

Government of India  
Ministry of Human Resource Development  
Department of School Education & Literacy

IS-16

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Shastri Bhavan, New Delhi  
21<sup>st</sup> August, 2018

**Subject : Draft Guidelines of fixing accountability of school management for uploading on MHRD website**

Please find enclosed herewith the draft guidelines for fixing accountability of school management towards safety and security of children in schools. It is requested that these draft guidelines may be uploaded on MHRD website i.e. mhrd.gov.in for seeking comments of States/UTs and other stakeholders.

Encl: As above

(Sushil Bhushan)  
Under Secretary to the Government of India

US (NIC, MHRD)



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सूचना का  
अधिकार

भारत सरकार  
मानव संसाधन विकास मंत्रालय  
स्कूल शिक्षा और साक्षरता विभाग  
शास्त्री भवन  
नई दिल्ली - 110 115  
GOVERNMENT OF INDIA  
MINISTRY OF HUMAN RESOURCE DEVELOPMENT  
DEPARTMENT OF SCHOOL EDUCATION & LITERACY  
SHASTRI BHAVAN  
NEW DELHI-110 115

D.O. No. 1-3/2018-IS-3/IS-16

20<sup>th</sup> August, 2018

Respected Ma'am/Sir,

I would like to inform you that the Hon'ble Supreme court has directed this Ministry in its judgement dated 15th April, 2018 to consider framing of guidelines for fixing accountability of the school management in the matter of safety of the children studying in private and Government schools within six months. In compliance of the order of the Hon'ble Supreme court, this Ministry has prepared draft guidelines in consultation with National Commission for the Protection of Child rights (NCPDR).

It is requested to kindly go through the draft guidelines and your view/comments may please be communicated to this Ministry by 14th September, 2018, failing which it will be presumed that you agree with the guidelines. The same has also been uploaded on this Ministry's website i.e mhrd.gov.in.

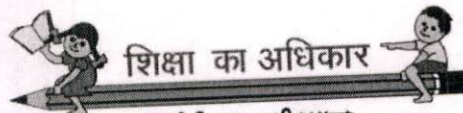
With regards,

Yours sincerely,

*Maneesh*  
20/8  
(Maneesh Garg)

To:-

- i. Principal Secretaries (Education) of all States/UTs
- ii. Sh. Ajay Tirkey, Additional Secretary, M/o Women and Child Development, Shastri Bhawan, New Delhi-110001
- iii. Ms Rajni Sekhri Sibal, Additional Secretary, M/o Home Affairs, North Block, New Delhi-110001
- iv. Smt. Anita Karwal, Chairperson (CBSE), Shiksha Kendra, 2, Community Centre, Preet Vihar, Delhi - 110092



शिक्षा का अधिकार

सर्व शिक्षा अभियान

सब पढ़ें सब बढ़ें

- v. Council For The Indian School Certificate Examinations (ICSE), Pragati House, 3rd Floor, 47-48, Nehru Place, New Delhi - 110019
- vi. Col Amit Khosla, Joint Advisor (CBT), NDMA Bhawan, A-1, Safdarjung Enclave, New Delhi - 110029
- vii. Commissioner, KVS, Kendriya Vidyalaya Sangathan, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi - 110 016
- viii. Commissioner, NVS, Navodaya Vidyalaya Samiti, B-15, Institutional Area, Sector -62, Noida, U.P. 201307
- ix. Ms. Stuti kacker, Chairperson, National Commission for Protection of Child Rights, 5th Floor, Chanderlok Building, 36 Janpath, New Delhi-110001
- x. Shri G. P. Gupta, National President, Independent Schools Federation of India, CSHP Public School, Opp. Jain Tube Company, Merrut Road, Ghaziabad, U.P.

### Fixing Accountability<sup>1</sup> of School Management towards Safety and Security of Children in Schools- Guidelines

Rights of Children have been acknowledged in the Constitution of India under Fundamental Rights as well as Directive Principles of State Policy. Specifically, Article 39 (f) states that "children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment." Also, Article 39 (e) of the Constitution states that, the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.

