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**STANDARD OPERATING PROCEDURES (SOP)  
FOR  
IMPLEMENTATION OF SECTION 12  
(1) (C) OF THE RTE ACT, 2009**

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*Model Procedures for Effective Implementation*

National Commission for Protection of Child Rights, New Delhi  
2020-2021

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# ACRONYMS & ABBREVIATIONS

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<b>AAV</b>	Antodaya Anna Yojana
<b>BEO</b>	Block Education Officer
<b>BPL</b>	Below Poverty Line
<b>CBSE</b>	Central Board of Secondary Education
<b>CCI</b>	Child Care Institutions
<b>CPO</b>	Child Protection Officer
<b>CRC</b>	Cluster Resource Centre
<b>CSC</b>	Common Service Centres
<b>CWSN</b>	Children with Special Needs
<b>DEO</b>	District Education Officer
<b>DIET</b>	District Institute for Education and Training
<b>DG</b>	Disadvantage Groups
<b>DRC</b>	Declaration of the Rights of the Child
<b>GRM</b>	Grievance Redressal Mechanism
<b>EWS</b>	Economically Weaker Section
<b>ICPS</b>	The Integrated Child Protection Scheme
<b>ICT</b>	Information and Communication Technology
<b>IPC</b>	Indian Penal Code
<b>J.J. Act</b>	Juvenile Justice (Care and Protection of Children) Act, 2015
<b>MDM</b>	Midday Meal
<b>MeiTy</b>	Ministry of Electronics and Information Technology
<b>MHRD</b>	Ministry of Human Resource Development
<b>MoE</b>	Ministry of Education
<b>NCERT</b>	National Council of Educational Research and Training
<b>NCPCR</b>	National Commission for Protection of Child Rights
<b>POCSO Act</b>	Protection of Children from Sexual Offences Act, 2012
<b>PTA</b>	Parent Teachers Association
<b>PTM</b>	Parent Teachers Meeting
<b>PwD</b>	Persons with Disabilities
<b>RTE Act</b>	The Right of Children to Free and Compulsory Education Act, 2009
<b>SCERT</b>	State Council of Educational Research and Training
<b>SMC</b>	School Management Committee
<b>UNCRC</b>	United Nations Convention on the Rights of the Child
<b>UT</b>	Union Territory

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# DEFINITIONS

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**Appropriate Government** means (i) in relation to a school established, owned or controlled by the Central Government, or the administrator of the Union Territory having no legislature, the Central Government; (ii) in relation to a school, other than the school referred to in sub-clause (i), established within the territory of – (A) a State, the State Government; (B) a Union Territory having legislature, the Government of that Union Territory.

**Child** means a male or female child of the age of three to fourteen years.

**Child belonging to disadvantaged group** means a child with disability or a child belonging to the Scheduled Caste, the Scheduled Tribe, the socially and educationally backward class or such other group having disadvantage owing to social, cultural, economical, geographical, linguistic, gender or such other factor, as may be specified by the appropriate Government, by notification.

**Child belonging to weaker section** means a child belonging to such parents or guardian whose annual income is lower than the minimum limit specified by the appropriate Government, by notification.

**Child with disability** (Children with special needs) includes –

- (A) a child with "disability" as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996);
- (B) a child, being a person with disability as defined in clause (j) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999);
- (C) a child with "severe disability" as defined in clause (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999).

**Competent Authority** means the District level Education Officer responsible for implementation, administration of all education related schemes, policies, laws/legislations etc. in the district as applicable in respective States/UTs.

**Elementary education** means the education from first class to eighth class.

**Guardian**, in relation to a child, means a person having the care and custody of that child and includes a natural guardian or guardian appointed or declared by a court or a statute;

**Local authority** means a Municipal Corporation or Municipal Council or *Zila Parishad* or *Nagar Panchayat* or *Panchayat*, by whatever name called, and includes such other authority or body having administrative control over the school or empowered by or under any law for the time being in force to function as a local authority in any city, town or village.

**National Commission for Protection of Child Rights** means the National Commission for Protection of Child Rights constituted under section 3 of the Commissions for Protection of Child Rights Act, 2005 (4 of 2006).

**Neighbourhood School** means school as defined in rule 6 of the RTE Rules, 2010 or as specified by the States/UTs in respective State Rules.

**Notification** means a notification published in the Official Gazette.

**Parent** means either the natural or step or adoptive father or mother of a child.

**Parent Teacher Association (PTA)** means an association constituted in schools, specified in sub-clause (iv) of clause (n) of section 2 of the RTE Act, 2009, consisting of the representatives from the parents or guardians of children admitted in such school, teachers parents.

**Prescribed** means prescribed by Rules made under the RTE Act.

**School**, as defined in section 2(n) of the RTE Act, 2009 means any recognised school imparting elementary education and includes -

- i. a school established, owned or controlled by the appropriate Government or a local authority;
- ii. an aided school receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority;
- iii. a school belonging to specified category; and
- iv. an unaided school not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority;

**Section 12 (1) (c)** states that school 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 per cent of the

total strength of that class, children belonging to weaker section and disadvantaged group in the neighbourhood and provide free and compulsory elementary education till its completion:

Provided further that where a school specified in clause (n) of section 2 imparts pre-school education, the provision of clause (a) to (c) shall apply to such pre-school education.”

**Specified Category**, in relation to a school, means a school known as Kendriya Vidyalaya, Navodaya Vidyalaya, Sainik School or any other school having a distinct character which may be specified, by notification, by the appropriate Government;

**State Commission for Protection of Child Rights** means the State Commission for Protection of Child Rights constituted under section 3 of the Commissions for Protection of Child Rights Act, 2005 (4 of 2006).

