



ODISHA PRIMARY EDUCATION PROGRAMME AUTHORITY

"SHIKSHA SOUDHA", UNIT-V, BHUBANESWAR-751001

Ph No.0674-2392835(O) / FAX-0674-2392721

No. 8684(30)/PIg/16

Dated 30.08.16

Mahendra Kumar Mallik, IAS,
State Project Director

To,

All Collectors & Chairpersons
Sarva Shiksha Abhiyan, Odisha

Sub: Provision of Free & Compulsory Education for all children (6-14 years) under the RTE Act, 2009.

Ref: D.O No-1-2/2016 –EE-4/ MoHRD, Govt of India, dated 8-06-2016.

Madam/Sir,

In inviting a reference to the subject cited above, I am here to communicate different guidelines issued by Ministry of HRD (Deptt of School Education & Literacy), Govt of India under the RTE Act , 2009 as attached herewith (1. D.O No-1-2/2016 –EE-4 , dated 8-06-2016, 2. F.No.1-15/2010-EE-4, dated 23-11-2010 and 3. F.No-1-15/2010-EE-4, dated 25-07-2011).

You are requested to bring all guidelines as attached to the knowledge of all concerned for necessary compliance.

Yours faithfully,

State Project Director

Date 30.08.16

Memo No

8685/PIg/16

- Copy to Ms Surbhi Jain, Director, MoHRD, Govt of India for kind information.

State Project Director

Date 30.08.16

Memo No

8686/PIg/16

- Copy to Director, Elementary Education, TE & SCERT & Director OAVS for information.
- Copy to all DEOs, DPCs-SSA & BEOs for information & they are requested to implement all the guidelines as attached for necessary compliance under the RTE Act, 2009.

State Project Director

Date 30.08.16

Memo No

8687/PIg/16

- Copy to PS to the Commissioner-cum- Secretary to Govt, S & ME Deptt for kind information of the Commissioner-cum- Secretary.

State Project Director



Surbhi Jain
Director
Tel:23387211
Email: surbhi.jain@nic.in



सूचना का
अधिकार

भारत सरकार
मानव संसाधन विकास मंत्रालय
उच्चतर शिक्षा विभाग
शास्त्री भवन
नई दिल्ली - 110 115
GOVERNMENT OF INDIA
MINISTRY OF HUMAN RESOURCE DEVELOPMENT
DEPARTMENT OF HIGHER EDUCATION
SHASTRI BHAVAN
NEW DELHI-110 115

D.O. No. 1-2/2016-EE-4

8th, June, 2016

Dear Sir / Madam .

Several representations from parents and media have been received regarding malpractices in schools under the garb of autonomy in management. The provisions of the Right of Children to Free and Compulsory Education Act (RTE) Act, 2009 mandates ensuring an enabling and positive learning environment for all children in schools.

2. While State Governments have undertaken a number of initiatives to facilitate this, the relevant provisions of the Act and related guidelines are reiterated for information and necessary action.


3. A copy of this Department's Guidelines dated 23rd November, 2010, is also enclosed for your compliance.

4. An early report on the action taken by you in this regard will be appreciated.

This issues with the approval of the competent authority.

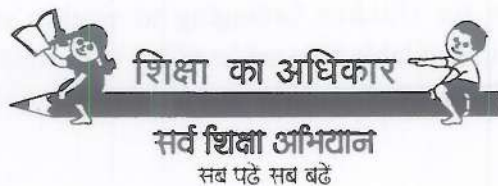
Encl: as above.

Yours sincerely,


(Surbhi Jain)

All Education Secretaries of all States and UTs

Surbhi Jain
34
8/6/16



**Guidelines for curbing malpractices in schools as per provisions of the
RTE Act, 2009**

1. BACKGROUND:

- 1.1 The occurrence of malpractices in education at any level of educational stratum pose the greatest threat to the reliability of the Education system. Representations are received from time to time from parents regarding malpractices in schools. The schools need to take a holistic view to ensure compliance of the guidelines to curb malpractices, as enumerated in the succeeding paragraphs.
- 1.2 In order to enable State Governments and school managements to fulfill their responsibilities for creating a non-discriminatory school environment, the following provisions of Right of children to Free and Compulsory Education Act, 2009 and related guidelines are reiterated.

