



BUILDING BLOCKS FOR A COMPREHENSIVE MODEL REGULATORY FRAMEWORK FOR PRIVATE SCHOOLS IN INDIA

ACKNOWLEDGEMENTS:

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We are grateful to the participants of the consultations in Odisha and UP and Delhi that contributed to the framing of this document. We are grateful to Binod Sinha (Oxfam India, Uttar Pradesh) and Santosh Patra (Oxfam India, Odisha) for facilitating the same in their states.

2023

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ABBREVIATIONS

AIPA- All India Parents Association

CSO- Civil Society Organisation

CBSE- Central Board of Secondary Education

DFRC- District Fee Regulatory Committee

FICCI- Federation of Indian Chambers of Commerce and Industry

GR- Grievance Redress

HP- Himachal Pradesh

J&K- Jammu and Kashmir

KV- Kendriya Vidyalaya

LFPs- Low fee private schools

MP- Madhya Pradesh

NCPCR- National Commission for Protection of Child Rights

NEP- National Education Policy

NSS- National Sample Survey

NV- Navodaya Vidyalaya

PTA- Parent Teacher Association

RTE- Right to Education

SSSA-State School Standards Authority

UN- United Nations

UP- Uttar Pradesh

INTRODUCTION AND METHODOLOGY

The need for regulation of private schools in India

Nearly 49% of students at the elementary level in India¹ attend private schools. India has seen a massive increase in private schools over the last few decades. The proportion of private schools in elementary education rose from 19.49% in 2007-08 to 22.74% in 2014-15² and stood at 28% in 2020. This growth has altered student demographics and changed the nature of non-state schools making them more commercial and increasing educational inequality.

While government schools are frequently vilified for their poor quality, the evidence of any advantage for private schools is ambiguous³ and there are various issues with the functioning of private schools that are not adequately problematized. Thus, there are real concerns about profiteering and exclusion in private schools. Thus, Oxfam India's research on the status of private schools during the pandemic has shown that 37% of children from Scheduled Castes faced harassment or abuse by either school staff or their peers⁴.

Family per capita income is the most important predictor of whether a household chooses a public or private school across India. Sending a child to a private school involves considerable expense. The average household expenditure on private education amounts to 7.5% of yearly per capita household expenditure compared with 2.7% in public schools. Even if a family sends one child to a private school, it will have to spend approximately 13% of its annual income for primary, 15.3% for upper primary, and 18.3% for secondary level of education⁵. Using per capita consumption as a proxy for income, doubling per capita income increases the probability of choosing a private school over a public school by about 10%⁶. As such, poor and marginalized communities are less likely to enrol in private schools. Being a Dalit or Adivasi reduces the probability of private enrolment by about 4-8%.⁷ The segmentation of the schooling system into private schools for the better off and under-resourced government schools for the poor has been accelerating over time. This erodes social cohesion by eliminating the scope for the rich and the poor to learn and grow up together. It also risks widening social and income inequality in India⁸.

Weak government regulatory capacities contribute to the regulatory failure of private schools as regulations are not upheld and create perverse incentives for the misapplication of existing rules. Several instances of financial irregularities in private institutions have been reported which involve the misuse of subsidies, including land^{9,10}, provided by the government. Unqualified teachers, lack of a decent teacher wage and poor and unsafe learning environments continue to plague private schools, particularly low-fee private (LFP) schools¹¹. There is a broad spectrum of private schools, and unrecognised schools persist even though they should technically not exist given the RTE Act compulsions. According to official sources, 17% of rural students enrolled in private schools are studying in unrecognized institutions (NSS 71st Round)¹². Unrecognized schools are schools that run without government licenses most often because they are unable to fulfil the prerequisites for recognition.

This creates the need to examine the regulatory frameworks in place for private schools to understand challenges concerning their regulation from a human rights lens. This analysis has been undertaken with the understanding that education is a fundamental human right

and that the government holds the responsibility to both deliver education and regulate other providers to ensure that education remains a public good and that any abusive practices by non-state players are redressed.

International law on private school regulation

International human rights law provides for the obligation of the state to deliver free and compulsory education but also protects the rights of parents and guardians to opt for some form of non-state or other alternative education¹³. Accordingly, the state must ensure compliance with the minimum standards of education and guard against discrimination in educational opportunities based on grounds of race, religion, gender, disability, or wealth. This creates the need for the government to put in place and enforce appropriate regulations for private educational institutions.