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# A. INTRODUCTION

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## I. BACKGROUND

Defining the ‘extent of school's responsibility for free and compulsory education’ and for the role of schools in extending opportunity to children for inclusive elementary education, the RTE Act, 2009 outlined responsibility of private schools for including children from socially and economically disadvantaged sections of society. To achieve this, the schools specified in sub-clauses (iii) and (iv) of clause (n) of section 2 shall have to reserve twenty five percent of the seats in primary or pre-primary level (whichever is the entry level for the children) for which the State government reimburses the educational expenses as per the per child expenses mandated by the State or actual school fee per child (whichever is less).

Through the redressal of grievances and feedback during different formal and informal meetings/consultations, it came to NCPCR’s notice that different mechanism and modalities are being followed by the States/UTs based on their interpretation of the said provision. To examine the compliance of the above-mentioned clause in true spirit and to understand ground reality NCPCR undertook a study on implementation of the provision in private unaided schools of Delhi. The findings of the study revealed challenges faced by all stakeholders involved specially the children and parents. Most importantly, it helped to discover the issues right from the process of admission to the inclusion of children admitted under this section in the school. Consequently, the *Standard Operating Procedure (SOP) for Implementation of Section 12 (1) (c) of the RTE Act, 2009* has been developed to present a systematic mechanism/procedure to be followed by the State Governments in making the entire process streamlined and transparent.

## II. RATIONALE & NEED

The RTE Act, 2009 has mandated NCPCR with the responsibility of monitoring the implementation of the Act. Specifically, section 31 of the Act states that NCPCR shall examine and review the safeguards for rights provided by or under this Act and recommend measures for their effective implementation. Section 13 of the CPC Act, 2005, also mandates NCPCR with the responsibility to examine and review the safeguards provided by or under any law; look into the matters relating to children

in need of special care and protection including children in distress, marginalized and disadvantaged children.

A review of the reports, data and other relevant documents reveals a not so glaring picture of the status of implementation of this particular provision by the States/UTs. Some significant facts highlighting the gaps are as follows:

- i. The information provided by MHRD (now MoE) in response to Lok Sabha Unstarred Question No. 2122 dated 24.12.2018; 32 States/ UT had till then notified disadvantaged groups and weaker sections which are eligible for admission in Private unaided Schools under Section 12 (1)(c).
- ii. Only 16 States have started providing admissions in private unaided schools under Section 12(1)(c).
- iii. Further, as per Annual Work Plan and Budget (AWP&B), 2018-19 of States and UTs, 33.84 lakh children were admitted in private unaided schools under the provision.
- iv. Also, as per the Annual Work Plan & Budget 2018-19 of the States/UTs, only 15 States/UTs had so far notified per child Cost for Reimbursement to Private School against admission of children belonging to disadvantaged groups and weaker sections under Section 12(1)(C) of RTE Act 2009.
- v. The criteria for calculating per-child expenditure is also not explicitly clear for the State/UTs. The annual per-child expenditure, as per 2020-21 PAB minutes, ranges from approximately Rs. 4000/- (Madhya Pradesh) to approximately Rs. 7900/- (Tamil Nadu) and approximately Rs. 10,000/- (Gujarat).
- vi. As per the PAB Minutes for 2019-20, only 12 States sought budget for reimbursement of fees against 25 percent admission under section 12 (1) (c).
- vii. The notifications by Appropriate Government defining the DG categories also varies to a great deal. For instance, the definition of DG category for some States is comprehensive as per their local context and there are States that do not include CWSN children in this category eligible to be beneficiaries of the provision.

Given the above facts and findings, it is important that a standard procedure be followed in all States without affecting the impact of local factors for effective implementation of the provision.

### **III. OBJECTIVE OF THE SOP**



The SOP has been developed to provide a model framework to all the States/UTs for effective implementation of section 12 (1) (c) of the RTE Act,2009. It provides step-by-step guide to facilitate the State Government in streamlining the system of admission and to ensure that children enjoy their right throughout the learning process after getting admission in the school. Since, extending the fundamental rights to the children is responsibility of the State, the procedures defined in this document are keeping in view the existing mechanisms that could be utilized in the process.

#### **IV. FOR WHOM THE SOP IS INTENDED**

The SOP is primarily intended for all the authorities involved in the process of implementation of the Act including Appropriate Government, Local Authorities, Officials in Department of Education, schools defined under sub-clause (iii) and (iv) of section 2 (n) of the RTE Act, 2009 for carrying out the process in timely and transparent manner, whereby children and their parents/guardians face minimal problems during the admission process. It would also be useful for parents/guardian to get the understanding of the entire procedure and for making informed choice. This will in turn be helpful in preventing discrimination and harassment of children later in the school due to issues with financial basis.

#### **V. ESSENTIAL CONSIDERATIONS/KEY DETERMINENTS**

The Right to Education Act, 2009 has been enacted to implement the Fundamental Right to elementary education as enshrined in Article 21A of the Constitution of India. This right is to be extended to children based on the key guiding principles of the United Nations Convention on the Rights of the Child (UNCRC) of 1989. The authorities extending right to education of children should be aware of and their actions should be guided by the guiding principles of UNCRC and Constitution of India.

##### **1. Fundamental Right of the Children**

Since the 86<sup>th</sup> Amendment of the Constitution, elementary education is the fundamental right of all children in the age of 6-14 years and the responsibility of extending this right to all children is with the concerned authorities. Section 12 defines the extent of school's responsibilities and the duty of enforcing this provision is a collective obligation of the concerned authorities, Departments, Ministries.