Also, the Constitution of India includes all the rights of children that were later listed under the UNCRC, 1990. These rights have been broadly categorised into four categories- Survival, Development, Protection and Participation and Education is an important part of children's right to development. This makes the safety and security of children a collective responsibility of society including parents. Hence, parents should have participation in monitoring of safety mechanism in schools. Also, when children attend school, where they spend majority of their time, the responsibility to ensure their safety and security lays with the school as well as parents. When a child is in school, the school has the actual charge or control over a child, and if the school wilfully neglects the child in a manner likely to cause the child unnecessary mental or physical suffering, it may be treated as violation of Juvenile Justice Act, 2015. Hence, school i.e. School Management has the responsibility of ensuring safety of children in schools and parents play an important role to monitor whether the school is fulfilling its responsibility.

National Commission for Protection of Child Rights (NCPCR) has developed a Comprehensive *Manual on Safety and Security of Children in Schools*. The Manual is a compilation of various existing guidelines, circulars, notifications, Government Orders on safety and security related issues in schools issued from time to time.

NCPCR has prepared this Manual with guidance from an Expert Group constituted by the Commission including representatives from Ministry of Human Resource Development (MHRD), Ministry of Drinking Water and Sanitation (MoDW&S), Ministry of Health and Family Welfare (MoH&FW), National Institute of Disaster Management Authority (NIDM), National University of Education Planning and Administration (NUEPA), National Council of Education Research and Training (NCERT), National Council for Teacher Education (NCTE), Sports Authority of India (SAI), Central Board of Secondary Education (CBSE), Kendriya Vidyalaya Sangathan (KVS), Navodaya Vidyalaya Samiti (NVS), Council for the

<sup>1</sup> Accountability means being able to act when something is going wrong, through policy, legislation and advocacy, including through ombudspersons to protect citizens' rights (Accountability in Education: Meeting Our Commitments, Global Education Monitoring Report Summary, 2017/18, UNESCO).

Indian School Certificate (CISCE), All India Institute of Medical Sciences (AIIMS), Central Institute of Psychiatry (CIP) Ranchi and Individual Expert.

### **Background**

In the Writ Petition (Criminal) No. 136 of 2017 and Writ Petition (Civil) No. 874 of 2017 before the Hon'ble Supreme Court Petitioners sought guidance to frame guidelines for fixing accountability of the school managements in the matter of safety of children studying in schools. The order of Hon'ble Supreme Court in the said petitions, states that being a matter of policy and governance, call ought to be taken thereon by the Secretary, Ministry of Human Resource Development, Government of India, and may obtain and consider inputs from all relevant sources and take such decision as may be considered appropriate.

Thereafter, a meeting was organized by MHRD to discuss the modalities for preparation of guidelines for "fixing the accountability of the School Management in the matter of Safety of the Children studying in Private and Government Schools". It was decided in the meeting that a draft model guidelines will be prepared by NCPCR.

### **I. Responsibilities of School Management towards ensuring Safety and Security of Children in Schools**

1. The School/School Management should ensure compliance with the roles and responsibilities assigned to it under NCPCR's Manual on Safety and Security of Children in Schools and any other guidelines, as applicable.
2. The School Management of the schools with residential facility should ensure the implementation of NCPCR's Regulatory Guidelines for Hostels of Educational Institutions for Children.
3. School/School Management should do periodic planning meeting with the Principal, teachers and students representatives on school safety.
4. The School/School Management/Authorities<sup>2</sup> should organise periodic in-service training/orientation/sensitisation of the teachers on the roles and responsibilities defined in NCPCR's Manual on Safety and Security of Children in Schools. The school should use proper training modules and certification. In this regard, the school should follow guidelines/modules/directions and prescribed mechanism issued by NCPCR/Authorities from time to time.
5. Every school should prepare and display School Safety Plan that may be prepared involving children and SMC/PTA.

<sup>2</sup> Authorities refer to the District Education Officers (DEO), respective State/UT Education Department/NCERT/respective SCERT.