A range of international human rights treaty instruments focus on the regulation of education.¹⁴ The Abidjan Principles¹⁵ on the human rights obligations of States to provide public education and to regulate private involvement in education, are an important reference point, to understand the legal obligations that States have regarding the delivery of education, and in particular the role and limitations of non-state actors in the provision of education. A crucial point inherent in human rights law is the role of the state in both delivering and regulating private actors in education. The UN Special Rapporteurs on the Right to Education's 2015 report has also highlighted the need to have a comprehensive regulatory framework to control private actors to address the commercialization of education, safeguard education as a public good and address the negative effects on the realization of the right to education.¹⁶

A complex national landscape

India lacks a singular, comprehensive private school regulatory framework. Education is part of the Concurrent List of the Constitution of India which means both the centre and the states have a role in the regulation of private schools. However, private school administration is largely governed by State law.

At the national level, there is the Right of Children to Free and Compulsory Education Act 2009, Board standards, and other broader regulations, such as the Prevention of Children from Sexual Offences Act. In addition, there are notifications issued by the Ministry of Education, guidelines by the National Commission for Protection of Child Rights (NCPCR) and guidelines by the Central Board of Secondary Education (CBSE). There are also instances of the judiciary quashing notifications issued by some of these institutions. For instance, CBSE¹⁷ had issued a circular, warning schools not to sell books and uniforms on their premises. This was later quashed¹⁸ by the Delhi High Court, with the argument that the sale of such materials on school campuses did not amount to commercialisation.

At the state level, there are RTE State rules, old State laws and newly introduced private school fee regulations. These new fee regulations define the process of fee fixation, call for the formation of special committees to regulate fees and outline the process of grievance redress. Older state regulations often cover a wider canvass of issues including quality, teacher qualifications, recognition and other provisions related to the overall functioning of these schools.

The National Education Policy (NEP)¹⁹ proposes further changes in this landscape, particularly the establishment of a body responsible for school regulation – the State School Standards Authority (SSSA). It is proposed that the SSSA will establish a minimum set of standards for all schools (both government and private) to follow and adjudicate complaints and grievances about schools. This provision, if implemented, will trigger major changes in the regulatory frameworks as they apply to private schools.

The above regulatory landscape is extremely complex and full of contradictions. For instance, the Uttar Pradesh Right to Education (RTE) Rules clearly state that recognition will be given to schools under the condition that they are not run for profit by any individual, group or association of individuals or any other persons. At the same time, the Uttar Pradesh Self-Financed Independent Schools (Fee Regulation) Act, 2018 allows commercial activity on the premises of the school, and such income is to be deposited into the account of the school.

Furthermore, a large chunk of private school regulations deals mainly with the issue of fee regulation. As the subsequent analysis would show, some provisions related to child safety, discrimination, teacher working conditions, parent participation and conditions of recognition are part of the legislation. However, such provisions are scattered across multiple laws and notifications, and no state has comprehensive legislation about private schools that includes all these elements. Further, there is huge variation across states in terms of their focus.

Furthermore, these laws are often poorly implemented. In a 2022 Oxfam India study,²⁰ 84% of private school parents reported that state governments had been ineffective in regulating private schools. Even the NEP²¹ acknowledges the failure of current regimes in preventing “commercialization and economic exploitation of parents by many for-profit private schools”. Accordingly, any analysis of provisions needs to take into cognizance the measures that would need to be taken to strengthen implementation.

India has two kinds of recognized private schools. Those that are ‘aided’ (often called ‘government aided’ schools) receive financial support from the government and are largely free to students (although nominal fees may be collected). Those that are ‘unaided’ support themselves most commonly through student fees. The former constitutes 12% of schools, compared with 32% of unaided schools. At the same time, many schools may run in public-private partnership mode which may be substantially independent in governance, even if they may be formally classified as government schools. For secondary education, schools may be affiliated with several state boards (CBSE, AISE, state boards or International Baccalaureate). The present analysis looks at the administration of all types of schools but substantially focuses on unaided schools.

