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LEADERSHIP PROFESSIONAL DEVELOPMENT THROUGH INTEGRITY AND FINANCIAL ACCOUNTABILITY: CURBING FRAUDULENT PRACTICES IN SCHOOLS

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LEADERSHIP PROFESSIONAL DEVELOPMENT THROUGH INTEGRITY AND FINANCIAL ACCOUNTABILITY: CURBING FRAUDULENT PRACTICES IN SCHOOLS

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Abstract

School headship has become a major global educational issue as government and stakeholders invest in education. In Kenya the new Education Bill to align education to the new Constitution will have significant demands on principals of schools. This is because the Constitution embraces financial management and procurement as important components and further highlights on integrity and accountability in public finance. Leadership development in schools will require insight into improved and increased financial accountability. This paper enhances this development by emphasizing on prudent intervention strategies with spotlight on fraud in educational institutions and bringing to prominence the following questions: (1) What are the common fraudulent practices in schools, (2) How can principals of schools ensure integrity in finance conduct within government procedures, (3) What sort of training programme do principals regard as useful, (4) Do, and can training programmes bring about changes in attitudes and behaviours of principals. This paper concludes with recommendations for (2), (3) and (4) in that financial accountability must be a component of leadership dynamics, emotional and professional dimensions of headship and in contributing to school improvement.

Keywords: Principal, integrity, public finance, fraud, accountability.

Background

In Kenya, the issue of principal's professional development and training has received much attention since independence, and in the late 1990s. At independence, the government through the Ministry of Education developed procedures including a manual to guide head teachers on various managerial roles (Republic of Kenya, 1967; 1968; 1975). In the 1990's a programme to train primary head teachers, the Primary School Management (PRISM) was conducted by the Department for International Development (DFID) and Ministry of Education that included a Financial Management component (Ministry of Education, 1999). Further, the Kenya Education Management Institute (KEMI) (formally Kenya Education Staff Institute, KESI) was set up in 1981. KEMI has since conducted several courses for education officers and quality assurance and standards officers, principals and deputy principals and heads of departments, on improved school management. These include courses in ICT, Guidance and Counselling, integrity, education management and administration, and significant for this paper School Finance Management. With the introduction of Free Primary Education (FPE) in 2003 and Free Day Secondary Education (FDSE) in 2007, the need for enhanced financial accountability became even more urgent and several publications were prepared by the Ministry of Education on financial management (Ministry of Education, 2005a; 2005b; 2006a; 2006b; 2007). The Constitution (Republic of Kenya, 2010) has now embraced financial management and procurement as important components. This paper enhances this development by emphasizing on prudent intervention strategies with spotlight on fraud in educational institutions.

The Constitution (Republic of Kenya, 2010) sets out the overall guidelines on the management of public resources and provides for enactment of specific legislation to give effect to the same. For instance, the 2012 / 2013 national budget at Kenya shillings 1.459 trillion is Kenya's most ambitious budget yet (Republic of Kenya, 2012a). The highest expenditure was allocated to Energy, Infrastructure and ICT sector leading with 24% allocation on account of ongoing road and Energy projects followed by Education sector at 21% with expenditures on FPE, FSE and teacher salaries. This paper hence provides a framework for implementing reforms envisaged in the Constitution, the Public Finance Management Act 2012 (Republic of Kenya, 2012b), other Public Finance legislation enacted pursuant to the provisions of Chapter 12 of the Constitution and the Strategy for Public Finance Management Reforms in Kenya 2013 – 2018 (Republic of Kenya, 2013a).. The spirit of this paper is to take forward Educational reform agenda towards Education for All as envisaged in the Basic Education Act (Republic of Kenya, 2013b).

The highlight on principals of schools and their role in education management is essential. Wango (2006a; 2006b; 2009; 2011; 2012) has continuously pointed out the important role played by the leadership in schools. Wango (2006a; 2006b) has further suggested that principals of schools were conspicuously missing in the Education Act and that there was need for them to be comprehensively included in contemporary education policies. Oplatka (2004) highlight that principals in developing countries may have unique challenges and singles out limited autonomy, autocratic leadership style, summative evaluation, low degree of change initiation, and lack of instructional leadership functions. It must be mentioned that these challenges that are very critical in quality of standards such as financial management and should in turn be points of focus for educational policy and reforms (Ministry of Education, 2000).