2. Pre-admission and Admission Procedures

- (i) For fair and transparent admission procedure in schools, this Department has issued guidelines dated 23rd November, 2010 regarding procedure for admission in schools under section 13(1) and section 12(1)(c) of the RTE Act. These may be noted for necessary compliance.
- (ii) Schools shall adopt an admission procedure which is non-discriminatory, rational and transparent, and schools should not subject children and their parents to admission tests and interviews in the elementary stage in order to decide whether they will admit a child or not.
- (iii) Schools shall display information pertaining to their admission process on their notice boards at least 30 days before the commencement of the admission process. This information may include, inter alia;
- (a) Details of fees, including its purpose, break-up, periodicity, categorization as refundable, non-refundable and payment deadlines;
- (b) Number of seats available in each class and category, including total number of seats available at entry level and total number of free seats for children belonging to weaker section and disadvantaged group available at entry level (as mandated under Section 12(1)(c) of the RTE Act, 2009);

- (c) Admission criteria for determining which class a student would belong to if the child's studies are interrupted (in accordance with Section 4 of the RTE Act, 2009);
 - (d) Step-wise process of admission and deadlines, including the date of issue of application forms, the date of display of list of eligible candidates, the dates of draw of lots, the date of display of list of successful candidates, the date of display of waiting list, the last date of admission, the date of opening of school for the next academic year and other relevant deadlines;
 - (e) Facilities available in schools (in accordance with the Schedule to the RTE Act, 2009).
- (iv) The process of charging capitation fees or donations by schools is prohibited under Section 13 of the RTE Act, 2009 and punishable with fine. Section 13 (2) of the RTE Act, 2009 provides that any contravention of the provision of sub-section (1) by any school or a person, shall be punishable with fine which may extend to ten times the capitation fee charged. It is clarified that schools are not allowed to charge any fees other than the fees notified before the commencement of application process at any time during or after the admission process.

3. Issue of Certificates

- (i) Section 30 of the RTE Act prescribes that every child completing his elementary education shall be awarded a certificate of completion of elementary education. Schools shall issue the certificate of completion of elementary education within thirty days from the last working day of the academic year.
- (ii) Schools shall return original documents and/or certificates of children in their possession after completion of elementary education. Such documents and/or certificates must be returned to children within thirty days from the last working day of the academic year.
- (iii) Schools shall endeavour to process any requests for transfer certificates of any child at the earliest and in any event, within thirty days from the date of such request to facilitate implementation of Section 5 of RTE Act, 2009.

4. Prohibition of punishment and discrimination

- (i) This Department has already issued guidelines dated 26th March, 2014 for eliminating corporal punishment in schools. RTE Act, 2009, which has come into force with effect from 1 April 2010, prohibits 'physical punishment' and 'mental harassment' under Section 17(1) and makes it a punishable offence under Section 17(2). Sections 8 and 9 of the RTE Act place a duty on the appropriate Government and the local authority to "ensure that the child belonging to weaker section and the child belonging to disadvantaged group are not discriminated against and prevented from pursuing and completing elementary education on any grounds".

[Note: 'Children belonging to disadvantaged groups' means a child belonging to the Scheduled Caste, Scheduled Tribe, Backward Class as specified by the Government. It also includes orphans, migrants, street children, children in foster care, children with special need and HIV affected/infected children.]

- (ii) Schools shall safeguard the interests of children belonging to disadvantaged groups. In particular, schools shall ensure that children belonging to disadvantaged groups are not discriminated by any constituent of the school:
- (a) during the admission process or by denying or limiting access to any benefit arising from enrolment provided by the school;
 - (b) by labeling such children as belonging to a disadvantaged group or announcing verbally or otherwise their caste, tribe, community or ailment;
 - (c) by giving such children limited or differential access to teachers, sports facilities, toilets and other facilities provided by the school;
 - (d) segregating such children from other children in even organized within or by the schools.
- (iii) The State Governments and UT Administrations including educational administrators, teachers, headmasters have to play an important role in ensuring an enabling and positive learning environment. Schools, parents, SMC members and Local Authority are important Stakeholders in ensuring that children do not face punitive measures and appropriate redressal of any complaints, are framed, disseminated, acted upon and monitored.

5. Prohibition of private tuitions by teachers

- (i) Section 28 of the RTE Act prohibits teachers from engaging in private tuitions. Any teacher found to be engaging in such practice shall be subject to disciplinary action.

These guidelines may be brought to the knowledge of all concerned for necessary compliance. The State Government and local authorities are requested to take appropriate steps for ensuring that all schools adhere to the aforementioned Guidelines for curbing malpractices in schools.

