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F.No. 1-18/2010-EE-4(pt.I)
Government of India
Ministry of Human Resource Development
Department of School Education & Literacy

New Delhi, 14th February, 2012

Subject : Advisory on implementation of Sections 31 and 32 of the Right of Children to Free and Compulsory Education (RTE) Act, 2009.

A copy of the Advisory on implementation of the provisions of Section 31 and 32 of the Right of Children to Free and Compulsory Education (RTE) Act, 2009 is enclosed herewith for information and compliance.



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Director

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Encl: as above

1. Education Secretaries of all States/UTs
2. Chairperson/Member Secretary, NCPCR
3. SCPCRs/REPA of all States/UTs
4. All Members of NAC-RTE
5. Chairman- CBSE/NIOS
6. Commissioner-NVS/KVS

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JS(EE-I)
JS(SE-I)/JS(SE-II)
Director (UT Division)
All Directors/DS in EE-II Bureau

Shastri Bhavan, New Delhi, dated, 14th February, 2012.

Subject: Advisory on implementation of Sections 31 and 32 of the Right of Children to Free and Compulsory Education (RE) Act, 2009.

The Right of Children to Free and Compulsory Education (RTE) Act, 2009 provides for monitoring and protection of child rights under the Act. Under Section 31, the National/State Commission(s) for the Protection of Child Rights (NCP/SCPCR), or Right to Education Protection Authority (REPA) in respect of a State which has not constituted the SCPCR have been empowered to (a) examine and review the safeguards for rights provided under the RTE Act; (b) inquire into complaints relating to child's rights to free and compulsory education; and (c) take necessary steps as provided under sections 15 and 24 of the Commissions for Protection of Child Rights Act, 2005. Section 32 provides for redressal of grievances relating to rights of a child under the RTE Act by the local authority within a period of three months, and appeal against the decision of the local authority before the SCPCR/REPA.

2. The following guidelines are issued for the implementation of the provisions of section 31 and 32 of the RTE Act.

Responsibilities of State Government

3. The responsibility of identifying and notifying the local authority which shall perform the function of grievance redressal under section 32 of the RTE Act vests with the State Government. In this regard, the State Government may undertake the following measures:

- (i) Identifying the local authority(ies) within the meaning of section 2(h) of the RTE Act, for performing the functions envisaged in section 32 (1) and (2) of the Act.
- (ii) Notify the local authority at the village, block/mandal and district level having jurisdiction in respect of the responsibilities specified for local authorities under section 9, who would perform the functions envisaged in section 32(1) and (2) of the RTE Act. The Notification should be placed in public domain and given wide publicity.
- (iii) Prepare a list of legal entitlements of a child guaranteed under the RTE Act and State RTE Rules and make this information widely available.
- (iv) Prescribe the manner in which grievance would be filed u/s 32(1) of the RTE Act and the manner in which the decision is to be taken by the notified local authority under section 32(2) of the Act.

Processing Grievances/Complaints

4. Grievances may relate to violation of any of the provisions under the RTE Act and may be against any public office, public servant, private institution, private person or any other agency responsible directly or indirectly for the effective implementation of provisions of the RTE Act. The notified local authority shall take

into consideration the following factors while developing a procedure for filing and processing of such grievances:

- (i) The local authority can accept written complaint made by any person on behalf of the child. Complaints could be sent by post, fax, e-mail, or in person. The authority prescribed to address grievances at various levels will prescribe relevant formats which are simple and easy to understand, comprehend and furnish.
- (ii) The notified local authority will develop a system of registration of grievances, and a receipt of registration of the grievance should be provided to the complainant instantly.
- (iii) For the purpose of deciding a matter arising out of a grievance/complaint, the notified local authority may cause such verification and call for such information as it considers necessary.
- (iv) The grievance should be decided by the notified local authority within three months of its filing, after affording adequate opportunity to both parties. The decision of the notified authority under section 32(2) shall be a reasoned order, and should contain the details of the Appellate Authority (SCPCR/REPA) before whom an appeal can be preferred under section 32(3) of the RTE Act.
- (v) In respect of grievances relating to matters of urgency, such as denial of admission, etc, the notified local authority shall endeavour to decide the matter in a shorter time. Further, in respect of grievances relating to violation of Indian Penal Code, such as violence, child abuse, corporal punishment, etc, the notified local authority may facilitate filing of FIR before the police authorities.
- (vi) In respect of grievance registered before the notified local authority which requires to be decided by an authority other than the notified authority, such grievances be sent to that authority which is competent and empowered to decide the matter, and on receipt of such grievance, the other authority shall take steps to decide the matter expeditiously.
- (vii) Every notified local authority shall maintain a record of grievances filed and decisions taken by it and submit a periodic report to the State Government.
- (viii) The notified local authority shall keep aside fixed days/timings for hearing grievances and for personal meetings with aggrieved parties.

Role of SCPCR/REPA and Process of Appeal

5. Section 32(3) of the RTE Act provides for appeals against the decision of the notified local authority. In order to develop a transparent procedure for furnishing

and disposal of appeals by the SCPCRs/REPA, the following measures should be taken by the State Government and the SCPCR/REPA:

- (i) The State Government shall provide adequate resource support to the SCPCR/REPA to enable it to perform its functions under the RTE Act.
- (ii) The SCPCR would follow the procedures of an appellate body to hear grievances. For this purpose, the SCPCR shall prepare a Memorandum of Appeal in which appeals can be furnished before it. This Memorandum may be placed on the website of the SCPCR, the State Education Department and made available to the public by the notified local authorities.
- (iii) Any person aggrieved by a decision or direction of the notified local authority may file an appeal to the State Commission for Protection of Child Rights. The SCPCR/REPA may prescribe the time limit within which an appeal can be furnished, which can also be extended by it if it is satisfied that the appellant was prevented by sufficient cause from the filing the appeal within the prescribed period. The Memorandum can be filed by post or in person.
- (iv) Upon consideration of the appeal, and after affording adequate opportunity to both parties, the SCPCR may pass on order upholding the decision of the local authority, or modify or set aside the decision of the local authority, or make such recommendations as it deems fit in accordance with the provisions of section 15 of Commission for Protection of Child Rights Act, 2005. A copy of the order shall be sent to the applicant, the State Government and the local authority against whose decision the appeal was filed.
- (v) Every order of the SCPCR/REPA shall be taken into account by the State Government or the local authority, as the case may be, for expeditious action, under intimation to the SCPCR/REPA.
- (vi) The SCPCR/REPA shall maintain a record of all appeals filed and decided by it.

6. The State Government and the SCPCR/REPA may take steps to put in place the grievance redressal and appellate mechanism taking into account the aforementioned Guidelines. A compliance report may be sent to this Department within one month.



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To

Education Secretaries of all States/UTs