understand now you are supporting so it is okay Hon. King'ori; you have supported thank you. He has supported, you know there is Standing Order 78 that bars members from speaking twice and that is why I am saying you have supported you even had the opportunity to say you are supporting. Any member who has not.....Hon. Kisini.

Hon. Kisini: Madam Speaker, thank you for giving me the chance. I am in full support on the recommendations of the report and I want to say that the committee did a commendable job. I wanted to raise something different although you want us to speak on that particular issue; I don't know if you allow me to give that something different before we close up and may be if allowed.

Hon. Speaker: Point of information from Hon. Ndawa.

Hon. Ndawa: Thank you Madam Speaker for allowing me to give this information. I think it is very clear (a) is not what we agreed; a person with at least a Diploma in education. That is not what we agreed; we said at least a Diploma but with experience in matters on education because if we allow it to go that way, it will mean that the person must be a teacher.

So the word a person with at least a Diploma in education, education should be erased. If we let it go that way, it is going to affect other people who are not teachers.

Hon. Speaker: That is now a different issue altogether. Are we able to complete on the composition? I am allowing only those who are going to give us solution to the composition even if it is twice now. Hon. King'ori and in one minute.

Hon. King'ori: Thank you, Madam Speaker. My opinion was one that for (d) we have one with a disability if the man is with disability the other one should be the person elected on (a) and (d) should be one person at least with Diploma, if he is a man, the other one should not be a man but should be a woman and the one with disability should be a man so that we have the same things but we get what we want.

Hon. Speaker: That is already captured; the spirit is that in (d) either of them should be a person living with disabilities.

Hon. King'ori: Madam Speaker, you did not catch my point because what i wanted to mean is that suppose there is no disability somewhere and we say one person with a Diploma is a woman, then here we shall have one person with disability and a man so that we have the two numbers that are needed. I don't know whether you have gotten it.

Hon. Speaker: You know (a) is not addressing gender but (d) is addressing gender but you can also use (d) for gender as well as persons living with disability. So, you don't limit (a) whether it is a man or a woman or whether it is middle. You have it in (d) which is clear that it should be a woman or a man but either of them should be a person living with disability. Also when you are legislating, don't put many complications; people will not understand what you are trying to say.

So we don't touch (a) for gender or PWD but we can touch (d) for gender and PWD; it serves a good purpose because if I am a woman and I have disability, I am now satisfying two requirements. Hon. Kisini, was still contributing.

Hon. Kisini: So, thank you, Madam Speaker. I just wanted to raise the concern that after we are through with that composition, the report does not talk of the allowances of those people we have---

Hon. Speaker: Normally, Hon. Kisini, the allowances now are determined by the SRC; it gives a circular of committee meetings at what level, at what level and it gives a guidance.

Hon. Kisini: Thank you Madam Speaker for that guidance and its good also i raise that concern because we have seen that those people who have been awarding that committee are not paid, they stay so much before being paid and they turn over for us.

Hon. Speaker: You see the 3 per cent which is percentage of the administration, that is the amount out of which the members are remunerated but again on guidance from the SRC.

Hon. Kisini: Thank you Madam Speaker for that guidance. I was only raising that concern so that they may be paid immediately.

Hon. Speaker: Composition; anyone with.....Hon. Kieti.

Hon. Kieti: Yes, Madam Speaker. My observation is that in the county committee the person who should be sitting in that committee at the level of the ward administrator in the ward level is a high ranking person of the executive like the Governor so because we do not have such a person in the county bursary committee, I wish to move an amendment that the ward administrator just be invited in the committee just like the MCA and then we leave the matter of the county officer that is we leave (c) as it is the we amend (d) to include a person living with disabilities. Thank you, Madam Speaker.

Hon. Speaker: Okay, Hon. Members. Thank you. Can I call the mover of the motion to reply very briefly because we are almost running short of time?

Hon. Kiilu: Thank you, Madam Speaker. Allow me to more sincerely thank the members for participating with a lot of energy in this report and actually, I have heard them and actually assure them that they should not have fear or doubt with this committee. We are going to may be work together and we are going to support each other whenever necessary.

Madam Speaker, let me actually congratulate my committee because they worked tirelessly within the timeline that we had been given and they gave me a lot of support, thank you Hon. Members for that support. Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Kiilu. Hon. Members, I now put the question that this Hon. House discusses and approves, with amendments as discussed on the floor of the House, the report of the joint committees of education and delegated county legislation on consideration of the Public Finance Management (Machakos County Bursary Fund Regulations 2019).

(Question put and agreed to)

Hon. Members, the urgency in these regulations cannot be over-emphasized because the reason that has been given by the executive is that they have not been releasing bursaries because you did not have the appropriate regulations. So, the joint committees will need to sit down urgently and look at the recommendations by the members laid for the amendments so that you can now finalize and make sure that the report for purposes of the amendment and as detailed as per the discussions and debate on this floor are captured and then given in some written form of communication to the executive for purposes of gazettment.

It is only then you will be able to access the bursaries and it is hoped that there will be no hitches after that because we have done what is necessary. Thank you very much.

ADJOURNMENT

Hon. Speaker: At this point the sitting of the House is adjourned. It is going to resume on the 26th June 2019 at 2.30 p.m. today. Have a good afternoon.

The House rose at 12.25 p.m.