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6. As per section 21 of RTE Act, 2009, private schools are exempted from formulating SMCs. 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;

*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;

*Formation of Parents-Teachers Association (PTA)*

- a) There shall be only one PTA in every school
- b) The PTA shall be formed within one month of the beginning of the academic session and should be sensitised/oriented on NCPDR's Manual on Safety and Security of Children in Schools. In this regard, the school should follow guidelines/modules/directions and prescribed mechanism issued by NCPDR/Authorities from time to time.
- c) The term of the PTA shall be one academic year.

- d) 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.
- e) For the purpose of ensuring participation of the parents of children admitted under section 12 (1) (c) of the RTE Act, 2009, school shall:
  - i) 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
  - ii) draw shall be organised under the supervision of Principal/Head Master of a nearby Government school nominated by the competent authority.
- f) 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.
- g) 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.
- h) 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.
- i) 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.
- j) Fifty per cent of members of such Committee shall be women.
- k) 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;
- l) The School Management shall display/upload the names of PTA Member on their website and on the notice board.

m) As per section 21 of RTE Act, 2009 a school, other than a school specified in sub-clause (iv) of clause (n) of section 2, shall constitute a School Management Committee consisting of the elected representatives of the local authority, parents or guardians of children admitted in such school and teacher.

## II. Functions of SMC/PTA w.r.t safety and security of children in schools

To ensure the effective implementation of safety and security measures in school; the School Management Committee (SMC)/Parent Teachers Association (PTA) shall perform the following functions, namely:

- a) In case of Government schools, components of 'Safety and Security of Children in Schools' to be recommended as one of the major themes while preparing School Development Plan by SMC members. The components of School Development Plan (SDP) comprising of elements Safety and Security of Children in Schools may be shared with SMC members for their feedback/suggestions.
- b) In case of private schools, PTA shall conduct periodic meeting and minutes/decisions of the meeting 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.
- c) The SMC/PTA shall carry out inspection of the school using the checklist provided in NCPCR's Manual; NCPCR's Regulatory Guidelines for Hostels of Educational Institutions for Children in case of residential educational institutions; other guidelines and suggest appropriate measures.
- d) All schools must constitute a Grievance Committee for Child Sexual Abuse (CSA) within a month of beginning of every academic year. The Committee and school staff should be oriented about their role under section 19 of POCSO Act, 2012 i.e. mandatory reporting of offence.
- e) Also, an Anti-Bullying Committee may be constituted in school, comprising of Vice Principal, a Senior teacher, School Doctor, Counsellor, SMC/PTA representative, School Management representative, Legal representative, Peer Educators etc.
- f) The decisions taken in Anti-Bullying Committee and Grievance Committee for Child Sexual Abuse (CSA) meeting should be discussed in the meeting of SMC/PTA.
- g) SMC/PTA should be made responsible for compliance of the Manual. Periodic review of the compliance of this Manual shall be discussed in the review meetings.



- h) SMC/PTA should ensure implementation of such guidelines related to safety and security of children based on which this Manual has been prepared.
- i) The member of SMC/PTA who is part of Anti-Bullying Committee to develop bullying prevention programme and creating awareness.
- j) To analyze the current safety and security measures within the schooling system and identify the gaps therein.
- k) Or any other functions as notified/prescribed by appropriate Government, Central Government, affiliating body, competent authority from time to time.

## Chapter 2

### Fixing Accountability of School Management: Monitoring and Non-compliance of Preventive Measures

1. For private schools: in case of non-compliance of the recommendations of PTA by the school management;
  - a) The PTA should approach the Block Education Officer (BEO).
  - b) In case of non-redressal of the grievances at BEO level the matter should be taken up with District Education Officer (DEO).
  - c) If the issues are not addressed by the DEO, the PTA/complainant may take-up the matter with the District Collector (DC)/District Magistrate (DM).
  - d) After enquiry by DC/DM involving the competent authority, the school does not comply with its responsibilities as per the Grievance Redressal Mechanism (GRM) specified by the appropriate Government, following steps may be taken by the DC/DM according to the nature of negligence by the School:
    - i) A fine on school equivalent to 1% of the total revenue generated in the preceding year for the first time of non-compliance and/or debarring the school for taking admission in the subsequent academic year; 3% for second time of non-compliance and/or debarring the school for taking admission in the subsequent academic year; 5% for third time of non-compliance and/or debarring the school for taking admission in the subsequent academic year.
    - ii) If the school further fails to comply with safety measures, the DC/DM may recommend the appropriate Government to take over the Management of the school until school complies with the safety

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measures specified in NCPCR's Manual on Safety and Security of Children in Schools and any other guidelines.

