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The Legal Framework for Online Higher Education and ODeL in Kenya

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Open and Distance Learning (ODeL) Policy, Legal, and Institutional Frameworks

Kenya

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Outline

1. Categories of framework
2. Institutional Mandate matrix
3. Regulatory and policy Instruments
4. Self Assessment Report

- 1. Regulatory architecture spans constitutional law, statute, subsidiary regulation, and sector policy**
- 2. Six categories of framework:**
 - 1. Mandate & accreditation**
 - 2. ODeL quality standards**
 - 3. Qualifications & credit mobility**
 - 4. Data protection**
 - 5. ICT infrastructure**

Institutional Mandate Matrix

Regulator	Legal Basis	Mandate Relevant to Online Higher Education
Commission for University Education (CUE)	Universities Act No. 42 of 2012	Programme/institutional accreditation; ODeL self-assessment and standards; recognition of foreign qualifications
Kenya National Qualifications Authority (KNQA)	KNQF Act No. 22 of 2014; KNQF (General) Regulations 2025	Qualifications framework; credit accumulation and transfer (KCATS); recognition of prior learning
Office of the Data Protection Commissioner (ODPC)	Data Protection Act No. 24 of 2019	Data-protection compliance for e-learning platforms; sector guidance; enforcement and penalties
TVET Authority	TVET Act No. 29 of 2013	Standards and quality assurance for online/blended technical and vocational programmes
Ministry of Education / ICT Authority	Executive mandate; Policy on ICT in Education and Training 2021	ICT infrastructure policy, digital-inclusion objectives, and sector-wide coordination

Key Regulatory and Policy Instruments

Instrument	Issuing Authority	Year	Relevance to Online Higher Education
Constitution of Kenya	Republic of Kenya	2010	Art. 43(1)(f) right to education; Art. 31(c)–(d) right to privacy underpinning data-protection law
Universities Act No. 42 of 2012 (Cap. 210)	Parliament of Kenya	2012	Establishes CUE; mandates accreditation, standard-setting, and recognition of degrees, incl. online delivery
Universities Standards and Guidelines	Commission for University Education	2014	Baseline programme/institutional accreditation criteria for all delivery modes
Self-Assessment Tool (SAR) for ODeL	Commission for University Education	2020	ODeL-specific quality-assurance instrument for self-evaluation
KNQF Act No. 22 of 2014	Parliament of Kenya	2014	Establishes KNQA and the ten-level qualifications framework; basis for credit transfer
KNQF (General) Regulations (L.N. No. 94)	KNQA / Ministry of Education	2025	Operationalises KCATS, referencing, and the National Qualifications Database
Data Protection Act No. 24 of 2019	Parliament of Kenya	2019	Governs processing of learner personal data by universities and e-learning platforms
ODPC Guidance Note for the Education Sector	Office of the Data Protection Commissioner	2024	Sector-specific compliance guidance covering remote e-learning solutions
Policy on ICT in Education and Training	Ministry of Education	2021	Names ODeL as an ICT-enabled delivery mode; sets infrastructure and access objectives
Draft Universities (General) Regulations	CUE / Ministry of Education	2026 (draft)	Proposed update to the general regulatory framework; not yet in force

10 Key Elements of the ODeL Self-Assessment Report



Accreditation Assessment Criteria

Sno	Category	Number of Verifiers
1	Institutional Parameters	5
2	Governance	12
3	Finances	3
4	LMS	13
5	Support Infrastructure	5
6	Security	2
7	Academic Programmes	3
8	Staffing	3
9	Staff Support	2
10	Staff Training	3
11	Quality Assurance	10
12	Assessment	4
13	Examinations	4
14	Student Support	3
15	Elibrary	3
		75

References

Constitution of Kenya, 2010

Universities Act No. 42 of 2012, Cap. 210

Universities Regulations, 2014

Universities Standards and Guidelines, 2014

Self-Assessment Report Tool for ODeL Programmes and Institutions in Kenya

Kenya National Qualifications Framework Act No. 22 of 2014

Kenya National Qualifications Framework (General) Regulations, 2025 — Legal Notice No. 94

Data Protection Act No. 24 of 2019

ODPC Guidance Note for the Education Sector

Policy on ICT in Education and Training, 2021

Technical and Vocational Education and Training Act No. 29 of 2013, Cap. 210A

Draft Universities Regulations and Schedules, 2026

Regulatory Impact Statement on the Universities General Regulations, 2026

[Kenya Law – Constitution of Kenya \(Kenya Law\)](#)

[Kenya Law – Universities Act \(Kenya Law\)](#)

[CUE – Regulations and Standards for University Education \(Cue\)](#)

[CUE – Universities Standards and Guidelines PDF \(Cue\)](#)

[CUE – ODeL SAR Tool \(Cue\),](#)

[Kenya Law – KNQF Act \(Kenya Law\)](#)

[KNQA – Official gazetted Regulations PDF \(Kenya National Qualifications Authority\)](#)

[Kenya Law – Data Protection Act \(Kenya Law\)](#)

[Office of the Data Protection Commissioner – Education Guidance Note PDF \(ODPC\)](#)

[Ministry of Education – ICT in Education and Training Policy PDF \(Ministry of Education Kenya\)](#)

[Kenya Law – TVET Act \(Kenya Law\)](#)

[CUE – Public Notice and Draft University Regulations 2026 \(Cue\)](#)

[CUE – Public Notice, Draft Regulations and Regulatory Impact Statement \(Cue\)](#)

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Thank you
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