The need for a comprehensive regulatory framework for private schools

While private school provision has increased, regulations have not kept up with the evolving landscape. Much of the legislation passed in the previous decade has focused on the regulation of private school fees alone. While this is a critical dimension, a range of other measures is equally important to protect children’s educational rights.

This creates the need for a comprehensive framework to regulate private schools that draws on some of the existing legislative provisions in place in India’s states. This framework would need to be comprehensive in terms of covering the range of issues that are part of existing

legislation, reflecting constitutional rights and international human rights law and is sensitive to the experience of implementation of existing regulations of private schools.

This analysis is a first step toward proposing broad domains for a comprehensive regulatory framework for private schools. It provides a content analysis of the existing provisions under the range of state legislation. Efforts to undertake an overview of regulatory frameworks for private schools have either covered a sub-set of the regulatory legislation (e.g., Vidhi's analysis drawing on the World Bank's SABER framework²²) or focussed on specific dimensions (e.g., Fees Regulation Legislation by Centre for Civil Society²³) or implementation of Section 12 (1)c of the RTE Act. This is the first time that an overview of the entire gamut of legal provisions has been attempted at once.²⁴

The aim is to create a set of key building blocks for developing a model national regulatory framework for private schools, that can be adapted by states to their context. As such, the starting point is not a pre-determined framework, but a content analysis of provisions that exist in the laws of India's states and union territories. At the same time, the principal suggestive frameworks for similar legislation made by principal stakeholders working on these issues from diverse ideological positions and entry points are also included. These include the FICCI Arise (from the perspective of the private schools themselves), the All India Parents' Association (from the perspective of parents) and the NCPCR (from the perspective of children).

METHODOLOGY

Oxfam India sought to conduct a detailed, comparative mapping of private school provisions across India to understand existing provisions and develop building blocks for a model comprehensive regulatory framework of private schools, which includes key provisions for regulation, along with recommendations on effective regulation for each provision.

This work builds on Archana Mehendale and Oxfam India's analysis²⁵ of legal frameworks in India and relies heavily on the state-wise compilation of private school regulations that were created as part of the analysis. This includes materials such as legislation, rules, orders, notifications, and guidelines collected from the official websites of various central and state governments and organized according to each state. Secondary material and available documentation on the subject were also collected and reviewed.

All the states where the material is available. The analysis involved the following actions:

- All materials were downloaded and classified to understand the state and regulatory area/theme.
- Summarising different types of provisions across states for each question/provision
- Comparing existing laws with other frameworks (wherever applicable) such as the National Commission for Protection of Child Rights (NCPCR)'s model fees regulation,
- Alternative propositions like the FICCI's model regulation^{26,27} and the All India Parent Association's proposed fee regulation bill
- Breaking down the above provisions into specific questions/provisions
- Reviewing existing analyses on private school regulation, such as the report by Vidhi Centre for Legal Policy²⁸, and
- Offering an analysis/recommendation for each question.

The recommendations were framed based on the experience of the implementation of existing frameworks. National legislation has been prioritized over state provisions where there is a contradiction between the provisions. In areas where RTE, RPWD or other national Acts and policies do not have any specific provisions and there are differences between the various state-specific provision, attempts have been made to identify some promising provisions. These provisions were also compared to existing proposed legislative frameworks for the regulation of private schools made by other organizations in this policy space including the NCPCR, the All India Parents' Association, Vidhi Law Centre and FICCI Arise.

The recommendations were framed based on a process of policy analysis followed by a series of regional and national consultations with parent associations, legal experts, academicians, CSO representatives and education activists²⁹. Each consultation began with a presentation of existing provisions followed by a discussion on ideal provisions that should be a part of the model regulatory framework. The first full draft of the report underwent extensive peer review by academics and legal experts working on issues of regulation of private schools.

An exercise of this scope has not been attempted before and given the complexity of the regulatory frameworks, this analysis likely contains multiple omissions. Most states have a multiplicity of applicable legislation which has not been abolished while new layers are added creating a complex policy landscape. Additionally, many pieces of legislation referred to additional delegated legislation which has changed over time. Furthermore, this analysis is restricted to English-language documents. Much of the delegated legislation is in state languages and could, therefore, not be included. More research and inputs from academics, parent associations and research bodies would be necessary to strengthen this framework and address any gaps that exist.