Fraud, Deception, Loss of Cash and Debts

A fraud is an intentional deception made for personal gain or to damage another individual. Fraud is a crime, and also a civil law violation. The related adjective is fraudulent. Fraud is a significantly under-reported crime and greater cooperation is needed to achieve a real impact especially in the public sector. Fraud offences are rarely reported by individuals, institution or even in schools. This is principally because the falsehood may at times appear demeaning to the plaintiff, the person who was the victim of deception. In addition, there are always new tricks to undermine our cognitive reasoning, just like old known tricks always reappear, sometimes the same way to unsuspecting victims, or the trick is overhauled to make it more appealing (Cohen, 2006). And yet fraud is the easy way to obtain money undetected. This is because to avoid fraud would require would be victim to be vigilant, while evidence of fraudulent practice in a court of law require data analysis and forensic accounting. Unfortunately, many people are not sensitive to 'fraud' though they may be aware that dishonest people may attempt to obtain money or property through deception (Dillon, 2008; Stuart, 2006).

Canadian courts (Department of Justice, Canada, 1985) hold that fraud consists of two distinct elements:

(1) A prohibited act of deceit, falsehood or other fraudulent means. In the absence of deceit or falsehood, the courts seek objectively for a 'dishonest act'; and,

(2) The deprivation must be caused by the prohibited act. Deprivation must relate to property, money, valuable security, or any service though it is not essential that there be actual loss.

To establish a claim of fraud, element that constitute fraud must be pled with particularity and be proved with clear, cogent, and convincing evidence. These fundamentals were an important component of the study as demonstrated in Table 1 below.

For example, in the United States (Judicial State, USA, 2009), common law recognizes nine elements constituting fraud as follows:

1. A representation of an existing fact;
2. Its materiality;
3. Its falsity;
4. The speaker's knowledge of its falsity;
5. The speaker's intent that it shall be acted upon by the plaintiff;
6. The plaintiff's ignorance of its falsity;
7. The plaintiff's reliance on the truth of the representation;
8. The plaintiff's right to rely upon it; and,
9. Consequent damages suffered by the plaintiff.

The Penal Code in Kenya (Republic of Kenya, 2009) recognises several offences as fraudulent including conduct of persons employed in the civil service, in finances and property. In addition, public officers must be accountable in their conduct (Republic of Kenya, 2006) and the Public Finance Management Act (Republic of Kenya, 2012b) emphasizes on Liability of public officer for certain losses sustained by national government in Sections 202 and 203:

> A public officer is personally liable for any loss sustained by the national government that is attributable to —
>
> (a) the fraudulent or corrupt conduct, or negligence, of the officer; or
> (b) the officer’s having done any act prohibited by section 196, 197 and 198.

Sections 196, 197 and 198 cited in the Public Finance Management (Republic of Kenya, 2012b) are enforcement provisions and very significant for the purpose of this study. Consequently, Table 1 below includes an intervention based on financial provisions in current practice and best practice as suggested by principals of schools.

The Penal Code in Kenya (Republic of Kenya, 2009) Section 127 (1) and (2) on Frauds and breaches of trust by persons in the public service is very significant:

(1) Any person employed in the public service who, in the discharge of the duties of his office, commits any fraud or breach of trust affecting the public, whether the fraud or breach of trust would have been criminal or not if committed against a private person, is guilty of a felony.
(2) A person convicted of an offence under this section shall be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding ten years or to both.

Cheating in 315 (Republic of Kenya, 2009) may include fraud:

> Any person who by means of any fraudulent trick or device obtains from any other person anything capable of being stolen, or induces any other person to deliver to any person anything capable of being stolen or to pay or deliver to any person any money or goods or any greater sum of money or greater quantity of goods than he would have paid or delivered but for such trick or device, is guilty of a misdemeanour and is liable to imprisonment for three years.