## **2. Inclusion and Non-Discrimination**

One of the duties of Appropriate Authorities enlisted in section 8 of the RTE Act, 2009 is to ensure that the child belonging to weaker section and the child belonging to disadvantaged group are not discriminated against; and ensure compulsory admission, attendance and completion of elementary education by every child. Also, section 17 of the Act, prohibits any kind of physical punishment or mental harassment to the child.

## **3. Best Interest of the Children**

The SOP is based on the principle of best interest of the child and every rules, mechanism, action and decision followed by the authorities should keep child at the center of all decisions.

## **4. Multi-sectoral Approach**

In addition to the Authorities and their specific duties specified in the RTE Act, 2009; the meaningful and effective implementation of the Act requires support and coordination with other Departments/Institutions as well. Hence, it is collective responsibility of the State and all concerned stakeholders to help in implementation of the Act.

## **5. Awareness at all Levels**

One of the important take-aways from the desk review of State policies for implementation of section 12 (1) (c) and findings of NCPCR's study in schools was lack of awareness and sensitizations of schools, teachers, parents and even Authorities. An essential pre-requisite for safeguarding child's right is a well-informed and sensitive Authorities and aware parents and children about their legal rights.

## **6. Capacity Building & Training**

For inclusion and non-discrimination of children in the school environment, teachers should be trained about their duties and accountability; and should be oriented towards the legal rights of children.

## **7. Monitoring & Grievance Redressal Mechanism**

A robust and transparent monitoring mechanism and clearly defined grievance redressal mechanism would help in identifying the gaps and fix accountability of the stakeholders.

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## **B. STANDARD OPERATING PROCEDURES (SOP)**

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The Standard Operating Procedures are an effective tool in explaining, elaborating outlining the “what” of Laws and policies into the “how” in a systemized and structured design. The present SOPs also intend to provide a clear and defined set of guidelines that will make the implementation more transparent and unambiguous. The process has been broadly structured into three phases- preparatory phase; processing applications, selection and admission; and after completion of the admission process.

### **I. PREPARATORY PHASE**

The pre-admission phase is for streamlining the essential pre-requisites on part of the Appropriate Government, Local Authorities, and schools to ensure a smooth and transparent admission process where all eligible children have equal opportunity to seek admission under section 12 (1) (c).

#### **1. Advertisement**

The Appropriate Government and the Local Authority(ies) shall advertise the schedule of admission under section 12 (1) (c) through print media; electronic media as well as locally used medium of broadcasting/publicizing the important announcements especially in rural and urban remote areas such as proclamation (*munaadi*). The advertisement shall contain essential information regarding the admission process such as important dates, online link, tollfree helpline number and basic information on helpdesks.

#### **2. Schedule of Admission**

The calendar for admissions under section 12 (1) (c) shall be same for the entire State/UT and shall be scheduled in such a manner that the admission process is completed before the beginning of admission of children under the non-DG/EWS category and at least two months before the commencement of the next academic session. This will ensure that all children, if so they desire, have equal opportunity to apply for admission for a paid seat as well.

### 3. Centralized Online System

- a. To fulfil its responsibility for ensuring that the children belonging to weaker section and the children belonging to disadvantaged group are not prevented from pursuing and completing elementary education on any grounds, the Appropriate Government (section 8, RTE Act, 2009) shall develop a centralized online portal for admissions under section 12 (1) (c). All the District Education Departments shall be connected to the centralized portal.
- b. The online portal shall be universally accessible especially to people in remote areas and to CWSN/PwDs as per guidelines for Indian Government website issued by NIC and Department of Administrative Reforms and Public Grievances (D/o AR&PG), Government of India, available at [https://darpg.gov.in/sites/default/files/Guidelines for Government websites 0\\_0.pdf](https://darpg.gov.in/sites/default/files/Guidelines%20for%20Government%20websites%200.pdf)
- c. The online portal shall have all the necessary information regarding the admissions under section 12 (1) (c). This must include the following information (but not limited to)
  - i. the notified State Rules and guidelines;
  - ii. notify the definition of children belonging to disadvantaged groups and children belonging to weaker section.
  - iii. admission of children with special needs (CWSN) should be prioritized.
  - iv. defining the neighbourhood criteria; however, as per MoE's Guidelines under section 35(1) of the RTE Act, 2009, there is no compulsion on child to seek admission only in the school in his/her neighbourhood;
  - v. per child expenditure to be reimbursed by the State/UT.
  - vi. entitlements of children admitted under the DG/EWS category;
  - vii. medium of instruction in school;
  - viii. instruction manual for filling up the form;
  - ix. list of documents required;
  - x. details of helpdesks for facilitating the application process;
  - xi. toll-free helpline number for redressing the issues during and after the admission process;
  - xii. details of timeline for call of applications from eligible children;
  - xiii. deadline for submission of application forms;
  - xiv. date of list of eligible children after verification of documents;
  - xv. date of draw of lots and display of list of children getting admission along with a waiting-list;
  - xvi. date of admission in schools and beginning of the academic session;
  - xvii. the Block and District Education departments shall have separate login links for the portal.

- d. The online portal should provide real-time information on
  - i. Location and details of schools Geographic Information System (GIS) mapping of all schools in the neighbourhood;
  - ii. class-wise total number of seats;
  - iii. class-wise number of seats for admissions under DG/EWS category;
  - iv. class-wise number of seats for admissions of CWSN under DG/EWS category;
  - v. school-wise; class-wise and category-wise number of seats vacant under DG/EWS category.
  - vi. School-wise detail of the entry-level class i.e. whether the school has pre-primary classes or the entry level class in a particular school is class I.
- e. Based on the State's/UT's 'fee regulatory mechanism/guidelines/Act', the school-wise fee structure of the school in the current session; estimate fee structure for next five years; co-curricular activities offered by the school should also be included in the portal.

