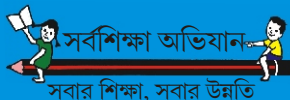


The Right of Children to Free and Compulsory Education Act, 2009



A Handbook for Teachers

Sarva Shiksha Mission, Kolkata



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Foreword

Sarva Shiksha Abhiyan (SSA) initiated in all the states of India to ensure primary education for all children within the age of 6 to 14 years of India since 2001-2002. This programme aims to guarantee elementary education for about 20 crore children in about 10 lakhs habitation (both villages and cities), of the entire country. In terms of the geographical area and the financial arrangements, SSA has been acknowledged as one of the leading programme in India as well as in the world.

The primary objective of SSA was to admit all children between 6 and 14 years of age in schools and to ensure quality education for these children up to class VIII. Initially the objective of SSA was to admit all children in school by 2003, to ensure that all children complete five years of primary schooling by 2007 and all children complete eight years of elementary schooling by 2010. Several deadlines, determined previously, for achieving the objectives had undergone changes later on. Based on the revised time frame, the key objectives of SSA aim to ensure that all children are admitted in schools or in Education Guarantee Centre, or in Alternate School, or in 'Back-to-School Camp' by 2005 and to ensure upper primary education for all children by 2012.

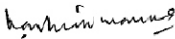
To realize the objectives, several strategies were developed such as ensuring at least one primary school within one kilometre distance from a habitat, mobilising the community to support in motivating the children to participate in schools, supporting in training the teachers, developing teaching-learning materials and evaluating the learning status of the students.

However, even after 10 years of implementation of the programme, gaps have been observed in admitting all children in schools. Though the number of drop out children have been reduced, it has not been possible to ensure education for all children up to 14 years of age. Lack of availability of schools necessary for this purpose, difficulty in maintaining required Pupil-Teacher ratio, poor infrastructure of schools and lack of scope to ensure free and compulsory education for all children were some of the crucial factors which kept many children out of school. Therefore, to ensure fundamental right to education for all children, "The Children's Right To Free And Compulsory Education Act" has been introduced during 2009 and this Act has been enforced since 1st April, 2010.

Enforcement of “Right of Children to Free and Compulsory Education Act 2009” (RTE), is undoubtedly a historical move which will enable to ensure free and compulsory education to all children of the age of six to fourteen years in India. Without active cooperation of the citizens, especially the teachers, the Act could not be implemented successfully. We sincerely hope that all the teachers, across West Bengal and India, will pro-actively make efforts and will play a vital role in implementing this Act effectively. This handbook is an initiative to support all the teachers to enhance their understanding about several dimensions of the Act.

Kolkata Konsltants, a unit of Community Action Society, and Save the Children have supported us to develop this handbook. We tender our sincere thanks and gratitude to them.

Thanking You,



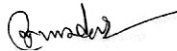
Chairman,
SSM, Kolkata



District Project officer,
SSM, Kolkata



District Inspector
of Schools (PE, Kolkata)



District Inspector
of Schools (SE, Kolkata)



Background

The Indian Constitution has focused to ensure free and compulsory education for the children up to 14 years of age right from 1950. The Kothari Committee, developed in 1966, suggested about the Common School System based on Neighbourhood School. The New Education Policy-NEP of 1986 and The Education Plan of 1992 focused on the importance of upgrading the condition of participation in education, quality of education, quality of infrastructure, quality of application of education and allocation of fund for education as the quality of these indicators had become very poor over time. This plan identifies education as one of the significant issues and suggests to allocate 6% of the Gross Domestic Product (GDP).

During 1989, United Nations declares person below 18 years as "Child" in the Seminar of Child Right. A declaration had also been formed to specify the child rights. Government of India, during 1992, accepted all the rights mentioned in the Child Right Charter and promised to ensure the rights. Primary and elementary education has been mentioned as one of the primary rights in the Child Right Declaration of United Nations. Besides, the rights of the child can be divided into four parts- Right to Survival, Right to Development, Right to Protection and Right to Participation. Government of India is accountable to ensure all these four rights for all children of India. To ensure these rights, Government of India has developed National Commission for Protection of Child Rights, for all children of India. According to the National Commission for Protection of Child Rights Act, 2005, the commission will monitor the proper implementation of law, policy, programme or arrangements, will identify cases where violation of child rights had occurred, will take legal steps to protect child rights and will create awareness about child rights, mentioned in the Declaration of United Nation's Child Rights Convention.

Even after many years, the right to education had not been declared as the Fundamental Right in the Constitution of India. But to universalise primary education and to influence New Education Policy, several programmes at national level had been developed. Operation Blackboard, Non Formal Education, Teachers'-training, Female Census and Mid-day Meal were



some of the vital programmes. District Primary Education Programme- DPEP had been initiated since 1990 in the districts where the female education rate was low. Innovative strategies like admitting out of school children in schools, diversification in developing plan for primary education, mobilising parents/guardians and community people in the activities of school were first introduced in DPEP.

In spite of all efforts, many children remained out of schools and several children were dropped out of school. Thus, the aim of ensuring education for all children up to 14 years of age could not be reached. Gradually it became hard to avoid the demand of declaring the Right to Free and Compulsory Education as Fundamental Right in Constitution. Moreover, it was just a matter of time to declare the Right to Free and Compulsory Education as Fundamental Right in Constitution after the verdict, declaring free education for the children within 14 years of age as Fundamental Right, by Supreme Court in the case of Unnikrishnan vs Andhra Pradesh Government during 1993. The innovative strategies of DPEP played a leading role in initiating SSA in all districts of India to ensure elementary education for the children between 6 and 14 years of age during 2001. During 2002, Government of India, by revising the constitution declared free and compulsory education for children of 6 to 14 years of age as Fundamental Right in the Constitution.