At the same time, an analysis of the extent to which these regulations are implemented has been outside the purview of this document which provides only an overview of the regulatory framework. Additional research into the implementation of these frameworks would likewise be important.

AN OVERVIEW OF THE FRAMEWORK

Based on an analysis of existing private school provisions across states, model regulatory frameworks by NCPCR, FICCI and demands by parent associations, the following domains are proposed for a comprehensive framework. These include dimensions related to:

- Provisions related to admission
- Provisions regarding the regulation of fees
- Standards for the establishment, recognition, and affiliation of schools
- Provisions regarding the process of recognition, up-gradation, and closure of private schools
- Provisions regarding the administration of schools
- Provisions related to parental participation
- Provisions regarding human resources of the school
- Child-centred provisions,

These sections have now been converted into chapters of the present report. Each chapter starts with an overview of the issues related to this issue and identifies key regulatory challenges. This is followed by a detailed content analysis of the legislation on the specific issue and ends with a conclusion which provides an overview of the recommendations. The last chapter of the report provides an overview of the framework including the various structures proposed and the process of regulation that may be adopted for the eight strands identified. The conclusion looks at suggestions on how the report is to be used and some suggested next steps for the process.

PROVISIONS RELATED TO ADMISSIONS

The admission process has received a lot of attention over the years due to allegations of private schools continuing to charge capitation fees³⁰ and screen students, in violation of existing regulations. Interviews with children and parents, admission tests and admissions have continued to remain rampant in private schools³¹.

The Oxfam India survey found that 38% of parents had to pay capitation fees at the time of admission, while screening of children also continued to be rampant, with 56% of children having to appear for a test/interview before seeking admission in the school, for any grade below 8th³².

It is also critical to address equity in private schools. While 54% of the fifth (richest) household expenditure quintile attended private schools, the share was only 12% for the first quintile³³. Children from Dalit and Adivasi communities are less likely to be enrolled in private schools; those enrolled continue to face discrimination.³⁴ Enrolment of girls in private unaided schools is at 32%, compared to 38% of boys³⁵. Section 12-1c of the RTE Act³⁶ was intended to be the instrument for desegregating India's education system, but its implementation has languished. The average fill rate of Section 12(1)(c) seats in 2021 in nine states of Chhattisgarh, Delhi, Gujarat, Haryana, Karnataka, Maharashtra, Odisha, Tamil Nadu, Uttarakhand, and Uttar Pradesh was only 56%, with Gujarat having the highest rate at 79% and Haryana the lowest at 0%³⁷.

Other challenges regarding admission include complicated admissions processes, disputes over the fixation of reimbursement charges to schools, delayed reimbursement and discrimination against students, teachers, and parents. The CBSE has recently threatened its members with disaffiliation for failing to make mandatory disclosures on their website³⁸ and warned parents about false advertising by some private schools claiming affiliation³⁹. Underage admissions have continued despite the RTE Act stipulating 6 years as the age of admission. At the start of the Act's implementation, 25.2% of children enrolled in Class I in both government and private schools were under six years of age; 11.5% of children in Class I was enrolled at a younger age than the prescribed age of school entry of their state⁴⁰. Furthermore, various states continue to retain different ages of school entry.⁴¹

This section reviews the provisions related to the prevention of discrimination in the admission process, screening of children, disclosure to be made by schools at the time of admission, and the process for grievance redress. Other frameworks, such as those of FICCI, AIPA and NCPCR don't have provisions related to admissions, which is why this section includes only a table of existing provisions instead of a comparison across different frameworks. The absence of such provisions in model private school frameworks by these bodies highlights the lack of comprehensiveness of existing model regulatory frameworks.

MAJOR REGULATORY CHALLENGES:

1. Children are admitted before the official age of admission and before they are ready for formal schooling.
2. Discrimination, screening, and corruption during the admission process are illegal and prevent an equal playing field.

3. Inadequate, misleading, or false disclosures by schools at the time of admission.
4. Inadequate implementation of Section 12 (1) c of the RTE Act which makes the clause fail in its transformative potential.