#### **4. Defining children belonging to disadvantaged group and the children belonging to weaker section**

- a. The children belonging to disadvantaged group shall include the children from
  - i. the Scheduled Caste
  - ii. the Scheduled Tribe
  - iii. Other Backward Class (non-creamy layer)
  - iv. the Denotified Tribes (DNTs) and Nomadic Tribes(NTs)
  - v. Children with disabilities/special needs (CWSN) as per the section 2 (zc) and *The Schedule* of the Rights of Persons with Disabilities (RPwD) Act, 2016
  - vi. Children suffering from HIV/AIDS
  - vii. Children eligible for sponsorship under section 45 of the Juvenile Justice Act, 2015
  - viii. Children of martyred soldiers/ Central Armed Police Forces (CAPFs) or those killed in line of duty.
  - ix. Children of deprived communities such as traditional sex workers
- b. The children belonging to weaker section shall include (in order of preference)
  - i. Children belonging to such families/households that are registered under *Antodaya Anna Yojna*;

- ii. Other families/households included in the Below Poverty Line (BPL) list prepared by the Department of Rural Development and Urban Development of the State/UT
- iii. Children belonging to such parents/guardian whose annual income is lower than the minimum limit prescribed by the Appropriate Government, by notification.
- iv. If a child is studying in private school under non-DG/EWS category and due to death of father/mother/guardian, who is the earning member of the family, the child comes under the EWS category, that child shall, upon submission of requisite eligibility certificate, be automatically be eligible for free education under section 12 (1) (c). Section 12 (1) (c) does not limit the number of admissions under this section and only mentions the minimum percentage share w.r.t total seats.

**5. The list of valid documents required for the application process as proof of residence shall include any one of the following-**

- a. UID- Aadhaar Card (As per Unique Identification Authority of India's circular dated 05.09.2018 and Cabinet Secretariat's OM dated 19.12.2017 no child can be denied admission or any other benefits for non-availability of Aadhaar Card)
- b. Voter Identity card
- c. Electricity Bill
- d. Telephone Bill
- e. Water Bill
- f. House Tax Receipt
- g. Driving License
- h. Copy of Rent Agreement
- i. Ration Card
- j. Certificate by Employer
- k. Certificate from Tehsildar/Local Authority
- l. Certificate from Child Welfare Committee (CWC), in case of children declared CNCP or CICL are residing in a Child Care Institution (CCI) and children defined in sub-point 4 (a) (7) of point I above.
- m. If the children defined in sub-point 4 (a) (7) of point I above, are not staying with their extended family but are residing in a Child Care Institution (CCI); the Aadhar number can be sought as per provisions under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 and subsequent Aadhaar (Enrolment and Update) Regulations, 2016.

## 6. Other essential documents for ascertaining the eligibility criterion

- a. For children with disability, certificate issued by the persons having requisite qualifications and experience as certifying authorities, designated by the State Governments or as the case may be, Union Territory Administrators, as per the Guidelines for Evaluation and Procedure for Certification of Various Specified Disabilities notified under the Rights of Persons with Disabilities (RPwD) Act, 2016.
- b. Children infected or affected with HIV/AIDs, will also have to submit their own or the medical certificates of their parents.
- c. Transgender children shall submit a medical certificate issued by Civil surgeon/ Superintendent of Government notified hospitals as a proof of their eligibility under the provision.
- d. For children applying under the EWS category, the AAY Card or the BPL card will suffice as proof of income. An affidavit/undertaking has to be submitted every year that the parents still hold a valid AAY Card or the BPL card. In case the family income increases, the child will be allowed to continue free education under the provision if the annual income does not exceed the prescribed limit of that defines “other poor socio-economic groups” specified by the State annually.
- e. The certificates that shall be valid as a birth certificate includes all proof valid under the Aadhaar (Enrolment and Update) Regulations, 2016; Hospital/Auxiliary Nurse and Midwife (ANM) register record; Anganwadi record; Declaration through an affidavit of the age of the child by the parent or guardian.

## 7. School Readiness

Before the announcement of the new admissions in a given academic year, the Competent Authority shall organize an orientation and training of schools authorities on the admission procedure, documentation required, lottery system, information to be dispensed etc in each district. The schools shall be responsible to nominate at least two teachers as well as one administrative staff responsible for the admission process (one of these trainees must either be the Principal or the Vice-Principal of the school) to undergo this training. The objective of these training will be to orient, sensitize and provide knowledge of the procedure to the school staff for developing understanding of the provisions of Section 12 (1) (c) and associated legal provisions. In addition, the staff members shall develop awareness towards the spirit of social justice and equality that the provision ensures and must develop an understanding of the values of inclusion and equality.



## **8. Public awareness**

- a. The Local Authority (ies); unaided schools and Non-Government organizations (NGOs) in the local area shall hold admission rallies, public announcements, distribute pamphlets to raise awareness in the local area during the quarter when the admissions take place.
- b. The school shall display on their notice board all information with regards to admissions at an accessible place.

## **9. Dispute Settlement Committee (DSC)**

- a. In case of absence of a grievance redressal mechanism (GRM) u/s 32 of the RTE Act, 2009 in the State/UT; the Local Authority shall constitute a Dispute Settlement Committee (DSC) for taking up issue that arise during the selection process such as submission of forged documents; allotment of duplicate seats etc.
- b. The DSC shall be a three-member Committee headed by the Principal/Head of the District Institute of Education and Training (DIET) and include the District Education Officer as well.
- c. The tenure of the DSC shall be only for the period of admission process i.e. from the announcement of the admission process till all the seats are filled-up or all eligible children secure their admission, as the case may be.
- d. In case the aggrieved party is not satisfied by the decision of DSC, District Collector/Magistrate shall be the final appellate authority.
- e. If it is established that the documents submitted by the parents/guardians are forged, appropriate legal action may be initiated.
- f. Similarly, in case the allegation made by the school against any person are not found to be true, appropriate legal action may be initiated.
- g. The decision on any dispute shall be taken within three days.