Section 328, 330 and 331 (Republic of Kenya, 2009) are specific on fraudulent appropriation or accounting by directors or officers and fraudulent false accounting by clerk or servant such as principals of schools and finance officers in schools. Section 328 states that any person who –

(a) being a director or officer of a corporation or company, receives or possesses himself as such of any of the property of the corporation or company otherwise than in payment of a just debt or demand, and, with intent to defraud, omits either to make a full and true entry thereof in the books and accounts of the corporation or company, or to cause or direct such an entry to be made therein; or
(b) being a director, officer or member of a corporation or company, does any of the following acts with intent to defraud, that is to say -
  (i) destroys, alters, mutilates or falsifies any book, document, valuable security or account which belongs to the corporation or company, or any entry in any such book, document or account, or is privy to any such act; or
  (ii) makes, or is privy to making, any false entry in any such book, document or account; or

(iii) omits, or is privy to omitting, any material particular from any such book, document or account,

is guilty of a felony and is liable to imprisonment for seven years.

Forgery is defined in Section 345 as the making of a false document with intent to defraud or to deceive. Fraud including making false documents without lawful authority or fraudulently, by cancellation or otherwise. This may be extended to altering documents or record after it has been made, executed or affixed such as a cheque that is already signed.

In Section 348 (Republic of Kenya, 2009), intent to defraud a person and in this case a school could be presumed as follows:

> An intent to defraud is presumed to exist if it appears that at the time when the false document was made there was in existence a specific person ascertained or unascertained capable of being defrauded thereby, and this presumption is not rebutted by proof that the offender took or intended to take measures to prevent such person from being defrauded in fact, nor by the fact that he had or thought he had a right to the thing to be obtained by the false document.

Section 356 (Republic of Kenya, 2009) in particular addresses alteration of cheques. This study investigated aspects where the above circumstances and others existed in schools.

The Study

The research design for this study included complementary quantitative and qualitative dimensions. This was because it was necessary to meet the objectives of the study and at the same time, it was necessary both to be able to report on the breadth of experience across all schools in the country but also to be able to gain some understanding of the financial processes that were taking place for individuals and within schools. The latter was judged to be possible only through interviews and case study investigation.

The objectives of the study were:

1. To identify the common fraudulent practices in schools;
2. To identify ways in which principals and head teachers of schools can ensure integrity in finance conduct within government procedures;

3. To identify appropriate training needs for principals and head teachers useful in enhanced public finance management; and,
4. Identify the impact and outcome of financial training to bring about changes in integrity and accountability in public finance.

A national survey was undertaken and questionnaires administered to 200 principals of secondary and 200 head teachers of primary schools throughout Kenya. A total of 387 questionnaires were returned. Qualitative work included twelve case studies in six secondary schools and six primary schools based on particular schools, spread across the country and representing a range of geographical and educational settings. In addition, two private schools were included in the case studies as basis to evaluate financial performance. All the case studies involved interviews with the principal, head teachers and financial officers.

Case interview was further extended to school auditors working in the Ministry of Education as well as personnel working in various Banks. In addition, members of the school Board of Management were interviewed where s/he was available. Interviews were also carried out with leading officers in the Ministry of Education. Additional study was carried out on documentation regarding finances and procurement procedures (Ministry of Education, 2005a; 2005b; 2006a; 2006b; 2007; 2010) including disciplinary action by the Teachers Service Commission (Republic of Kenya, 2012c; Teachers Service Commission, 2002; 2013) and the Penal Code (Republic of Kenya, 2009).

Results: Fraudulent Practices in Schools, Loss of Cash and Debts

Schools lose a lot of money through fraud. Unfortunately, over a half of the principals in both primary and secondary schools were not aware of ‘fraud’ though they were alert about loss of finances. The amount of money lost was clearly hidden from us, especially since both of the authors were linked to the Ministry of Education and the Teachers Service Commission. In that case, the research did not want to conduct a forensic audit that would be quite revealing to say the least. Notwithstanding, it is the responsibility of the principal as the accounting officer to ensure that adequate checks against fraud and irregularity are put in place in the school (Ministry of Education, 2005a; 2005b; 2006a; 2006b; 2007). Proper steps must be taken to confirm financial procedures are effectively followed to prevent loss and recover debts (Wango and Gatere, 2012). All losses of cash and stores inventory must be reported immediately to the nearest police station, the chairperson of the Board of Management and the County Director of Education.