1. AGE OF ADMISSION?

Existing provisions

- A child can be admitted to a pre-primary school only upon completion of three years of age. (FICCI)
- No recognised school shall admit a child to class one or any equivalent class higher than one unless he/she has completed five years of age on the first day of the academic year. Correspondingly, children shall not be admitted to higher classes unless they have completed 4+n years of age as on the first day of the academic year, 'n' being the class to which admission is sought. (FICCI)
- Six years is the age for admission to Grade I (RTE Act). However, 14 states and UTs allow five years olds to be admitted in Class I⁴². The KVS has prescribed six years as the minimum age for admissions to Class I from 2022-23.⁴³
- The NEP proposes moving to a new "5+5+3+4" format which includes education for children three to eight years as part of the new Foundational Stage that crosscuts the first three years in Anganwadi/preschool and two years in primary school (Grades 1-2).⁴⁴

Recommendations

- A minimum national age for admission in Class I and pre-primary sections will need to be prescribed respectively and adhered to. The age of admission into Grade I should be age six in line with the provisions of the RTE Act.
- The age of and process for admission to pre-primary education would likewise need to be prescribed in line with the prevailing policy and practice.

2. WHAT ARE THE PROVISIONS REGARDING THE TIME FRAME FOR SEEKING SCHOOL ADMISSION?

Existing provisions

- Six months from the date of commencement of the academic year (Mizoram⁴⁵, Rajasthan⁴⁶, Tamil Nadu⁴⁷, Sikkim⁴⁸, Haryana⁴⁹, Goa⁵⁰, Puducherry⁵¹, Chhattisgarh⁵², Gujarat⁵³ and Meghalaya⁵⁴)
- Five months from the date of commencement Manipur⁵⁵, Nagaland⁵⁶ and Delhi⁵⁷)
- Three months from the date of commencement (Uttar Pradesh⁵⁸, Uttarakhand⁵⁹, Andhra Pradesh⁶⁰, Himachal Pradesh⁶¹, Kerala⁶², Odisha⁶³, West Bengal⁶⁴, Karnataka⁶⁵ and Madhya Pradesh⁶⁶)
- Before the first term (Maharashtra⁶⁷)
- However, many states stipulate that admission cannot be denied if admission is sought later (Odisha⁶⁸, and Himachal Pradesh⁶⁹)
- School shall not disallow the admission of the children who migrated from another school within an academic year, and this shall not be deemed as admission after an extended period (Jharkhand⁷⁰)

Recommendations

- Children should be allowed to seek admission throughout the year in line with the provisions of the RTE Act, and there should be no specified timeframe from the date of commencement within which children must get admitted.

3. WHAT ARE THE PROVISIONS REGARDING SUPPORT FOR CHILDREN WHO HAVE JOINED THE SCHOOL AFTER THE EXTENDED ADMISSION PERIOD?

Existing Provisions

- When a child is admitted after an extended period, s/he shall be eligible to complete studies with the help of special training, as determined by the head of the school. (All States)

Recommendations

- Special training provided under the RTE Act, is currently only provided for children in government schools typically for children above nine years of age. Similar measures would need to be developed for private

schools. All states should include a clause for the provision of special training for children who have joined the school after the extended admission period.

- The government needs to develop specific guidelines for special training and develop/adapt existing model modules to be followed. However, the head of the school will need to be provided with flexibility in interpreting/defining the special training.