## **II. PROCESSING APPLICATIONS, SELECTION & ADMISSION**

### **1. Help-desks**

- a. Help-desks shall be set-up during the admission cycle by the Local Authority(ies) in every ward; and by unaided schools and Non-Government organizations (NGOs) to facilitate parents/guardians and taking them through the entire admission process such as helping the parents/guardians for filling up the online form. The youth volunteers from Youth Clubs, NSS, local colleges

etc. can also be engaged for providing their services at the helpdesk on voluntary basis.

- b. The Local Authority shall ensure that no charges are incurred from parents/guardians for the services offered at the help-desk. These services shall be a part of the role and responsibilities of the Local Authorities and schools and a voluntary service by the interested NGOs.
- c. The helpdesk shall stay functional till the completion of admission process for the particular academic session.
- d. The admission under DG/EWS category shall be included as one of the services under the Common Service Centres (CSC) Scheme to help people in rural areas who do not have access to technology in filling up the application form. The applicant shall receive a receipt of submission of form. The form shall be automatically transferred to the State centralized Portal under the specific District.

## **2. Selection Criteria**

- a. The lottery shall not be executed only for the schools that are the first preference in less number of applications than the school's intake as per the number of seats available.
- b. First those applications shall be considered where the residence is within 1 km of the radius from the school (or as per the neighbourhood criterion defined under the respective State RTE Rules). Thereafter the applicants residing within the range of 3 km radius from the schools shall be taken into consideration.
- c. Within the neighbourhood criterion of 1 km and 3 km distance, preference will be given to children who have siblings studying in the same school.
- d. If the applications of sibling category, in neighbourhood range of 0-1 km are in excess of the seats of General Category, the draw of lots of all sibling applications (which have residence within 1 km), shall be conducted to admit the students against the number of available seats.
- e. If the applications of sibling category within 0-1 km are less than the seats of non-DG/EWS category and if seats still remain vacant after exhausting sibling applications, the school shall admit the students on the basis of draw of lots from the remaining applications received under the neighbourhood range of 0-1 km.
- f. In case the total applications of 0-1 km is less than the number of seats of non-DG/EWS category, and vacancies still remain unfilled after exhausting the applications from the distance range of 0-1 km, the applications from the

second neighbourhood distance range of more than 1 km and up to 3 km shall be considered in the above manner i.e. out of the total applications from the neighbourhood range of more than 1 km and up to 3 km, admission is to be given to all siblings.

- g. If the applications of sibling category, in neighbourhood range of more than 1 km up to 3 km are in excess of the vacant seats of non-DG/EWS category, the draw of all sibling applications (which have residence within 3 km), shall be conducted to admit the students against the number of vacant seats.
  - h. If the applications of sibling category within 3 km are less than the remaining vacant seats of General Category and if seats still remain vacant after exhausting sibling applications, the school shall admit the students on the basis of draw of lots from the remaining applications received under the neighbourhood range of more than 1 km and up to 3 km.
  - i. If vacancies still remain unfilled after exhausting the applications from the distance range of more than 1 km and up to 3 km, the applications from beyond the range of neighbourhood of more than 3 km shall be considered in the above manner.
  - j. The limit of 1-3 km may vary from State to State depending on their State Rules. However, admission should be provided to children beyond the neighbourhood limits as well.
  - k. In the selection process, the States may devise a mechanism to prioritize the admission of children with special needs (CWSN).
3. The Local Authority shall ensure that all parents/guardians are informed about the date of the lottery through public announcements (in local daily newspapers, radio, television etc), through notice board of the schools, through SMS etc.
  4. The results of the selection shall be informed to all parents/guardians through official letter issued by the school and school notice boards and through email/SMS. Also, school shall as per the contact details shared by the parents/guardian at the time of the admission forms, make telephonic call to the parents of the selected students.
  5. The parents/guardians shall be allowed to change the school preferences before the last date of the submission of application. After the last date, the changes made shall automatically be saved and no further change can be done by the applicants.

## **6. Dispute Settlement**

Any dispute arising during the selection procedure such as allotment of duplicate seats; submission of forged documents etc. shall be redressed through the

Grievance Redressal Mechanism (GRM) of the State/UT u/s 32 of the RTE Act, 2009 or the State/UT may constitute an exclusive Dispute Settlement Committee (DSC).

### **III. AFTER COMPLETION OF THE ADMISSION PROCESS**

#### **1. Admission Process**

- a. The portal shall contain school-wise list of children who got selected through the lottery process. The school will then update the status of admission of each child by selecting whether the child has taken admission or not.
- b. The school shall individually approach to parents/guardian of each child for completing the admission process.
- c. If the parents of the child to whom seat has been allotted is not traceable by the school for seven days, this may be treated as a dispute and referred to Grievance Redressal Mechanism (GRM) of the State/UT u/s 32 of the RTE Act, 2009 or Dispute Settlement Committee (DSC). After decision of authority under GRM/DSC, the seat may be released for admission of child in the waiting list.
- d. In case such trend is noted for a specific school, the authority under GRM/DSC and SCPCRs may take *suo-motu* cognizance and initiate inquiry. Inquiry can also be initiated if more than 5 percent seats are left vacant in a school.
- e. Any issues with regard to documents shall be also be directed to GRM/Dispute Settlement Committee (DSC).

