

MATRIX FOR DRAFTING STATE RULES UNDER THE RTE ACT



Centre for Civil Society

A-69, Hauz Khas, New Delhi 110016 India

Phone: +91 11 2653-7456 / 2652-1882 **F:** +91 11 2651-2347
www.righttoeducation.in, www.ccs.in, www.schoolchoice.in

MATRIX FOR DRAFTING STATE RULES UNDER THE RTE ACT

INTRODUCTION

This document seeks to provide a matrix to assist state governments in the process of drafting Rules under the Right of Children to Free and Compulsory Education Act, 2009. Through this matrix the Centre for Civil Society seeks to fill the lacunae in and elaborate on, the Model Rules provided by the Union Ministry of Human Resource Development. This matrix is divided into two sections. In the first section we examine the Model Rules in their present form and recommend amendments to the same on the basis of shortcomings and lacunae in the same or to elaborate on the same. In the second section we present additional Rules that can be inserted by various state governments. These relate to issues which have not been addressed by the Model Rules.

A. AMENDMENTS TO EXISTING RULES

1. *Limits for Neighbourhood Schools (Rule 4)*

- *Existing Sub-Rule (1):*

For the purpose of neighbourhood schools the existing rule prescribes a limit of 1 km for children in class I-V and 3 km for class VI to VIII.

- *Issue:*

Having area limits as the sole criterion for the purpose of neighbourhood schools may not be sufficient in densely populated areas.

- *Option:*

It would be advisable to include size of population as an additional criterion for determining how many neighbourhood schools are needed in each locality.

2. *25% Quota in private schools (Rule 7)*

- *Existing Sub-Rule (3):*

The existing rule prescribes that the limits used to define neighborhood for the purpose of neighbourhood schools under Rule 4(1) also be used for defining areas and limits for the purpose of the 25% quota.

- *Issue:*
This definition may be a bit narrow for the purpose of the 25% quota and may result in reducing the choices available to parents.
- *Option:*
It would therefore be advisable to formulate different and wider limits for the purpose of this rule. These limits could be different for different states depending on the geography, density of population and availability of schools in the state.

3. ***Per-Child Expenditure (Rule 8)***

- *Existing Sub-Rule (1):*
The per-child expenditure for the purpose of reimbursement in respect of the 25% quota has been defined as the total annual recurring expenditure of the government on its own schools divided by the number of students enrolled in such schools.
- *Issue:*
This amount may not be enough to cover the cost that the private schools actually incur on such students and does not reflect the actual per-child expenditure of the government. Apart from this, a higher reimbursement amount would engender less resistance to the 25% quota on the part of the private unaided schools. It would also reduce the possibility of an inequitable burden being imposed on the parents of the non-quota students.
- *Option:*
The per-child expenditure could instead be defined as follows:
 - The per-child expenditure for the purpose of reimbursement in respect of the 25% quota can be taken as the total annual recurring and capital expenditure of the government on its own schools divided by the number of students enrolled in such schools, or
 - The per-child expenditure for the purpose of reimbursement in respect of the 25% quota can be taken as the total annual budget of the government for its own schools divided by the number of students enrolled in such schools.

4. ***Proof of Age (Rule 9)***

- *Existing Sub Rule (c):*

In a situation where birth certificate is not available parents have been given an option to provide an affidavit certifying the age of the child.

- *Issue:*

This may be too cumbersome for some parents.

- *Option:*

Instead of the existing rule a self-declaration from the parents of the child's age could be treated as sufficient proof of age of the child.

5. ***Use of School Building (Rule 11)***

- *Existing Sub-Rule 1(d):*

Use of the school building restricted to purposes of education and skill development

- *Issue:*

This restriction is too narrow as it prevents the school building from being used for various legitimate purposes which do not interfere with the provision of education within the school. In many rural areas the school building is used for community gatherings and meetings which gives the community a sense of ownership of the school and helps in the process of community building. For private schools renting out schools buildings could be alternate sources of revenue which could even be used to offset the cost of admitting students under the 25% quota.

- *Option:*

The Rule may be amended in the following manner to make it more flexible permitting use of the school building for legal purposes as approved by the School Management Committee after school hours.

6. Composition of the School Management Committees (Rule 13)

- Existing Sub-Rules 2 and 3:

- 75% of the committee shall be from among parents and guardians and 25% shall be from among elected members of the local authority, teachers from the school and local educationists and children

- Issue:

The composition of the committee is not given in detail.

- Option:

An option for the composition of the School Management Committees is:

- Parents and guardians elected by the entire body of parents and guardians } 75%

(there can be a separate quota for SC, ST, OBC, minorities within this)

- Head teacher, health worker, anganwadi worker
 - Elected representative
 - Representative of the school management
 - Two students
 - One member from NGO/local educationist
- 25%

7. Conditions of Service of Teachers (Rule 18):

- Existing Rule:

The existing rule states that the state government or local authority shall prescribe the conditions of service, salaries and allowances of all teachers.

- Issue:

This would lead to excessive interference in the management of private schools.

- Option:

The state government or local authority shall prescribe the conditions of service, salaries and allowances of teachers hired by it.