F. No. 1-15/2010-EE-4
Government of India
Ministry of Human Resource Development
Department of School Education & Literacy

Room No. 429-A, 'C' Wing, Shastri Bhavan,
New Delhi, dated 23rd November, 2010

Subject: Guidelines under section 35(1) of the Right of Children to Free and Compulsory Education Act, 2009 regarding procedure for admission in schools under section 13(1) and section 12(1)(c) of the RTE Act – regarding.

Section 13(1) of the Right of Children to Free and Compulsory Education (RTE) Act, 2009 provides, inter-alia, that while admitting a child, no school or person shall subject the child or his/her parents to any 'screening procedure'. Section 2(o) of the RTE Act defines the term 'screening procedure' to mean the 'method of selection for admission of a child, in preference over another, other than a random method'. Further, section 12(1)(c) of the Act provides that unaided schools and specified category schools shall admit at least 25% of the strength of class I, children belonging to weaker section and children belonging to disadvantaged group from the neighbourhood and provide them free and compulsory education till completion of elementary education. Further where the school admits children at pre-primary level, such admissions shall be made at that level.

2. The Ministry has received representations from several unaided and aided schools seeking clarification on the procedure to be followed for admission. The Ministry held a meeting with various stakeholders on the 14th August, 2010 to elicit their views for formulating a guideline for admissions, which would be consistent with the spirit of the RTE Act, specifically with section 13(1) read with section 2(o) of the Act.

3. The objective of the provisions of section 13(1) read with section 2(o) is to ensure that schools adopt an admission procedure which is non-discriminatory, rational and transparent, and that schools do not subject children and their parents to admission tests and interviews in order to decide whether they will admit a child or not. Admission tests and interviews are generally a tool for profiling and eliminating children, and therefore screening to assess a child's 'intelligence' should be prohibited. The RTE Act is anchored in the belief that availability of equal educational opportunities to children belonging to different social and economic background will reinforce the idea of equality enshrined in our Constitution, and ensure that children are not discriminated on the basis of social or economic background or any such criteria. There is need for moving towards composite classrooms with children from diverse backgrounds, rather than

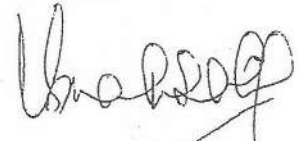
homogenous and exclusivist schools. It is an academically established point that heterogeneity in the classroom leads to greater creativity.

4. Keeping these objectives in view, the following guidelines are issued under section 35(1) of the RTE Act, 2009.

- (i) With regard to admissions in class I (or pre-primary class as the case may be) under section 12(1)(c) of the RTE Act in unaided and 'specified category' schools, schools shall follow a system of random selection out of the applications received from children belonging to disadvantaged groups and weaker sections for filling the pre-determined number of seats in that class, which should be not less than 25% of the strength of the class.
- (ii) For admission to the remaining 75% of the seats (or a lesser percentage depending upon the number of seats fixed by the school for admission under section 12(1)(c), in respect of unaided schools and specified category schools, and for all the seats in the aided schools, each school should formulate a policy under which admissions are to take place. This policy should include criteria for categorization of applicants in terms of the objectives of the school on a rational, reasonable and just basis. There shall be no profiling of the child based on parental educational qualifications. The policy should be placed by the school in the public domain, given wide publicity and explicitly stated in the school prospectus. There shall be no testing and interviews for any child/parent falling within or outside the categories, and selection would be on a random basis. Admission should be made strictly on this basis.

5. The aforementioned guideline should be brought to the knowledge of all concerned for necessary compliance.

This issues with the approval of the competent authority.




(Vikram Sahay)
Director,
Telefax: 2338 1470

F.No. 1-15/2010-EE-4
Government of India
Ministry of Human Resource Development
Department of School Education and Literacy

New Delhi Dated: 25th July, 2011

Subject: Guidelines under section 35(1) of the Right of Children to Free and Compulsory Education (RTE) Act, 2009 regarding free and compulsory education in a *neighbourhood* school

A copy of guidelines issued in exercise of powers conferred under section 35(1) of the RTE Act, 2009 regarding free and compulsory education in a *neighbourhood* school is enclosed herewith for information and compliance.