#### **2. Basic Essential for effective Inclusion**

- a. The children shall receive their entitlements such as textbooks, uniform under the RTE Act, 2009 at least 15 days before classes/academic year begins.
- b. In case of such entitlements for which facilities are not available in the school such as Mid-day Meal, the amount equivalent to the expenditure shall be reimbursed to the child in their bank account.
- c. The children admitted under DG/EWS category shall be provided education in an inclusive environment. No separate classroom sections shall be allotted to these children nor separate place be designated for their lunch/play time.
- d. The school shall apply for reimbursement of funds online within the time frame with complete set of requisite documents to avoid any delay in reimbursement.

- e. The school shall ensure that the Manual for Safety and Security of Children in Schools (<https://ncpcr.gov.in/showfile.php?lid=1926>) is followed by the school and the school is not neglecting the safety of children.
- f. All schools for which School management Committee (SMC) is not mandatory under RTE Act, 2009, shall constitute a Parents-Teachers Association (PTA). The composition and process of formation of PTA is placed as Annexure I.
- g. An Anti- Bullying Committee may be constituted in school, comprising of Vice Principal, a Senior teacher, School Doctor, Counsellor, PTA representative, School Management representative, Legal representative, Peer Educators etc.

### 3. Reimbursement of per child expenditure

- a. As given under section 12 (2) the school specified in sub-clause (iv) of clause (n) of section 2 providing free and compulsory education as specified in clause (c) of sub-section (1) shall be reimbursed expenditure so incurred by it to the extent of per-child-expenditure incurred by the State, or the actual amount charged from the child, whichever is less, in such manner as may be prescribed;
- b. Provided that such reimbursement shall not exceed per-child-expenditure incurred by a school specified in sub-clause (i) of clause (n) of section 2.
- c. Provided further that where such school is already under obligation to provide free education to a specified number of children on account of it having received any land, building, equipment or other facilities, either free of cost or at a concessional rate, such school shall not be entitled to any reimbursement to the extent of such obligation.
- d. Further, as per rule 12 of the RTE Rules, 2010, *the total annual recurring expenditure incurred by the State Government, whether from its own funds, or funds provided by the Central Government or by any other authority, on elementary education in respect of all schools referred to in sub-clause (ii) of clause (n) of section 2, divided by the total number of children enrolled in all such schools, shall be the per-child expenditure incurred by the State Government.*
- e. For the purpose of determining the per-child expenditure, the expenditure incurred by the State Government or local authority on schools referred to in sub-clause (ii) of clause (n) of section 2 and the children enrolled in such schools shall not be included.
- f. However, within the recurring expenditure, the per-child expenditure shall be calculated take into consideration the constant expenditure and variable expenditure.

- **Constant Expenditure**- the expenditure that remains same for all children without taking to consideration any specific requirement. This includes expenditure on mid-day meal, uniform, teacher and other staff salary, teacher training, SMC training, laboratories, library and other maintenance charges, water charges etc. The constant expenditure may vary within the school levels. For instance, the cooking of MDM varies for primary and upper-primary classes; the salary of teachers for primary and upper primary may also vary.
  - **Variable Expenditure**- is the one where the expenditure varies for each child depending upon their special requirement. This includes Braille books, escort allowance, salary of resource person/special educator, Aids and appliances and other facilities extended in case of CWSN, stipend/scholarship received by CWSN and children from disadvantaged groups etc.
  - Level-wise fixed expenditure per child for primary and upper-primary (elementary) level shall be fixed. Thereafter, the cost of variable expenditures shall be calculated based on the special schemes by Central/State Governments for different groups such as CWSN, socially disadvantaged, EWS, transgenders etc.
- g. It may be noted that while reimbursing the per-child expenditure, the child shall be considered in only one category under which they have secured admission.

#### 4. Monitoring and Grievance Redressal

- a. NCPCR and SCPCRs, as the case may be, shall be responsible for monitoring the implementation of the SOP. For this, following shall be powers of NCPCR/SCPCR as defined in section 31 and 32 of the RTE Act, 2009

*The NCPCR constituted under section 3, or, as the case may be, the SCPCR constituted under section 17, of the CPCR Act, 2005 (4 of 2006) shall, in addition to the functions assigned to the that Act, also perform the following functions, namely:*

- i. Examine and review the safeguards for the rights provided by or under any Law related to children and recommend measures for their effective implementation;*
- ii. Inquire into complaints relating to child's right to free and compulsory education; and*
- iii. Take necessary steps as provided under section 15 and 24 of the said CPCR Act, 2005.*

*The said Commissions shall, while inquiring into any matters relating to child's right under clause c (1), have the same powers as assigned to them under sections 14 and 24 of the said CPCR Act, 2005.*

*Where the SCPCR has not been constituted the appropriate Government may, for the purpose of performing the functions specified in clause 1 (a) to 1 (c), constitute such authority, in such manner and subject to such terms and conditions, as may be prescribed.*

b. As per Section 32 of RTE Act, 2009

- 1. Notwithstanding anything contained in section 31, any person having any grievance relating to the right of a child under this Act may make a written complaint to local authority having jurisdiction.*
- 2. After receiving the complaint under sub-section (1), the local authority shall decide the matter within a period of three months after affording a reasonable opportunity of being heard to the parties concerned.*
- 3. Any person aggrieved by the decision of the local authority may prefer an appeal to the SCPCR or the authority prescribed under sub-section 3 of section 31, as case may be.*
- 4. The appeal preferred under sub-section 3 shall be decided by SCPCR or the authority prescribed under sub-section 3 of section 31, as case may be, as provided under clause (c) of sub-section (1) of section 31.*

c. Competent Authority shall conduct random checks/inspections in the schools.

d. The fees charged from other students and amount sought for reimbursement shall also be cross-checked during these checks/inspections.