The school is most vulnerable to fraud when dealing with cash. Therefore, the first step is to avoid cash transaction. On one hand, schools are different. For instance, in certain instances, the bank might be afar off (needless to say banking is being made easier everyday) and a parent or guardian such as a grandparent walks to the school and insists they want to pay the money. The principal or finance officer may accept the cash depending on the circumstances (each case is unique) but the money must be deposited as soon as practically possible. The table below is an illustrates of some of the most common fraudster methods reported in schools, how they were overcome, and ways they can be curbed.

Principals and school managers were aware of financial malpractices but not specific fraudulent practices. Unfortunately, most of the principals and head teachers had become aware of deceitful practices after they had happened in their schools or to colleagues. Vivid examples were provided as well as intervention strategies to prevent future misdemeanour. It was apparent that all principals and managers of schools must be alert on new cheating techniques as illustrated in the table below:

Table 1.1. Common Forms of Fraud and Loss in Schools

Element	Common Fraudulent Practices	Intervention / Prevention
Cash	- Money is clearly and honestly received, receipted but cannot be traced - Money is clearly and honestly received, receipted but stolen on way to the bank - Money is received, receipted but not banked - Money is received, original receipt given to parent has correct amount, countercoif receipt has actual amount received as revenue by the school, but	The following steps are necessary: - Person collecting money must take responsibility for all money collected - Money should be escorted to the bank - Bank reconciliation, constant checks with the bank, trial balance and balance sheet should be mandatory

Element	Common Fraudulent Practices	Intervention / Prevention
	school has no money - Money received, but not deposited in bank (*person taking money to bank has own fake bank stamp)* - Money sent by phone to a person working in the school - Money as given to a person (board member, principal, teacher, finance officer, school secretary) to take to school, or to the bank - Money was received but paid to a person who did not sign - School was broken into and unknown amount stolen - Schools experiences constant robberies (thefts) - School principal and / or school accountant (bursar) are visited by robbers who force them to open the office and robbers take away money - Principal or school accountant are constantly waylaid - Arson including destruction of school offices to erase evidence - Student is in class but not recorded in class register	The school should: - Be very clear that no money will be collected in school. This should be a school policy and clearly stated in the school newsletter and explained to parents - Receipts should be self carbonated. This reduces fraud of writing different amounts on original receipt from the duplicate - Take disciplinary measures to avoid loss and fraud - All students must have an admission number - Class registers are accountable documents and must be preserved - Bank deposit slips should have student registration / admission number
Cheque	- Money was paid to a creditor but purpose unknown - Money was paid to a creditor in excess of stated amount in the payment voucher - Money (cheque) has been paid to a creditor in advance - Money was paid but goods, work or service was not delivered - Money was paid but goods, work or services incomplete or poor quality - Signed cheques were stolen or are missing - School is overdrawn - Goods delivered cannot be traced	The school should: - Pay against the budget - Pay cheques that have a payment voucher attached stating: ▪ Name ▪ Purpose of payment ▪ Amount paid - Signatories should never sign a blank cheque (no blank cheques should be signed at all) - Pay for delivery of goods, work and services that is of high quality and when completed
Cash Deposits	- Parent or guardian indicates different amount on original deposit slip from actual amount deposited	- Banks will always issue a printed copy of actual deposits, countercheck

Element	Common Fraudulent Practices	Intervention / Prevention
Supplies	- Paying a supplier twice for same item. Cheque is done and supplier paid. After a period of time, the same invoice is raised and a cheque prepared (redone) to pay for the same item. The money comes from different bank accounts to avoid detection - Overpayment of suppliers. Payment is done in parts to enable overpayment (for example, to pay Kshs 300, 000 first payment is Kshs 200, 000 and another Kshs 180,000). The signatories will remember that the payment was done, but then was incomplete and not detect anomaly	- School should not have several bank accounts (some schools had 8 – 12 bank accounts) - Part payment for goods, work and services should be avoided - Schedule of all payment should be attached to cheques - Computer accounting system that links principal's office with the finance officer

Professionalism in Finance Practice: Curbing Fraud and Sanctions for Non Compliance with Financial Regulations

The government and the Ministry of Education have placed a lot of emphasis on prudent use of finance. Financial regulations including procurement must be adhered to, and are mandatory. Failure to adhere to laid down regulations constitutes serious offence. Anyone who contravenes laid down regulations can be subjected to disciplinary action under the provisions of the Constitution, the Penal Code, the Code of Regulations for Civil Servants and the Teachers Service Commission Act (Republic of Kenya, 1967; 2002; 2006; 2009; and 2012c).