The Right of Children to Free and Compulsory Education Act, 2009, is a historical step and will play a pivotal role in ensuring education for all children. This Act has been enacted from 1st of April 2010. Therefore, it is essential that all the citizens make efforts to develop in-depth understanding about the Act and take initiatives to implement the Act effectively.

Director

Kolkata Consultants

A unit of Community Action Society



Q: WHO ARE THE CHILDREN ENTITLED TO HAVE FREE AND COMPULSORY EDUCATION?

Children under the age group of 6-14 years in India are entitled to have free and compulsory education. [Sec.3 (1)]

**Q: WHAT IS MEANT BY “SCHOOL” AS PER THE ACT?
[Chap 3 (2) n]**

School means any recognised school imparting elementary education and includes

- A school established, owned or controlled by the appropriate government or local authority [chap1(2)h]
- An aided school receiving aid or grants to meet whole or part of its expenses from government or local authority
- A school belonging to specified category and
- An unaided school not receiving any kind of aid or grants to meet its expenses from the appropriate government or local authority

Q: HOW AND WHERE THE CHILDREN CAN GET THE FREE AND COMPULSORY EDUCATION?

All schools run by Government (Central, State and Local Governments) [chap1(2)h], except for special type of Government Schools such as Kendriya Vidyalaya, Navodaya Vidyalaya, Sainik School etc, every children of the respective neighbourhood areas will be able to receive free and compulsory education from class one to class eight. [Sec.12 (1) a]

Children belonging to the disadvantaged group or to the weaker sections of the society will be able to get free and compulsory education in schools which are government



aided and are situated in their respective locality. Such schools can provide free and compulsory education based on the proportion of the government grant received on the percentage of the total expenditure incurred by the schools. However, even if the grant is low, the schools have to ensure that at least 25% of the students, belonging to the disadvantaged group or to the weaker section of the society, get opportunity to receive free and compulsory education in the school. [Sec.12 (1) b]

These children will also be able to have free and compulsory education from non-government schools if the schools are situated in their locality. The non-government schools (which do not receive any Government grant) will have to admit at least 25% of the students, from the disadvantaged group or from the weaker sections of the society, each year and will have to provide them with free and compulsory education. [Sec.12 (1) c]

According to the law, “Children belonging to the disadvantaged group” indicate the Schedule Caste or Schedule Tribe, from the socially or educationally backward classes or the children belonging to the backward classes as declared by the State Government. [Sec.2 (d)]

“Children belonging to the weaker section” denotes children belonging to such parents or guardians whose annual income is lower than the minimum limit, as specified in the notification issued by the State Government. [Sec.2 (e)]

Q: WHAT IS REFERRED AS ELEMENTARY EDUCATION IN THIS ACT?

Elementary education is referred as education from class I to Class VIII in any school. [Sec.2 (f)]



Q: WHAT IS REFERRED BY NEIGHBOURHOOD SCHOOL? HOW THE NEIGHBOURHOOD AREA OF A SCHOOL IS IDENTIFIED? WHICH WILL BE RECOGNISED AS NEIGHBOURHOOD SCHOOL AND WHO CAN ESTABLISH AND RUN THE NEIGHBOURHOOD SCHOOL?

Schools situated within the walking distance from the residence of any child are referred as neighbourhood school for that child. The adjacent area of any school, where the children can easily reach by walking, are identified as the neighbourhood area of that particular school. The boundary of a neighbourhood area may differ based on the geographical characteristic, density of that area etc. Thus, every State Government will decide the neighbourhood area for any school while developing rule under this Act. Moreover, the Government had to ensure that at least one school within the boundary of each neighbourhood area is functioning where all the children can access free and compulsory education from class one to class eight. [Sec.6 of the Act and sec. 4 of the Model Rule]

Definition of neighbourhood areas will be the same for all Government aided or Non-Government schools.

The model rules developed by the Central Government about the Neighbourhood School or Neighbourhood area has been mentioned below:

- *In case of primary school (Class I to class V), the neighbourhood area will be identified within 1 Kilometre surrounding of that particular school. For the upper primary school (Class VI to class VIII) the neighbourhood area will be identified within 3 Kilometre surrounding of that particular school.*
- *Thus, the Government will ensure functioning of one primary school within 1 kilometre and one upper primary school within 3 kilometres, where all children within the age group of six to fourteen years can receive free and*



- compulsory education, in the next 3 years.*
- *In areas with difficult terrain, risk of landslides, floods, lack of roads, the State Government shall establish the school in such a manner so that the children can easily access the school by walking.*
 - *The State Government shall make adequate arrangements, such as free transportation, residential facilities and other facilities for the children residing in small hamlets where no school exists within the neighbourhood area so that the children can receive elementary education in the nearest school from the locality.*
 - *In the areas with high population density, where all children can not be admitted to the existing neighbourhood schools, the State Government may consider to establish more than one neighbourhood school.*
 - *In respect of children with disabilities, the State or Local Government [chap1(2)h] will take necessary steps to ensure appropriate and safe transportation for these children so that they can attend school and complete elementary education.*
 - *Local Government [chap1(2)h] will be responsible for informing the people residing in the locality about the neighbourhood schools after identifying them.*

**Q: WHAT HAS BEEN REFERRED AS 'FREE EDUCATION'?
WHAT ARE THE EXPENSES THAT WILL NOT BE
REQUIRED FOR THE CHILDREN'S EDUCATION?**

Receiving free education means that no money will be taken from a child to meet the necessities for completing the elementary education (class I to class VIII).