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## **C. ROLES & RESPONSIBILITIES OF STAKEHOLDERS**

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The aim of this section is to provide an overview of stakeholders involved in the implementation of RTE Act, 2009 with reference to section 12 (1) (c). It specifically describes the responsibilities of the key stakeholders such as Appropriate Government, Local Authority, Schools, non-governmental organizations (NGOs) etc. This section endeavours to outline the specific functions of different stakeholders in extending the rights of the child in their best interests.

### **1. Appropriate Government**

- a. To establish an universally accessible, centralized online admission portal for admissions under section 12 (1) (c) of the RTE Act, 2009.
- b. Conduct a GIS based mapping of all schools responsible for admissions under section 12 (1) (c) as defined in the Act.
- c. Establish a system of annual mapping of children in the neighbourhood including those eligible for admissions under DG/EWS category.
- d. Define and notify the Local Authority under the RTE Act, 2009; groups included in children belonging to disadvantaged groups and children belonging to weaker section
- e. Define and notify entitlements of children admitted under the DG/EWS category
- f. To notify the area and limits of neighbourhood schools.
- g. Define and notify per-child expenditure that shall be reimbursed to the schools
- h. Establish a toll-free centralized helpline for facilitating the parents/guardians and schools for the admission process.
- i. Prepare a detailed admission schedule and ensure that the same reaches out to all children and parents in the area
- j. Develop a detailed manual guiding the schools, parents/guardians and children for taking them through the admission process.
- k. Ensure through Local Authorities that all schools fill up their reimbursement claims and timely release of funds.
- l. Ensure that a robust Grievance Redressal Mechanism is in place as per section 32 of the RTE Act, 2009 so as to ensure that the children belonging to weaker section and the children belonging to disadvantaged group are not



discriminated against; and ensure compulsory admission, attendance and completion of elementary education by every child.

- m. To ensure that CWSN enrolled in private schools under section 12 (1) (c) received the prescribed stipend, aids and appliances and other support as CWSN received in Government schools. For this coordination with Department of Social Justice & Empowerment in respective States can be sought for benefits under the Scheme of Assistance to Disabled Persons for Purchase/Fitting of Aids/Appliances (ADIP Scheme) and Scheme for Implementation of Persons with Disabilities Act, 2016 (SIPDA).
- n. Take action against the school, on recommendation of Local Authority, in case the school fails to report the children who drop-out from the school.

## **2. Local Authority**

- a. Ensure and monitor admission, attendance and completion of elementary education by every child within its jurisdiction.
- b. Ensure that child belonging to disadvantaged sections and weaker section are not discriminated against and prevented from pursuing and completing elementary education on any grounds.
- c. Maintain records of children up to the age of 14 years within its jurisdiction, in such manner as may be prescribed.
- d. Hold awareness drives for disseminating information regarding the benefits of the provision and the admission procedure among general public.
- e. Conduct orientation and sensitization workshops for Schools.
- f. Define the grievance redressal mechanism u/s 32 of the RTE Act, 2009 or may also constitute a Dispute Settlement Committee (DSC) for taking up issue that arise during the selection process such as submission of forged documents; allotment of duplicate seats etc.
- g. Recommend action against the school to the Appropriate Government, in case the school fails to report the children who dropped-out from the school.
- h. Local Authority shall ensure redressal of grievances as per State grievance redressal mechanism under section 32 of the RTE Act, 2009.
- i. Local Authority shall ensure that all schools under these procedures shall establish Parents-Teachers Association (PTA).

### **3. District -level Education Officers**

- a. The Competent Authority shall organize an orientation and training of schools authorities on the admission procedure, documentation required, lottery system, information to be dispensed etc in each district.
- b. Wherever District -level Education Officers are notified as Local Authority, shall ensure timely redressal of grievances pertaining to the admissions, discrimination, harassment and otherwise, as prescribed under section 32 of the RTE Act, 2009.
- c. Conducting random checks/inspections in the schools.
- d. Formation of Parents-Teachers Association (PTA)

### **4. Schools**

- a. The schools shall ensure availability of entitlements such as textbooks, uniform under the RTE Act, 2009 at least 15 days before classes/academic year begins.
- b. The school shall prescribe and follow NCERT/SCERT textbooks only and shall place the order with NCERT/SCERT as per the number of available seats for admission under the DG/EWS category.
- c. In case school provides meals to all children, the same shall also be provided to children admitted under section 12 (1) (c). In case meals are not provided by school, the amount shall be transferred to child's account as per the per child expenditure reimbursed by the Appropriate Government.
- d. Similarly, in case the school is not providing uniform to the child, the amount shall be transferred to child's account as per the per child expenditure reimbursed by the Appropriate Government.
- e. The school shall only decide the colour of the uniform. However, any specific brand, design and seller cannot be imposed/suggested by the school authorities.
- f. In case, the school is found neglecting child's safety; harassing the child; is adopting/encouraging practices that discriminate against the children; action shall be taken against the school as per section 75 of the J.J. Act, 2015.
- g. The school shall inform the Local Authority whenever a child drop outs or remains absent continuously for 30 days. In case, school fails to provide the information within one month, appropriate action shall be taken against the school by the Competent Authority under the Child Labour (Prohibition and Regulation) Act (CLPRA), 2016 and Child Labour (Prohibition and Regulation) Amendment Rules, 2017.