4. WHAT ARE THE PROVISIONS TO PREVENT DISCRIMINATION IN THE ADMISSION PROCESS?

Existing provisions
<ul style="list-style-type: none"> • No denial on the grounds of religion, caste, race, or language. (Andhra Pradesh⁷¹, Arunachal Pradesh⁷², Gujarat⁷³, Karnataka⁷⁴, Manipur⁷⁵, Meghalaya⁷⁶, Mizoram⁷⁷; In Tripura⁷⁸ Uttarakhand⁷⁹ and Haryana⁸⁰ this is also a condition for schools to get recognition. • No denial on seeking exemption from religious exercise/instructions (Arunachal Pradesh⁸¹, Goa⁸² and Haryana⁸³). • Pupils' admission in the schools of all management shall not be segregated in the name of caste, creed, customs, religion, region etc. The child belonging to the economically weaker section, disadvantaged groups and physically challenged shall not be discriminated against and prevented from pursuing education anywhere in the State (Arunachal Pradesh).⁸⁴ • The government, local authority and school authority shall ensure that a child belonging to weaker section and disadvantaged groups is not segregated or discriminated against in the classroom, during midday meals, in the playgrounds, in the use of common drinking water and toilet facilities and the cleaning of toilets or classrooms. A child belonging to the weaker section and disadvantaged group shall mean a child belonging to the BPL family. (Mizoram⁸⁵) • No denial due to lack of age proof and relevant documentation (RTE Model Rules). • No denial if the father's name is not available (Goa⁸⁶). • No denial based on HIV status or any other illness (Goa⁸⁷ and Manipur⁸⁸). • No denial based on disability (National PWD Act, Haryana⁸⁹, MP⁹⁰ and HP⁹¹) • For admission to the 75% of seats with respect to unaided schools and specified category schools, and for the seats in the aided schools, each school should formulate a policy under which admissions are to take place. There should be no profiling of the child based on parental educational qualifications. (MHRD Guidelines for Implementation of 35(1) regarding procedures for admissions in schools under sections 13(1) and 12(1)(c))⁹²

Recommendations

- States need to ensure that discrimination based on prohibited grounds is included in line with the provisions of the RTE and RPWD Acts including caste, tribal identity, religion, race, language, gender, disability, HIV status and migrant status.
- Private schools should share information about the students admitted to schools with the administration breaking down the same based on categories like gender, SC, ST, OBC, PWD status and wealth quintile. This information would also need to be disclosed in the public domain.

5. WHAT PROVISIONS EXIST TO PROMOTE EQUITY IN ADMISSION?

Existing provisions
<ul style="list-style-type: none"> • Section 12(1)(c) of the RTE Act sets aside 25% of seats for disadvantaged groups and weaker sections. • 5% of seats are reserved for meritorious pupils from poor families as recommended by Director (Assam) or 10% seats for meritorious students belonging to Economically Weaker Section (EWS) and Below Poverty Line (BPL) categories (Haryana⁹³). In the latter case, the fees would be the same as in Government Schools. • 5% of seats for Girls and 5% staff quota (Delhi).⁹⁴ • 15% seats for children belonging to economically weaker sections and the fee charged from those students shall be nominal preferably the same as is charged from students of a government school. (Chandigarh⁹⁵). • Schools, including minority schools, where schools were allotted land by the government shall also admit children from Economically Weaker Sections in the neighbourhood to the extent of 25% in all fresh admissions made in other classes above the entry-level. (Delhi)⁹⁶ • Private educational institutions are required to reserve at least 20% of their total seat to be filled up by local students whose parents possess Sikkim subject' Certificate/Certificates of Identification. (Sikkim)⁹⁷

<ul style="list-style-type: none"> • In Delhi, 3% of the seats as part of reservations under Section 12(1)(c) are to be reserved for children with disabilities.⁹⁸ • 5% of seats under Section 12(1)c shall be assigned to HIV AIDS, orphans, and children with disabilities. (Andhra Pradesh)⁹⁹
Other provisions to protect specific groups
<ul style="list-style-type: none"> • All private educational institutions shall reserve at least 20% of their total seat to be filled up by local students whose parents possess Sikkim subject' Certificate/ Certificate of Identification (Sikkim¹⁰⁰). • Girls' institutions shall not be allowed to be converted into a co-educational or boys' institution. (Andhra Pradesh¹⁰¹)

Recommendations

- Strengthen the implementation of Article 12(1)c of the RTE Act and other schemes setting aside seats for children from marginalized communities.
- Private schools need clear guidelines to promote the admission of students from girls and children from marginalized communities in private schools beyond reservations under the 12 (1)(c) of the RTE Act. This could include the requirement that permission for the upgradation of schools be only granted to schools which have granted admission to a specified share of underrepresented groups. The list of communities must include girls SCs, STs, children with disabilities and educationally lagging minorities (especially Muslims). Additional categories may be added by individual states after carrying out comprehensive ground-level research to identify specific communities/groups which require additional support in gaining admissions.
- Private schools must be expected to report the steps being taken to ensure parity in admission for the genders and steps taken to address non-discrimination against students and teachers from marginalized communities.
- Schools offering private school admission under Section 12(1)(c) must share with the government disaggregated data of admissions based on social category, disability and gender with the government which will then share a snapshot of the extent of admission of marginalized communities in private schools at the block and district level (relative to the share of these groups in the population of the geography).