Thus, the child will not have to pay any fees to the school. The child will receive text books, school uniform, other necessary materials and mid-day meal etc. at free of cost. If the child needs to access transportation to reach the school, the travelling cost will be paid to the child. Moreover, other



materials necessary for pursuing education will be provided to the child at free of cost. [Sec.3 (2)]

Q: WHO WILL BEAR THE EXPENSES REQUIRED FOR THE EDUCATION OF CHILDREN AND WHAT WILL BE THE MECHANISM FOR THAT?

The Central Government and the State Government jointly will be responsible for providing fund required for free education of children of the age group 6-14 years (class I-class VIII). However, the State and Central Government will be responsible for providing funds to those children who are the students of any Government aided or Government affiliated schools. In case of children from the disadvantaged group or the weaker section, the Government will bear the cost of education of these children, even if they are studying in their neighbourhood school or any Non-Government school.

However, the Government will not be responsible to bear the cost of education for children who belong to the general category and are not enrolled in any Government school or are continuing studies from their homes. [Sec.7 (1) and Sec.8 (a)]

Q: WHAT IS 'COMPULSORY EDUCATION'? FOR 'WHOM' THE RIGHT TO FREE EDUCATION IS ESSENTIAL?

It will be compulsory for Government to implement the Act. Thus, Central, State and Local Governments [chap1 (2)h] will be responsible to provide free and compulsory elementary education to every child of the age of six to fourteen years. Government will be entirely bound to ensure the following issues: [Sec.8 (a)]

- Providing free elementary education for every child of age six to fourteen years.
- Ensuring and monitoring admission, attendance



and completion of elementary education of every child of age six to fourteen years.

- Ensuring availability of primary and upper primary neighbourhood school in respective neighbourhood area.
- Ensuring that the child, belonging to the weaker section or to the disadvantaged group, are not discriminated and prevented from pursuing and completing elementary education on any grounds.
- Provide infrastructure including school buildings, teaching staff and learning equipments.
- Providing special training facility related to admission of the students according to their age to appropriate classes.
- Ensuring good quality elementary education conforming to the standards and norms specified in the Schedule.
- Ensuring timely initiation of curriculum and courses of study for elementary education.
- Providing training facility for the teachers.

Q: WILL THE PHYSICALLY DISABLED CHILDREN BE ABLE TO RECEIVE FREE EDUCATION? WHERE WOULD THEY GET THE 'FREE EDUCATION'? IS THERE ANY SPECIAL RULE SPECIFIED IN THIS ACT RELATED TO THEIR EDUCATION?

Child with disability will get free education, keeping in relation with the facilities available in the 5th chapter of the Person with Disabilities (Equal Opportunities, Protection and Full participation) Act, 1996. "Disabled Children" will be defined as per the section 2, Clause (i). These children will be entitled to receive free and compulsory elementary education till the age of 18 years. [Sec.3 (2)]

Q: WHICH SCHOOL WILL ADMIT WHICH CHILDREN TO PROVIDE 'FREE AND COMPULSORY EDUCATION' AND HOW?



All schools, except the schools belonging to 'specified category' such as Kendriya Vidyalaya, Navodaya Vidyalaya, Sainik School or any special type of school, will be able to admit students for providing free and compulsory education. In such neighbourhood schools, children from neighbourhood area will be admitted. [Sec.12 (1) a]

The government aided schools have to admit the children from the weaker section and disadvantaged group of the society in proportion to the grant received by the government based on the percentage of the total expenditure incurred by the schools.

Therefore, if the school receives 50% of the total expenses from the Government, then the schools have to admit 50% of the total students from the disadvantaged group or weaker section every year and will be bound to provide free education till class VIII. However, the school has to admit at least 25% of the students from their neighbourhood area, belonging to disadvantaged group or weaker section, irrespective of the size of the grant received from the government and the school has to provide free and compulsory education to these children. [Sec.12 (1) b]

The specified Category of Schools [Sec. 2(p)] and non-government schools (which do not receive any Government grant) will have to admit at least 25% of the students, from the disadvantaged group or from the weaker section of the neighbourhood area, each year and will have to provide them with free and compulsory education till class VIII. [Sec.12 (1) c]

The government will give the same grant to the non - government schools, which are providing free and compulsory education to the children from the weaker section or the disadvantaged group of the society, as that of the Government school. [Sec.12 (2)]



School that have the facility to provide pre-school education, the above mentioned rules will be followed from the pre-school stage only. [Sec.12 (1) c]

Q: WHETHER PRIVATE SCHOOLS CAN TAKE TUITION FEE FROM THEIR STUDENTS?

Private Schools can take Tuition Fees as before from their students. As per this Act, schools cannot take Tuition Fees only from those students admitted in their schools from the weaker section and disadvantaged group from the neighbourhood area.

Q: WHAT ARRANGEMENTS NEED TO BE MADE FOR THE SCHOOLS FOR MINORITY SECTION?

If these schools are not getting any kind of Government aid they will follow the rules and regulations prescribed for the Private Schools. However, if the schools receive any Government aid they have to follow the rules and regulations as prescribed for the Government Aided Schools.

Q: WHAT WILL HAPPEN IN CASE OF SCHOOLS RUN BY VOLUNTEER ORGANISATION OR NGOS?

Those schools will also follow all the rules and regulations as per this Act.

Q: WHEN WILL THE CHILDREN BE ADMITTED IN SCHOOL WITHIN A YEAR?

Any child can be admitted in the beginning of the academic session. Every year the admission period can be extended up to a certain period. As per Central Model rule, the time of admission can be extended up to the period of six (6) months from the beginning of the academic session. Every State Government can extend the time of admission up to a



certain period by developing regulations. [Sec.15]

However, even after the closing date of the extended time period of admission, if any child comes for admission, the school is responsible to admit that child. In this case State Government can prepare a rule specifically for these students who are admitted after the stipulated or extended period of time, mentioning how they will complete their course within that academic session. [Sec.15]

As per Central Model Rule, for the children admitted in school, after the extended period, the headmaster/ head mistress of the school will arrange special training to ensure that children are eligible to complete the course within that academic session.