B. ADDITIONAL RULES TO BE INCLUDED IN THE EXISTING MODEL RULES

1. *Implementation of the 25% Quota:*

The Model Rules provide for a 25% quota for economically weaker sections and disadvantaged groups in private unaided schools. However the Rules are silent about the method of selection of the children under the 25% quota in the event demand for the same exceeds supply. One of the following methods could be employed to select such students:

- Holding of a public lottery by a representative of the Education Department for all the schools within an area and list of selected students being displayed prominently on the notice boards of the schools and the Department, or
- The schools conduct their own public lotteries and display names of students on their display boards, or
- The schools conduct their own lotteries and keep the list of selected students confidential, or
- The schools admit students on a first-come-first-serve basis.

2. *Determination of Eligibility for Free Education in Aided Schools:*

Section 12 of the Act provides that all aided school have to provide free education to such proportion of their students, as the aid received by them by the government bears to their total recurring expenditure. The Act is silent about what criteria the aided schools will use to determine which students they will provide free education to under this section. The Rules can provide that the children given free education under this section shall belong to weaker sections and disadvantaged groups as defined for the purpose of the 25% quota.

3. *Modalities for Calculation of per-Child Expenditure:*

The modalities for the calculation of reimbursement amount to be paid to private schools in respect of the students admitted under the 25% quota are also not stated. These modalities could be worked out in the following manner. There should be a committee at the state level which will decide on the per-child expenditure figure for every year. The reimbursement amount will be paid directly into the bank accounts of the schools. 50% should be paid in September

and the remaining 50% in January after verification of attendance of the 25% quota students.

4. *Recognition Norms:*

The Act states that all schools have three years to obtain recognition in accordance with the norms prescribed thereunder. In the event a school is not accorded recognition within this period it will be shut down. Many budget private schools would not have the resources to meet standards like playground, kitchen for mid-day meals, land norms and hence would be shut down. Consequently all the children studying in such schools will be deprived of an education.

It is therefore advisable for states to make the norms for recognition flexible and adopt a graded recognition and rating system rather than prescribe only one set of norms. Recognition norms should be tailored to suit local conditions at the ground-level in every state. For example in urban areas the land norms should be different depending on which locality the school is located in. In a city like Delhi the land norms could be different according to the property tax category in which the ward is located. Under such a system there will be a basic minimum threshold below which schools will be de-recognised. Above this threshold there should be various tiers at which schools will be rated according to learning outcomes, teachers' training, physical infrastructure, pupil-teacher ratio and the like. Such a system also helps parents make the right choice as regards which school to send their child to.

5. *Functions of the School Management Committees:*

The functions of the School Management Committee as outlined in the Model Rules are not comprehensive. It would be advisable to include the following functions as well to the functions of the School Management Committee:

- Periodically monitor and verify regular and timely attendance of teachers, non-teaching staff and students. To this end, the School Management Committee shall require the school to maintain attendance registers for teachers, non-teaching staff and students and have the power to approve or disapprove casual leave of teachers.

- Ensure enrollment of all non-school going children in the village irrespective of their religion, race, caste, sex, language, place of birth. To this end, the School Management Committee may conduct enrolment drives, bridge courses and special campaigns for girl children, disabled children and child labourers and their parents.

6. *Learning Outcomes:*

The Act states that every child between the age of 6 and 14 is guaranteed free and compulsory education but does not specify any standards that this education requires to meet. The Act also provides that no child will be detained in any class between class 1 and 8. There is no prescription as to learning outcomes of children in different classes. Thus the Rules must incorporate a system of defining learning outcomes in each class. An independent body must be set up which will do random testing of samples of children to measure learning outcomes. In the event the learning outcomes are not at the desirable level strong remedial measures must be suggested to the school.

7. *Capitation Fees*

The Act states that no school shall collect capitation fees at the time of admission. The Act does not clarify what exactly comprises capitation fee. In many schools amounts such as laboratory fee, infrastructure fee etc are also collected. The Rules need to state exactly what kinds of fees are included and excluded under the definition of capitation fee.

8. *Admission of Children in Age-Appropriate Classes*

Section 4 of the Act provides that when a child above the age of 6 years has not been admitted in class 1 or has not been able to complete his elementary education then he shall be admitted in an age appropriate class. The section also provides for bridge courses for such students. However in every scenario it may not be feasible to admit the child in an age-appropriate class. Therefore it is necessary to introduce some flexibility in this regard for the schools through the Rules. Schools should be given the option to decide which class to admit a child who has not started his elementary education at the age of 6 or

has not completed the same. The mainstreaming of such children should be facilitated by appropriate bridge courses and remedial teaching.

9. *Pre-School*

Section 11 of the Act states that the appropriate government should make necessary arrangements for providing free pre-school education for children under the age of 6 years. However this is not elaborated any further. Currently the ICDS (Integrated Child Development Scheme) deals with early childhood care and education however the reach of this scheme is far from adequate. It is necessary for state governments to make adequate provision for free pre-school education for children under the age of 6 years by integrating the ICDS Scheme with the requirements of the RTE Act.