(Arun Kumar)

Under Secretary Govt. of India
Tele: 23384589

Encl as above

1. Education Secretaries of all States/UTs
2. Director SCERTs
3. Commissioner, Navodhaya Vidyalaya Samiti, (NVS), Kendriya Vidyalaya Samiti (KVS)
4. Vice Chancellor, NUEPA
5. Director NCERT/CTSA
6. Chairman, Central Board of Secondary Education (CBSE)/ National Institute of Open Schooling (NIOS)

Copy to:

1. PS to HRM
2. PS to MOS
3. Secretary (HE/SE&L)
4. AS(SE)
5. JS(SE)
6. JS(EE-I)-I/SE-II
7. Director UT Division
8. All Deputy Secretaries/Directors in EE-II Bureau

F.No. 1-15/2010-EE-4
Government of India
Ministry of Human Resource Development
Department of School Education and Literacy

New Delhi Dated: 25th July, 2011

Subject: Guidelines under section 35(1) of the Right of Children to Free and Compulsory Education (RTE) Act, 2009 regarding free and compulsory education in a *neighbourhood* school

Several provisions of the Right of Children to Free and Compulsory Education (RTE) Act, 2009, including sections 3(1), 6, 8(b), 9(b), 10, and 12(1)(c), refer to '*neighbourhood*' school. These guidelines under section 35(1) of the RTE Act seek to clarify the context in which these provisions are made, and the interplay between the various provisions in the RTE Act with reference to *neighbourhood* school.

CHAPTER 2: Right to Free and Compulsory Education

SECTION 3: *Every child of the age of six to fourteen years shall have the right to free and compulsory education in a neighbourhood school till the completion of elementary education.*

The challenge in our country has been to design a system of education that addresses the social, cultural and linguistic differences in a manner that recognizes and respects diversity, and at the same time narrows the disparities arising out of caste, class and gender. This was exemplified in the Kothari Commission Report, 1968, through the concept of the *neighbourhood* school that would preserve linguistic and cultural diversity through education of equitable quality, and ensure that children from different social, economic and ethnic backgrounds would sit together in a common classroom, so that the classroom itself becomes a site for social integration. This idea is reiterated in the National Policy on Education (NPE) 1986/1992. The *neighbourhood* school, incorporated in the RTE Act, is therefore meant to be a site for inclusion, so that the school becomes a common space for education, and children's education and schooling does not get differentiated on caste, ethnic group and class lines.

In providing for the right of every child to free and compulsory education in a *neighbourhood* school, the RTE Act does not restrict the choice of the child to seek admission in a school which may not be in the immediate vicinity, or the *neighbourhood* of the child's residence. In other words, there is no compulsion on the child to seek admission only in the school in his or her *neighbourhood*.

CHAPTER 4: Duties of appropriate Government, local authorities and parents

SECTION 6: *For carrying out the provisions of this Act, the appropriate Government and the local authority shall establish, within such area or limits of neighbourhood, as many be prescribed, a school, where it is not so established, within a period of three years from the commencement of this Act.*

The rationale of this provision is to provide all children access to elementary education. Universal access requires schooling facilities within reasonable reach of all children. If schools are not located in or near the habitations where children reside, children may not complete schooling, even if they are formally enrolled in schools, on account of distance factors. The RTE Act therefore mandates the appropriate governments and local authorities to provide for children's access to elementary schools within the defined area or limits of neighbourhood.

Therefore, a *neighbourhood* school is a school located within the defined limits or area of neighbourhood, as notified by the State Government under the State RTE Rules. The Central RTE Rules have notified the area or limits of neighbourhood to factor in distance norms one kilometre for children in classes I-V, and three kilometres for children in classes VI-VIII, with provision for relaxation of norms in places with difficult terrain where there may be risk of landslides, floods, lack of roads and in general, danger for young children in the approach from their homes to the school. In the case of children with disabilities, the Central RTE Rules provide for appropriate and safe transportation arrangements to enable them to attend school and complete elementary education. The Central RTE Rules contain the position of the Central Government in regard to *neighbourhood* school. The *neighbourhood* norms provided in the Central RTE Rules are applicable to Union Territories without Legislature for opening new schools. In the case of all other States and Union Territories the neighbourhood norms need to be notified in the State/UT RTE Rules.

The Central Government has also circulated Model RTE Rules to the States, which incorporate similar provisions as in the Central RTE Rules for the guidance of States.