Q: WHAT WILL BE THE SELECTION PROCEDURE TO ADMIT CHILDREN IN THE SCHOOL?

Schools established and run by the Government must provide free admission to all children who are coming from the neighbourhood area for compulsory education.

Government Aided Schools and Private Schools will follow the rules and regulations as mentioned in this Act for admission of the children coming from the disadvantaged group and weaker section from the neighbourhood area.

During admission, no schools (Government or Private) can take selection test of the children or their parents.

In case, the availability of seats in the school is less than the children willing to get admission in the school, then the school can conduct selection through lottery system. [Sec.13]



Q: HOW WILL IT BE DECIDED WHICH CHILD SHOULD BE ALLOCATED TO WHICH CLASS?

Any child should be admitted to any school in age appropriate class. [Sec.4]

Q: HOW CAN THE AGE OF THE CHILD BE DETERMINED AT THE TIME OF ADMISSION?

During admission to the elementary education, the age of a child shall be determined on the basis of the Birth Certificate issued in accordance with the provision of the Birth, Death and Marriage Registration Act, 1886. However, State Government, in the State Rule, can stipulate any other document as an alternative to the Birth Certificate for determination of the age of the child. [Sec.14 (1)]

As per Central Model Rule, for the determination of the Age of the child at the time of admission, Hospital Record, Registration record of the Auxiliary Nurses Midwives, Record of the Anganwari Centre, or declaration of the parents about the age of their child through affidavits shall also be accepted, other than Birth Certificate.

However, even if the child fails to submit the age proof, the school authority is accountable to admit the child in school. [Sec.14 (2)]

Q: WHAT IS REFERRED AS AGE APPROPRIATE CLASS?

If a child is admitted to Class I (one) at the age of 6 (Six) and devote one year in each class, then the class according to the age of the child is referred as age appropriate class for that child.

Q: IF A CHILD DOES NOT HAVE THE CAPACITY TO STUDY IN THE AGE APPROPRIATE CLASS, i.e. IF THE CHILD



HAS NOT STUDIED IN PREVIOUS CLASS, OR DOES NOT REMEMBER SUBJECTS THAT THE CHILD HAD STUDIED EARLIER, THEN HOW THAT CHILD WILL RECEIVE EDUCATION AS PER HIS/ HER AGE APPROPRIATE CLASS?

A six year old child, who has never been to school, or has forgotten what he has studied earlier, must be admitted in the age appropriate class. This is the duty of the school to arrange special training that will be required to enhance the capacity of the child for getting admission in his/her age appropriate class. However, the State Government will develop regulation to specify the procedure and duration of these special training. [Sec.4]

As per Central Model Rule the special training required to promote admission of children in age appropriate classes are formulated below:

- *The school Management Committee/ local authority shall identify children who will require special training.*
- *The special training shall be based on specially designed, age appropriate learning material, approved by the academic authority of the State Government, developed as per Law.*
- *This kind of special trainings will be provided within the school or in secured residential centres.*
- *School teachers will provide these special trainings or special teachers can be recruited for this purpose.*
- *As per requirement special trainings will be given for three months to two years period to these children to make them eligible for studying in their age appropriate classes.*
- *Teachers must give special attention towards those students who have been admitted after completing the special training. It must be ensured that teachers do not encourage any kind of discrimination against these students and ensure that these students can freely study with all their class mates.*



Q: IF A CHILD IS NOT ABLE TO COMPLETE ELEMENTARY EDUCATION WITHIN FOURTEEN YEARS OF AGE THEN IS THAT CHILD WILL BE ABLE CONTINUE HIS EDUCATION, FREE OF COST AFTER FOURTEEN YEARS?

If a six year old child, after getting admitted in a school for elementary education, can not complete within fourteen years of his age, then that child can continue his study free of cost till class VIII. [Sec.4]

Q: WHAT IS MEANT BY 'CAPITATION FEE'? IS IT NECESSARY TO GIVE 'CAPITATION FEE' AT THE TIME OF ADMISSION?

Apart from the 'Fees' taken by schools after notification, any kind of donations or transaction of money demanded by school or by any other person, by using any other name, will be considered as Capitation Fee. [Sec.2 (b)] No School authority or a person can demand money for admitting a child in a school. [Sec.13 (1)]

If any school takes capitation fee shall be punished with fine which may extend to ten times of the capitation fee charged. [Sec.13 (2) a]

Q: AT THE TIME OF ADMISSION IS IT NECESSARY TO CONDUCT SELECTION TEST FOR THE CHILDREN OR THEIR PARENTS? IF THERE IS NO PROVISION FOR SELECTION TEST, THEN WHAT WILL BE THE MECHANISM TO SELECT CHILDREN OUT OF SEVERAL CANDIDATES?

During the admission, no schools (Government or Private) can take selection test of the children or their parents [Sec.13 (1)]. If any school conducts such selection test for the children or for their parents, the school shall be penalized with fine which may extend from Rupees Twenty Five Thousand (25,000/-) for the first contravention to



Rupees Fifty Thousand (50,000/-) for each subsequent contraventions.

In case, the availability of seats in the school is less than the children willing to get admission in the school, then the school can conduct selection through lottery system.

Q: WHAT WILL BE THE CURRICULUM OF THE ELEMENTARY EDUCATION IN SCHOOL AND WHO WILL DECIDE THIS?