Provided that the appropriate Government after taking over the school, shall appoint administrator not below the rank of Sub-Divisional Magistrate as administrative head of the school to ensure its smooth functioning.

During this period, no further developmental shall be taken up in the school except activities related to education and safety of children.

iii) If the school fails to comply with the safety measures specified in the Manual and any other guideline, for number of years as deemed fit by the appropriate Government, the appropriate Government may withdraw the recognition of the school.

2. For Government Schools: in case of non-compliance of the recommendations of SMC by the school; the SMC should bring it to the notice of local authority as defined by under the respective State RTE Rules.

The Local Authority shall take/ recommend action against the responsible officials for non-compliance as per the service rules.

3. If in case of an accident in the School/during school hours it is found that the school, which has actual charge of or control over the child when the child is in school, has wilfully neglected the child that has caused the child unnecessary mental or physical suffering, it may be treated as violation of Juvenile Justice Act, 2015 and should be referred to the Police by the School Management/Authority.

4. NCPCR and SCPCRs, as the case may be, shall be responsible for monitoring the implementation of these guidelines. For this following shall be powers of NCPCR/SCPCR as defined in

- a) 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 CPC Act, 2005 (4 of 2006) shall, in addition to the functions assigned to the that Act, also perform the following functions, namely:*

*(a) Examine and review the safeguards for the rights provided by or under any Law related to children and recommend measures for their effective implementation;*

*(b) Inquire into complaints relating to child's right to free and compulsory education; and*

- (c) *Take necessary steps as provided under section 15 and 24 of the said CPCR Act, 2005.*
- (2) *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.*
- (3) *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) Section 13(1) of the Commissions for Protection of Child Rights (CPCR) Act, 2005,
- (a) *Examine and review the safeguards provided by or under any law for the time being in force for the protection of child rights and recommend measures for their effective implementation;*
- (b) *Present to the Central Government, annually and at such other intervals, as the Commission may deem fit, reports upon the working of those safeguards;*
- (c) *Inquire into violation of child rights and recommend initiation of proceedings in such cases;*
- (d) *Examine all factors that inhibit the enjoyment of rights of children affected by terrorism, communal violence, riots, natural disaster, domestic violence, HIV/AIDS, trafficking, maltreatment, torture and exploitation, pornography and prostitution and recommend appropriate remedial measures;*
- (e) *Look into the matters relating to children in need of special care and protection including children in distress, marginalized and disadvantaged children, children in conflict with law, juveniles, children without family and children of prisoners and recommend appropriate remedial measures;*
- (f) *Study treaties and other international instruments and undertake periodical review of existing policies, programmes and other activities on child rights and make recommendations for their effective implementation in the best interest of children;*
- (g) *Undertake and promote research in the field of child rights;*
- (h) *Spread child rights literacy among various sections of the society and promote awareness of the safeguards available for protection of these rights through publications, the media, seminars and other available means;*
- (i) *Inspect or cause to be inspected any juvenile custodial home, or any other place of residence or institution meant for children, under the control of the Central Government or any State Government or any other authority, including any institution run by a social organization; where children are detained or lodged for the purpose of treatment,*

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reformation or protection and take up with these authorities for remedial action, if found necessary;

(j) Inquire into complaints and take suo motu notice of matters relating to,-

(i) deprivation and violation of child rights;

(ii) non-implementation of laws providing for protection and development of children;

(iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to and ensuring welfare of the children and to provide relief to such children, or take up the issues arising out of such matters with appropriate authorities; and

(k) Such other functions as it may consider necessary for the promotion of child rights and any other matter incidental to the above functions.

(c) 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 a 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.