Primary and secondary school principals require completing training beyond that required for teachers. Most of these courses have been organized as in-service courses apart from some academic school administration courses such as Masters in school administration and management offered by universities. In addition, the Kenya Secondary Schools Heads Association (KSSHA) and the Kenya Primary Schools Head teachers Association (KEPHA) have also organized several courses in key areas such as finance, guidance and counselling, HIV and AIDS, Life Skills and contemporary issues in education. This is to enable head teachers acquire basic management knowledge and skills. These courses require to be enhanced to include financial regulations and disciplinary measures for financial misconduct.

Disciplinary measures for financial misconduct or failure to comply with laid down regulations will depend on misconduct or the offence (Republic of Kenya, 2002, 2012c; Teachers Service Commission, 2002; 2013). These include:

(1) Interdiction
(2) Suspension
(3) Recovery of funds in part, or in whole
(4) Replacement of damaged or lost item/s
(5) Prosecution in a court of law

The principal of a school must take disciplinary measures against the finance officer or account clerk who is involved in fraud and /or has embezzled school funds. The following discipline process is recommended by the TSC (Teachers Service Commission, 2002; 2013):

1. A member of staff will be suspended immediately an anomaly has been detected.
2. An internal audit should be conducted check original entry so as to establish if any funds have been lost or embezzled. The nature and amount must be established.
3. The principal will inform the Board of Management of this development.
4. If it is established that there is a case, the Board of Management will authorize the principal to inform the Education Office and the School Audit.
5. A comprehensive external audit should be conducted for an audit report. The audit report ascertains the validity of any claims.
6. The Board of Management should discuss the audit report and disciplinary action taken depending on the intensity of the offence as follows:
    a) Warning
    b) Suspension up to a maximum of six (6) months
    c) Summary dismissal of the staff
    d) Legal redress to recover amount lost

A principal of a school who is alleged to have embezzled school funds goes through the following discipline process (Teachers Service Commission, 2013):

1. The principal or head teacher will be issued with a letter of interdiction as warranted by the school board of management in the case of a post primary institution, or the CDE (DEB) in primary school. The letter maybe signed by a TSC agent.
2. The principal or head teacher is allowed twenty one (21) days to submit to the TSC a written response of the allegations.
3. The TSC then invites the principal or head teacher for hearing of the discipline case. Witnesses will also be invited. They may include Board members, TSC agents and the Government Audit officials who also present their report.
4. The head teacher upon interdiction on fiduciary matters receives no salary from the TSC.
5. Upon determination of the case the teacher may place one of the listed actions;
    a) Revocation if not found guilty
    b) Warning
    c) Suspension up to a maximum of six (6) months
    d) Dismissal

The head teacher and the school management (BOM, SMC) have a great responsibility to demonstrate accountability and transparency, including delegating financial responsibility (Wango and Gatere, 2012). The school management also has a responsibility to take disciplinary measures against fraud or for non-compliance with laid down procedures. The school shall be audited once a year in accordance with provisions of the Education Act and other financial regulations. This is to ensure compliance with financial regulations.

Conclusion

There are a number of significant conclusions that can be drawn from this analysis: schools and principals and head teachers of secondary and primary schools respectively collect a lot of money and must be called to react effectively to the increasingly complex world around them from globalization and the new Constitution (Wango and Gatere, 2012). The need to relate headship to leadership management and for that to be made accountable will help head teachers to cope. The consistent mantra of the new Constitution is change, but the conceptualization of change must encompass integrity and accountability. This in itself must be reinvented and transformed from a linear view of what head teachers have to do in terms of academic achievement and staff supervision, to how do we get there including financial accountability. The Board of Management and head teachers must attempt to cope with these transformative changes and financial accountability is part of this process. The results would suggest that principals and Board of Management using the capabilities of improved financial accounting must account for public funds and prevent fraud; they must recognize that not only must finances be used more efficiently but, more importantly, must not be siphoned out unsuspectingly. This is transformative, merging leadership with integrity and being networked rather than hierarchical fashion. Professional development for principals and Board of management must be a tacit knowledge for decision-making in system transformation for efficiency and accountability.

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