The State Government shall notify the State Council of Educational Research and Training (or its equivalent), as the academic authority for developing curriculum of the elementary education and its evaluation system. [Sec.29 (1)]

On the basis of the following guidelines the academic authority will develop the curriculum and evaluation procedure: [Sec.29 (2)]

1. Conformity with the values enshrined in the Constitution
2. All round development of the child
3. Building up child's knowledge, potentiality and talent
4. Development of physical and mental abilities to the fullest extent
5. Learning through activities, discovery and exploration in a child friendly and child-centred manner
6. Medium of instructions shall, as far as practicable, be in child's mother tongue
7. Making the child free of fear, trauma and anxiety and helping the child to express views freely
8. Comprehensive and continuous evaluation of child, understandings of knowledge and his or her ability to apply the same.



Q: IS THE ACT TELLING ABOUT THE ABOLISHMENT OF EXAMINATION PROCEDURE AND RESULT IN TERMS OF 'PASS-FAIL'? THEN HOW WILL IT BE ASSESSED THAT STUDENTS HAVE LEARNT OR NOT?

Though this Act is talking about the abolishment of conventional examination procedure and pass-fail system, it is not denying of conducting assessments to understand the students' status of learning. This act focuses on regular assessment system throughout the year rather than conducting examination twice or thrice a year. According to the result of this evaluation system, education of every student can be monitored individually. Teachers must document the series of result of each student. When a child will complete the elementary education then the child shall be certified on the basis of the cumulative record. [Sec 16, Sec 29(1) h & Sec 30]

Q: IF A CHILD CAN NOT COMPLETE THE SYLLABUS OF A PARTICULAR CLASS SUCCESSFULLY, IS IT POSSIBLE TO RETAIN THE CHILD IN THE SAME CLASS AGAIN TO CONTINUE THE STUDY?

Before completing the elementary education, no child can be detained in the same class for more than a year. [Sec 16]

Q: IS IT POSSIBLE TO EXPEL ANY CHILD FROM SCHOOL DUE TO VIOLATION OF ANY KIND OF RULES?

No student can be expelled from school due to violation of any kind of rules or by any reason. [Sec. 16]

Q: AFTER COMPLETING EDUCATION TILL CLASS VIII, WILL THERE BE ANY BOARD EXAMINATION SYSTEM? IF NO BOARD EXAMINATION IS CONDUCTED, WHAT WILL BE THE MECHANISM OF PROVIDING CERTIFICATE AT THE END OF COMPLETING ELEMENTARY EDUCATION?



No board examination will be conducted after completing class VIII. However, regular assessment system throughout the year will be conducted right from Class I. Teachers will document the series of results of each student. When a child will complete the elementary education then the child shall be certified on the basis of the cumulative record. [Sec 30]

Q: WHETHER PUNISHMENT CAN BE GIVEN TO ANY CHILD IN SCHOOL?

In school, no child shall be physically or mentally harassed in the name of punishment. Whoever contravenes the provisions shall be liable to disciplinary action under the service rules applicable to such person. [Sec.17]

The School Education Department of Government of West Bengal under Notification (No.09 SE(S).-SL/5S-116/10-dt.6th January, 2011) has issued certain guidelines with respect to prohibit physical punishment and mental harassment as mentioned below:

“Physical punishment” means any action, intentionally causing pain or injury to a child including hitting the child with any hard object, or spanking, smacking, slapping or pinching him, or pulling his hair, or any other act which results in physical discomfort or causes any physical injury to him.

“Mental harassment” means any deliberate and motivated imposition of mental pressure on a child not meant for or detrimental to his academic and psychological well-being, and for any other collateral purposes including victimizing a child deliberately and include sarcasm meant to hurt or lower the child’s dignity in front of others.

In case of any incident of physical punishment and mental harassment, parents or guardian can lodge complain to the school authority.



The following action shall not constitute physical punishment or mental harassment:

- Intimating the parents of any activity of the child and ensuring their involvement in addressing the child's disciplinary issues.
- Calling parents for attending guardians' meeting conducted by the school with a view to enable them understanding the emotional and academic need of the child.
- Imposition of fines and penalties not contrary to the spirit of free education.
- Prohibiting a child from participating in sport and other co-curricular activities on disciplinary ground.
- Active participation in extra curricular activities.

Q: WHAT IS THE SYSTEM OF GIVING TRANSFER CERTIFICATE TO A STUDENT?

Any student can demand transfer certificate from the present school for taking admission in any other school (where the children can get free and compulsory education according to the RTE Act). The head of the school or teacher in charge is liable to provide transfer certificate immediately on demand. [Sec.5]

Admission of the child can not get delayed in another school due to unavailability of transfer certificate. [Sec.5]

Q: IS THERE ANY PROVISION FOR EDUCATION IN THIS ACT FOR CHILDREN LESS THAN 6 YEARS?

There is no provision of education for children less than 6 years. However, this Act highlights that if local government wishes, then free pre-school education for these children can be arranged. [Sec.11]

**Q: WHAT IS THE RESPONSIBILITY OF PARENTS AND GUARDIANS REGARDING ENSURING FREE AND COMPULSORY EDUCATION OF CHILDREN?**

According to this Act it is the responsibility of every parent or guardian to admit his/her child of 6 to 14 years of age, to receive elementary education in the neighbourhood school and ensure that the child is attending the school regularly. But in case, parents or guardians do not perform their duties, there is no provision in this Act to take action or punish them. [Sec.10]

Q: HOW DOES THE FREE AND COMPULSORY EDUCATION FOR CHILDREN OF MIGRANT LABOUR FAMILIES WILL BE ENSURED?

These children are also eligible for obtaining free and compulsory elementary education like other children. It is the duty of government to identify these children and ensure their elementary education and also to develop residential centres, wherever necessary. [Sec.9(k)]

Q: IS IT NECESSARY TO CLOSE VARIOUS TYPES OF BRIDGE COURSES, RUN BY DIFFERENT PRIVATE AND NON GOVERNMENT ORGANIZATIONS?