## **5. Parent-Teacher Association (PTA)**

- a. To ensure that the schools follow the prescribed procedure for admissions and the ensure schools fulfil their responsibilities given under these procedures.
- b. To contribute in creating awareness among parents for applying for admission under the category.
- c. The PTA may also volunteer at the Help-Desks established for the purpose by the Local Authorities, NGOs etc.
- d. PTA shall conduct periodic meetings and minutes/decisions of the meetings shall be properly recorded and made available to the School Principal to be put on school's website and notice board to be made available to every parent. The periodicity of PTA meetings should be at least once a month as for SMC under rule 3 (5) of the RTE Rules, 2010.
- e. The decisions taken in Anti-Bullying Committee and Grievance Committee for Child Sexual Abuse (CSA) meeting should be discussed in the meeting of/PTA.
- f. PTA should ensure implementation of such guidelines related to safety and security of children based on which this Manual has been prepared.
- g. The member of PTA who is part of Anti-Bullying Committee to develop bullying prevention programme and creating awareness.

## **6. Parents**

- a. It shall be the duty of the parent or guardian to admit or cause to be admitted his or her child or ward, as the case may be, to an elementary education school in the neighbourhood.
- b. Ensure preparation of all necessary documentation required for the admission such as registration of birth certificate, caste certificate, income certificate etc.
- c. In case of any grievances take up the matter to the concerned authorities GRM.

## **7. Non-Government Organizations (NGOs)**

The NGOs shall contribute in organizing awareness drive and facilitating parents/guardians for filling up the online forms. However, this should strictly be done on voluntary basis and in no circumstances the NGO or any other group shall charge money for the service provided.

## **8. National & State Commissions for Protection of Child Rights (N/SCPCR)**

The National and State Commissions shall fulfil their functions and responsibilities as given in section 13, 14 and 15 of the CPCR Act, 2005 and section 31 of RTE Act, 2009. In addition, wherever required the Commission shall act as per its mandate under the J.J. Act, 2016 and POCSO Act, 2012.

**Parents-Teachers Association (PTA)**

1. In such schools, PTA should be made mandatory as SMCs and PTAs are an important link in monitoring the safety and security measures in schools. The private schools defined under section 2 (n) (iv) of RTE Act, 2009 should have a Parent Teachers Association (PTA) as per the following;

***a) Composition of Parents-Teachers Association (PTA)***

- (i) PTA shall consist of one parent representative from each class (from each section of each class, if any) such that three-fourth of members of such Committee shall be parents or guardians
- (ii) Out of the 3/4<sup>th</sup> member parents, 25 percent of the total strength of parent members shall be reserved for parents or guardians of children admitted under section 12 (1) (c) of the RTE Act, 2009 *the School 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 per cent. of the strength of that class, children belonging to weaker section and disadvantaged group in the neighbourhood and provide free and compulsory elementary education till its completion.*
- (iii) One teacher from each level of schooling i.e. pre-primary, primary-1, primary- 2; upper primary, secondary/senior secondary;
- (iv) Provided further that 50 percent of the teachers shall be nominated by the School Management and 50 percent shall be nominated by the three fourth representative parents of PTA;
- (v) One member of local authority;
- (vi) One representative member of the School Management;

***b) Formation of Parents-Teachers Association (PTA)***

- i. There shall be only one PTA in every school

- ii. The PTA shall be formed within one month of the beginning of the academic session and should be sensitised/oriented on NCPCR's Manual on Safety and Security of Children in Schools. It is the responsibility of Management of the private school to sensitise/orient the PTA. In this regard, the school should follow guidelines/modules/directions and prescribed mechanism issued by NCPCR/Authorities from time to time.
  - For training/orientation/sensitization of the SMC/PTA members the schools may follow either/both of the following options:
  - Through collaboration with DIETs for arranging such training<sup>1</sup>.
  - Through the NCPCR's empanelled agencies/organisations
- iii. The term of the PTA shall be one academic year.
- iv. The schedule of formation of PTA including last date of filing self-nomination by the parents and date of draw shall be decided by the competent authority and informed to the schools.
- v. For the purpose of ensuring participation of the parents of children admitted under section 12 (1) (c) of the RTE Act, 2009, school shall:
- vi. conduct draw for defining the classes/sections that shall be reserved for self-nomination only by parents of children admitted under section 12 (1) (c) of the RTE Act, 2009
- vii. draw shall be organised under the supervision of Principal/Head Master of a nearby Government school nominated by the competent authority.
  - a. For the reserved classes as per sub-section (e) above, only parents of children admitted under section 12 (1) (c) of the RTE Act, 2009 shall submit their self-nomination; however, for all other classes/section the self-nomination is open for all parents including parents of children admitted under section 12 (1) (c) of the RTE Act, 2009 in that particular class/section.

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<sup>1</sup> DIETs may also take services of the NCPCR's empanelled agencies/organisations

- b. The reservation of classes/sections to ensure participation of parents of children admitted under section 12 (1) (c) of the RTE Act, 2009 shall be made on rotation basis, that means, the succeeding class of the class which have been reserved in a given year shall not be considered for draw in the next year.
- c. The draw procedure for selection of the parent members i.e. 3/4<sup>th</sup> of the total strength of PTA shall be undertaken by the School after the Principal receives the self-nominations from all interested parents [i.e. including the parents of children admitted u/s 12 (1) (c)] until the date specified by competent authority.
- d. After receiving self-nomination from the parents the school shall conduct the draw under the supervision of Principal/Head Master of a nearby Government school nominated by the competent authority.
- e. Fifty per cent of members of such Committee shall be women.
- f. In case, the ward of parent member leaves the school in between the academic session, another parent/guardian member from that class shall be inducted into the PTA within one-month;
- g. The School Management shall display/upload the names of PTA Member on their website and on the notice board.

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