States /UTs need to arrive at a clear picture of current availability of schools within defined area or limits of neighbourhoods. In order to do this, State/UTs need to (i) define the neighbourhood norms keeping in view that all primary and upper primary schools and composite schools (with primary and upper primary sections), established by the State Government and local bodies would be *neighbourhood* schools for the purpose of section 3(1), and (ii) map the neighbourhoods or habitations and link them to specific schools. It is possible that a neighbourhood may be linked to more than one school. Similarly, a school may be linked to more than one neighbourhood. The mapping exercise will help identify gaps and areas where new schools need to be opened to ensure universal access.

While undertaking mapping to determine the need, and planning for establishment of *neighbourhood* schools, the appropriate Government should factor in the intake capacity in all schools within the area or limits of neighbourhood as prescribed under section 6, i.e. Government or local body schools, aided schools and unaided and specified category schools. Such planning will ensure that the Government uses its resources optimally in relation to the actual requirement of providing universal access to elementary education. //

SECTION 8(b) AND SECTION 9(b): *The appropriate Government (local authority) shall ensure availability of a neighbourhood school as specified in section 6*

Based on the mapping exercise to identify gaps the appropriate Government or local authority shall take steps to open new schools to ensure universal access as per the time frames mandated under section 6.

SECTION 10: *It shall be the duty of every parent or guardian to admit or cause to be admitted his or her child or ward as the case may be to elementary education in the neighbourhood school*

This provision casts a moral responsibility on every parent/guardian to admit their children/wards to school, and ensure that children are not deprived of their right to elementary education. This includes, for example, child labour, children in ecologically deprived areas where they are required to fetch fuel, water, fodder and do other household chores, children in very poor slum communities and uprooted urban habitations, children of families of scavengers and other such stigmatised professions, children of itinerant or seasonal labour who have mobile and transient lifestyle like construction workers, road workers and workers on large construction sites, children of landless agriculture labour who are required to augment family incomes. This provision should be read together with the responsibility of the appropriate Government and local authority to provide free and compulsory elementary education in a *neighbourhood* school. It is not the intention of this provision to compel parents/guardians and children/wards, who do not wish to avail of free and compulsory education, to necessarily admit their children/wards in *neighbourhood* school.

CHAPTER 4: Responsibilities of Schools and Teachers

SECTION 12 (1): *For the purposes of this Act, a school,*

- (a) *specified in sub-clause (i) of clause (n) of section 2 shall provide free and compulsory elementary education to all children admitted therein;*
- (b) *specified in sub-clause (ii) of clause (n) of section 2 shall provide free and compulsory elementary education to such proportion of children admitted therein as its annual recurring aid or grants so received bears to its annual recurring expenses, subject to a minimum of twenty five per cent.*
- (c) *specified in sub clauses (iii) and (iv) of clause (n) of section 2 shall admit in class I, to the extent of at least twenty five, of the strength of that class, children belonging to weaker sections and disadvantaged group in the neighbourhood and provide free and compulsory elementary education till its completion.*

Section 12(1) of the RTE Act spells out the extent of the school's responsibility for free and compulsory education. It mandates that:

- (a) all Government and local body schools shall provide free and compulsory education to all children enrolled therein. Thus, every government or local body school shall function as a *neighbourhood* school for all those children who wish to go to a government school or local body for free education.

(b) all aided schools receiving aid or grants to meet whole or part of its expenses shall provide free and compulsory education to such proportion of children as its annual recurring aid or grants, subject to a minimum of 25%.

(c) all unaided and 'specified category' schools, namely Kendriya Vidyalaya, Navodaya Vidyalaya, Sainik schools or any other school having a distinct character as specified by notification by the State Government/UT, shall admit and provide free and compulsory education to at least 25% of the annual class I intake (or pre-primary section as the case may be) children belonging to weaker sections and disadvantaged groups in the neighbourhood. Such schools will be the neighbourhood school only to the extent of admission of 25% of the class I intake (or pre-primary section as the case may be) annually in respect of children from disadvantaged groups and weaker sections in the neighbourhood of the school. For the remaining children in aided, unaided and specified category schools the neighbourhood criterion does not apply. Such schools shall be reimbursed expenditure in accordance with section 12(2).

It is further clarified that residential private unaided schools, which start at a class higher than Class I, would not be required to admit 25% children from disadvantaged groups and weaker sections in their schools under section 12(1)(c), and thus such seats in residential schools not starting at class I need not be factored into the availability and requirement of neighbourhood schools for universal access.

These guidelines should be brought to the knowledge of all concerned for necessary compliance.

This issues with the approval of the competent authority.



(Arun Kumar)
Under Secretary Govt. of India
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