No. This Act is not directing government to refuse support of NGOs in dissemination of education. But as per this law the duty of arranging free and compulsory elementary education for all children of the country is the responsibility of the government.

Q: WHAT ARE THE RESPONSIBILITIES OF THE TEACHERS TO ENSURE THE COMMENCEMENT OF THE RIGHT TO FREE AND COMPULSORY EDUCATION?

- Every teacher shall maintain regularity and punctuality in attending schools.



- Teachers are accountable to complete entire curriculum within the specified time.
- Teachers need to assess the learning ability of child and accordingly supplement additional instructions, wherever necessary.
- Hold regular meetings with parents and guardians and apprise them about the regularity in attendance, ability to learn, progress made in learning and any other relevant information about the child. [Sec.24 (1)]

A teacher, committing default in performing any of his or her duties, shall be liable to disciplinary action under the service rules applicable to him or her. However, before taking such disciplinary action, reasonable opportunity of being heard shall be provided to the respective teacher. [Sec.24(2)]

According to the Central Model Rule:

- *The complaints against the teacher should be placed in front of School Management Committee and the Committee will be liable to take the decision.*
- *State Government will form School Tribunal at the State level, District level and at Block level. Complaints against the teachers can be raised to this School Tribunal.*

Q: WHAT WILL BE THE PUPIL-TEACHER RATIO IN EACH SCHOOL? IF ANY SCHOOL DOES NOT HAVE APPROPRIATE NUMBER OF TEACHERS ACCORDING TO PUPIL- TEACHER RATIO MENTIONED IN THE ACT THEN WITHIN HOW MANY DAYS THE SCHOOLS NEED TO EMPLOY THE APPROPRIATE NUMBER OF TEACHERS?

In primary school (from class I to class V) for every 30 students one teacher shall be responsible. In case of upper-primary school (from class VI to class VIII) in every class there shall be one teacher and for every 35 students one teacher shall be allotted.[Sec.19 & the Schedule of the Act]. Within six months from the commencement of this Act, the



appropriate Government and the Local Authority shall ensure that the Pupil- Teacher Ratio as specified in the Act is maintained in each school.[Sec.25(1)]

For the purpose of maintaining the Student-Teacher Ratio, no teacher posted in the school, shall be allowed to serve in any other school or office.[Sec 25(2)]

Q: IN WHICH SCHOOL THE POSTS OF TEACHERS CANNOT BE KEPT VACANT AND WHAT IS ITS NUMBER?

For the schools, established, run, and controlled by the State Government or schools which receive huge funding from the State Government or Local Government, the vacant post can not exceed 10% of the sanctioned number of teachers for the respective school. This will be ensured by the Appointing Authority. [Sec.26]

Q: WHAT IS THE BASIC EDUCATIONAL QUALIFICATION FOR A TEACHER TO BE APPOINTED?

Minimum qualification of the teachers to get employed will be decided by the Central Academic Authority (authorised by the Central Government). This rule will be applicable for every type of school. [Sec.23(1)]

Q: WHAT WILL BE THE CONDITION IF TEACHERS WITH SUCH MINIMUM QUALIFICATION ARE NOT AVAILABLE?

If any State does not have adequate institutions, offering courses or trainings on teachers education, or teachers possessing minimum qualifications are not available in sufficient numbers, the Central Government may, if it deems necessary, by notification, can relax the minimum qualifications required for appointment as a teacher, for such period, not exceeding five years, as may be specified. [Sec.23(2)]



Q: WHAT WILL BE THE SITUATION IF ANY TEACHER, APPOINTED BEFORE THE ENACTMENT OF THE SAID ACT, DOES NOT POSSESS THE BASIC QUALIFICATION?

Provided that a teacher who is appointed before the commencement of this Act, does not possess such minimum qualifications, as laid down by the Academic Authority, shall acquire such minimum qualification within a period of five years from the commencement of the Act. [Sec.23(2)].

According to Central Model Rule it will be the duty of the Management of the University to train the teachers with basic qualification.

Q: WHAT WILL BE THE CONDITIONS AND CATEGORIES FOR APPOINTING THE TEACHERS?

According to this Act, the conditions of employment of teachers and the structure of salary of the teachers shall be decided by the State Government by forming rules. [Sec.23(3)]

According to the Central Model Rule:

- *The State Government or the Local Authority (as the case may be) through advertisement shall notify terms and conditions of service and salary and allowances of teachers in order to create a professional and permanent cadre of teachers.*
- *The scales of pay and allowances, medical facilities, pension, gratuity, provident fund, and other prescribed benefits of teachers, including those employed for the purpose of imparting special training (training given to children to get admitted to appropriate class in appropriate age) shall be that of regular teachers, and at par for similar work and experience.*

Q: WILL THE TEACHER BE DEPLOYED IN ANY NON-ACADEMIC WORK OTHER THAN TEACHING?



No teacher shall be deployed for any non-educational purpose other than the decennial population census, disaster relief duties or duties relating to elections of local authority or State Legislatures or Parliament. [Sec.27]

Q: WILL THE TEACHERS BE ABLE TO TAKE PRIVATE TUITIONS?

Teachers engaged with elementary education shall not be able to take private tuition. [Sec.28]

Q: IN WHICH SCHOOL THE SCHOOL MANAGEMENT COMMITTEE (SMC) WILL BE FORMED?

The School Management Committee will be formed in every school except the Non-Government schools (which are not getting any type of help from the Government). [Sec.21(1)]

Q: HOW THE SCHOOL MANAGEMENT COMMITTEE FORMED?