6. WHAT ARE THE PROVISIONS REGARDING SCREENING CHILDREN DURING THE ADMISSION PROCESS?

Existing provisions
<ul style="list-style-type: none"> • Screening is not allowed, including written/oral tests or interviews of parents and children. (RTE Act). • There shall be no management quota in admission in any private unaided recognized school. (Delhi¹⁰²) • There shall be no testing and interviews of any child/parent falling within or outside the categories, and selection would be on a random basis. Admission should be made strictly on this basis. (MHRD Guidelines for Implementation of 35(1) regarding procedures for admissions in schools under sections 13(1) and 12(1)(c)) • Any school or person, who subjects a child to a screening procedure, shall be punishable with a fine which may extend to twenty-five thousand rupees for the first contravention and fifty thousand rupees for each subsequent contravention. (RTE Act)

Recommendations

- It is critical to reiterate the need to prohibit screening in line with the provisions of the RTE Act. Stronger mechanisms are needed to ensure grievance redress in this regard. Suggestions for strengthening the same have been made in a subsequent chapter of this report.

7. WHAT IS THE ADMISSION PROCESS?

Existing Provisions
<ul style="list-style-type: none"> • Application signed by parent/guardian. For an application by someone other than parents to be valid, it must be accompanied by a written declaration by the father/mother. (Kerala¹⁰³) • Application form to be made available for at least five working days; three working days to be given for filling in the form. All details are to be given on the noticeboard. (Karnataka¹⁰⁴)

- Schools should adopt an admission procedure that is transparent, rational and non-discriminatory; no form of screening. No profiling of parents based on educational qualifications. Selection would be on a random basis. (Ministry of Education guidelines)
- Additional requirements have been prescribed for admission under section 12(1)(c) which are described in a subsequent section.

Recommendations

- Each state needs to have detailed guidelines (forming delegated legislation) around the admission process that adhere to the principles of transparency, rationality and non-discrimination as suggested by MHRD guidelines. Stronger grievance redress mechanisms would be important to ensure adherence with the same.
- Some state guidelines may require mobilization to particularly reiterate the need for transparency and ensuring no-screening/random admissions.

8. WHAT ARE THE PROVISIONS FOR THE ISSUANCE OF A SCHOOL LEAVING/TRANSFER CERTIFICATE FOR ADMISSION?

Existing Provisions

- Delay in producing transfer certificates shall not be a ground for either delaying or denying admission in such other schools. Provided further that the Head-teacher or in-charge of the school delaying the issuance of transfer certificate shall be liable for disciplinary action under the service rules applicable to him or her. (RTE Act)
- Where a child is required to move from one school to another, either within a State or outside, for any reason whatsoever, such child shall have a right to seek transfer to any other school, excluding the school specified in sub-clauses (iii) and (iv) of clause (n) of section 2, for completing his or her elementary education. For seeking admission in such other school, the Head-teacher or in-charge of the school where such child was last admitted, shall immediately issue the transfer certificate (RTE Act). Submission of application with birth certificate; no admission above class IV without school leaving certificate (Haryana¹⁰⁵)

Recommendations

- Mechanisms need to be developed for ensuring admission is not denied on the grounds of the absence of a transfer/school leaving certificate in line with the provisions of the RTE Act.

9. WHAT INFORMATION SHOULD A SCHOOL DISCLOSE AT THE TIME OF ADMISSION?

Existing Provisions

- Every private school shall, before the commencement of admission in each academic year, publish on its notice board, website if any, or in any other form, general information concerning the school as may be prescribed. [Disclosure of fee in Andhra Pradesh¹⁰⁶, Bihar¹⁰⁷, Karnataka¹⁰⁸ and Tamil Nadu¹⁰⁹]
- UP and FICCI framework: (a) general information about the recognized school, accreditation, and affiliation
(b) admission policy
(c) details of the fee and fund structure
(d) details of facilities
(e) details of the salaries of teachers in the past 3 academic Years
(f) calendar of key events including teacher training programs.
- UDISE data that discloses school infrastructure, teachers, qualifications, student enrollment etc.
- Private schools are generally not considered to be a “public authority” under Sec. 2(h) of the RTI Act. However, any citizen can avail of information through the following potential channels¹¹⁰:
 - The private school was “substantially funded” by the government including those where it has invested in it or is providing any aid to its of working including aid as in equity or subsidies in land.
 - private-public partnerships by filing RTI applications to the public partner.
 - Inquiring from the Government authority under which the Private entity has been registered.