Any school can constitute a School Management Committee consisting of the teachers of that school, elected representatives of the local authority, parents or guardians of children admitted in such school. 50% of the members of such committee shall be women. At least 75% of the members of such committee shall be parents or guardians of the students. It shall also be provided further that proportionate representation will be given to the parents or guardian of the children belonging to disadvantaged group and weaker section. [Sec.21(1)]

Q: WHAT ARE THE DUTIES OF THE SCHOOL MANAGEMENT COMMITTEE? HOW MUCH IS THE POWER OF THE SCHOOL MANAGEMENT COMMITTEE?

Every School Management Committee will prepare Development Plan of that school, the Government and the



Local Government will grant the fund for the development of the school based upon such Developmental Plan.

The School Management Committee will also monitor regularly the work of the school and will also monitor how the Government or the Non-Government funds are being utilized by the school. [Sec.21(2) & Sec. 22]

According to the Central Model Rule, the School Management Committee shall also have to perform the following functions:

- *Generating awareness among the common people about the duties of the Government, teachers and parents or guardians of the children to ensure the rights of the child as enunciated in the Right to Free and Compulsory Education Act.*
- *Specifying if the teachers of the school maintaining regularity and punctuality in attending schools, completing entire curriculum within specified time and not engaging himself or herself in private tuition.*
- *Monitoring that no teacher shall be deployed for any nonacademic purposes other than the decennial population census, disaster relief duties or duties relating to elections.*
- *Ensuring the enrolment and regular attendance of all the children from the neighbourhood in the school.*
- *Specifying the presence of all the infrastructural system in the school as prescribed in the schedule.*
- *Bringing to the notice of the local authority [chap 1(2)h], if any deviation from the rights of the child in the school occurs.*
- *Identifying the children who require appropriate training to get admitted directly in age appropriate class and also to monitor whether the school is conducting such training or not.*
- *Monitoring identification, enrolment, and facilities for learning of children with special need and ensure their participation and completion of elementary education.*
- *Monitoring the implementation of the Mid-Day Meal in the school.*



- *Preparing an annual account of receipts and expenditure of the school.*

Q:WHAT ARE THE RESPONSIBILITIES OF THE GOVERNMENT TO ENSURE THE RIGHT TO FREE AND COMPULSORY EDUCATION FOR ALL CHILDREN?

Role of Central Government:

- Developing a framework of national curriculum after forming the academic authority.
- Deciding the minimum educational qualification for the appointment of teachers and to enforce the level of standards for training of teachers.
- Providing technical support and resources to the State Government for promoting innovations, planning, researches and capacity building. [Sec.7]

Role of State Government:

- State Government shall ensure compulsory admission of every child of the age of six years to fourteen years and shall ensure daily attendance and completion of elementary education of every child.
- State Government shall provide a child above six years of age with special training as specified in the Act to get admitted in an age appropriate class.
- State Government shall ensure the availability of school in every locality (neighbourhood) within a definite distance as specified in the Act and also according to this law the Government shall organize the important infrastructure, teaching staff and learning equipment as required in the school.
- Provide special training facility for the teachers.
- State Government shall ensure that the child belonging to the weaker section and child belonging to disadvantaged group are not discriminated, and are not receiving any sort of different or indecent behaviour. [Sec.8]



Q: WHAT ARE THE ROLE OF THE LOCAL AUTHORITY [CHAP 1 (2) H] (URBAN LOCAL BODY AND GRAM PANCHAYAT)?

- Three years from the commencement of this Act the State Government or the Local Authority shall establish primary school (if not present) within one km of the limits of neighbourhood or shall establish upper primary school (if not present) within the limit of three km.
- The Local Authority shall ensure the admission, attendance and completion of elementary education of every children of age of six years to fourteen years.
- The Local Authority shall provide a child above six years of age with special training as specified in this Act to get admitted in a class appropriate to his or her age.
- The Local Authority shall ensure the availability of school in every locality (neighbourhood) within a definite distance as specified in the law and also according to this law the Government shall organize the important infrastructure, teaching staff and learning equipment as required in the school.
- Provide special training programmes as required for the teachers.
- Local Authority will maintain records of all the children of age of six years to fourteen years of the area within its jurisdiction.
- Ensure admission of the children of migrant families.
- Monitor the functioning of the schools within its jurisdiction. [Sec.9]

Q: WITH THE COMMENCEMENT OF THE ACT, EXCEPT THE SCHOOL ESTABLISHED AND RUN BY THE GOVERNMENT, ALL THE OTHER SCHOOLS HAVE TO GET GOVERNMENT AFFILIATION. HOW CAN THIS RECOGNITION BE ACHIEVED?

The rule that will be formed by the State Government as specified in this Act, the Certificate of Recognition can be



obtained by making an application according to such rule. As specified in the Schedule of the Act if any school fails to meet the basic infrastructural facilities then no recognition will be given to such school. [Sec.19]

Where a school established before the commencement of this Act does not fulfill the norms and standards specified in the Schedule, in such condition affiliation shall be given to such school when it will take steps to fulfill such norms and standards at its own expenses, within a period of three years from the date of such commencement. [Sec.19]

Schools, established and run by the Government, need to have minimum infrastructure, mentioned in the Act. Where the schools established before the commencement of this Act does not fulfill the norms and standards specified in the Schedule, in such condition affiliation shall be given to such school when it will take steps to fulfill such norms and standards at its own expenses, within a period of three years from the date of such commencement. [Sec.8(g)]

Q: WHEN THE GOVERNMENT CAN WITHDRAW THE RECOGNITION?

Where a school fails to fulfill the norms and standards within the period as specified, the authority shall withdraw recognition granted to that school. The Government has the power to decide in which neighbourhood school the students of non recognized school can study.

But the view of the school authority will be heard before withdrawing the recognition of the school. [Sec.19]

Q: WHAT WILL HAPPEN IF THE SCHOOL RUNS WITHOUT THE RECOGNITION?

Any person who continues to run a school after the recognition (certificate of recognition) is withdrawn, shall be liable to fine, which may extend to one lakh rupees and in



case of continuing contraventions to a fine of ten thousand rupees for each day if such contravention continues. [Sec.19]

Q: DO THE PRIVATE SCHOOLS HAVE TO SUBMIT SCHOOL RELATED INFORMATION TO THE GOVERNMENT LIKE THE GOVERNMENT SCHOOLS?

According to this Act, Government, Government Aided and Private schools etc., that provide elementary education, have to submit school related information to the Government. [12(3)]

District Information System on Education (DISE) has started in the whole country since 1995 to collect and document the school related information. This is a computerised system to document and preserve school information. Each year schools of the entire country have to submit their respective school related information in a prescribed format to the Education Department of the District. The information is preserved in computer and anybody can access it. This information will support to understand the entire scenario of education status separately for village level, district level and school level.

According to the Act, it is compulsory for each school to submit school related information in the DISE format to the Government.

Q: IF ANY SYSTEM OF THE ACT IS NOT MAINTAINED OR ANY RULE HAS BEEN VIOLATED OR IF ANY CHILD HAS BEEN DEPRIVED FROM THE RIGHT TO EDUCATION, WHERE WILL THE COMPLAINTS BE MADE?

Written complaints may be made to the National Commission for Protection of Child Rights. Where the State Commission for Protection of Child Rights has not been



constituted in a State even today then the State Government for the purpose of performing the functions of investigating the complaints can form Departments separately or the Authority in the district and in the State.

If there is any complaint regarding the enactment of the Act then the complaint has to be made to the Local Authority. After receiving the complaint the Local Authority may decide the matter within a period of three months.

Any person aggrieved by the decision of the Local Authority may appeal to the State Commission for the Protection of Child Rights. If there is no State Commission for Protection of Child Rights the complaints can be done through the Government to the authority prescribed by the appropriate Government. [Sec.31 & 32]

Q: WHETHER THE CASE CAN BE FILED IN THE COURT IF THE ACT IS VIOLATED?

As the free and compulsory elementary education is the right of the children belonging to age group of six years to fourteen years, if the enactment of this Act is not done properly or anyone misuses the rule of the Act then case can be filed directly in favour of public interest to the High Court or Supreme Court.

According to the Schedule of the Act (mentioned in section 19 and 25) the minimum norms and standards to be maintained compulsorily in all primary and upper primary schools.

Q: WHAT WILL BE THE NUMBER OF TEACHERS ALLOTTED FOR CLASS ONE TO CLASS FIVE?

- For every 60 students the number of teachers will be 2.
- For every 61 to 90 students the number of teachers will be 3.
- For every 91 to 150 students the number of teachers will be 4.
- If the number of students is more than 150 then the



number of teachers will be 5 and there will be a Head teacher.

- If the number of students is more than 200 there will be a Head teacher and apart from that there will be a teacher allotted for every 40 students.

Q: WHAT WILL BE THE NUMBER OF TEACHERS ALLOTTED FOR CLASS SIX TO CLASS EIGHT?

- At least one teacher per class shall be there so that one teacher each will be available to teach Science and Mathematics, Social Studies (History- Geography) and Languages.
- At least one teacher shall be there for every 35 students.
- Where admission of children is above 100:
 - Presence of a full time head-teacher
 - Presence of part time instructors for
 - Art Education
 - Health and Physical Education
 - Work Education

Q: WHAT WILL BE THE INFRASTRUCTURE OF THE SCHOOL?

- Building that acclimatized with every climate
- At least one class room for every teachers
- Room for Head of School, this room can be used as office and store room
- The entry must be wide and without any obstruction, so that any physically handicap child can enter easily
- Separate toilets for boys and girls
- Purified water in adequate quantity for all children
- Separate kitchen for “Mid-day-meal” in every school
- School Playground for children
- School must be surrounded by boundary wall



What will be the minimum school days and hours in a year for study in a school?

- For 1st standard to 5th standard, school will remain open for 200 days
- For 6th to 8th standard, school will remain open for 220 days
- For 1st standard to 5th standard, schools will run classes for minimum 800 hours.
- For 6th Standard to 8th standard, schools will run classes for minimum 1000 hours.
- Minimum number of working hours per week for the teacher will be 45 hours including teaching and preparation hours.

There shall be a library in every school and its collection must include Newspapers, magazines, story books and other books. Sports kit will be supplied to every class of a school.



The handbook has been developed with the technical support from Society for People's Organisation (SPAN)

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[Http://indiacurrentaffairs.org/understading-right-to-educationrte-some-questions-and-answers/](http://indiacurrentaffairs.org/understading-right-to-educationrte-some-questions-and-answers/)



YOUR SUGGESTION

Name: _____

Occupation: _____

Address: _____

Contact Number: _____

Your are cordially requested to provide your valuable suggestions in the space below:

Please send your suggestions in the address below:

Kolkata Konsultants (a unit of Community Action Society)

ED-130, Rajdanga Main Road, Kolkata-700107



For more information contact at:



Sarva Shiksha Mission, Kolkata

Shiksha Vhaban, 2nd floor,

27A, Bosepukur Road (Kasba), Kolkata—70042

Phone: 033-24417136/37, Email: ssmkol_dpo@sify.com,

Website : www.ssmkolkata.tripod.com



Kolkata Konsultants (A Unit of Community Action Society)

ED-130, Rajdanga Main Road, Kolkata-700107

Phone:033-24416453, Email : kolkatakonsultants@gmail.com

Website : www.kolkatakonsultants.org