Recommendations

- Information about the admission process, grade-wise fees and fund structure, details of the facilities and teacher fees and calendar of key events must be disclosed. Particularly important is the disclosure of all charges to be paid by parents during the year whether they be optional, or compulsory given that payment of hidden charges is a common complaint by parents. Such a clause should be adopted by all legislation to ensure transparency and prevent the collection of hidden charges throughout the year.
- This should be disclosed both online and physically for those parents who are unable to access the same.
- Additional ongoing disclosures would be necessary throughout the course of the year which are described in a subsequent section.

10. WHAT ARE THE PROVISIONS REGARDING ADMISSION FEES?

Existing Provisions
<ul style="list-style-type: none"> • Admission fee to be paid only once and not to be more than one month of the tuition fee (Maharashtra¹¹¹). • Admission fee shall not exceed one month's tuition fee (Gujarat¹¹²). • Admission fee to be charged only once- at the time of school enrollment (J & K¹¹³). • Admission fee will be fixed by a committee constituted by the government (Tamil Nadu¹¹⁴). • Students will pay the admission fee on their first admission to the school, at the time of promotion from class V to VI, at the time of promotion from class VIII to IX and at the time of promotion from class X to XI. (Uttar Pradesh¹¹⁵). • Admission fee to be determined by the school (Bihar¹¹⁶). • Receipt shall be issued for every fee, fund or charges levied on the children. (FICCI)

Recommendations

- Admission fees should be collected only once, as laid out in Maharashtra, and should be capped at one month's tuition fees. The process of laying down reasonable fees has been described in a subsequent section.
- Receipt should be issued for all fees paid.

11. WHAT ARE THE PROVISIONS REGARDING THE REDRESS OF GRIEVANCES RELATED TO THE ADMISSION PROCESS?

Existing Provisions
<ul style="list-style-type: none"> • On being asked for capitation fees at the time of admission, the aggrieved parent can file a police complaint against the school authorities within thirty days of such fees being demanded. (Maharashtra¹¹⁷) • Aggrieved parents may file a complaint with the district-level education regulating authority whose members include the Deputy Comm of the district CEO (ZP), Executive Engineer, Deputy Director PUE of the district, and Deputy Director of Public Instruction. (Karnataka¹¹⁸)

Recommendations

- This would need to have a single window for filing complaints for all issues and separate mechanisms for fees alone should be avoided. This could include a physical window for filing complaints at the Block level (e.g., a drop box or other counter) and a helpline for those who cannot file written complaints. The officials at the district level in the DEO office may be tasked with the investigation under the overall guidance of the District Fees Regulation Committee. It would be critical for this function to be equipped with adequate powers and human resources.
- Publicity of this grievance mechanism should be done on the school's website and notice board so that parents are aware of the possibility.
- Regulations should lay out the timeline for filing and addressing complaints along with having a clear mechanism for escalating them. It would be critical to prescribe a timeline for complaints to be resolved.

12. WHAT ARE THE PROCESSES REGARDING THE IMPLEMENTATION OF ARTICLE 12-1C OF THE RTE ACT

Provisions ¹¹⁹
<ul style="list-style-type: none"> • The director shall issue guidelines for admissions under 12 (1) (c) (Gujarat). • The Directorate of Education shall maintain a list of children belonging to the weaker section in the neighborhood of every unaided and aided school. (Puducherry)
Student Selection:

<ul style="list-style-type: none"> With regard to admissions in Class I (or pre-primary class as the case may be) under section 12(1)c in unaided and specified category schools, schools shall follow a system of random selection out of the applications received from children belonging to disadvantaged groups and weaker sections for filling the pre-determined number of seats in that class, which should be no less than 25% of the strength of the class (MHRD Guidelines under Section 35(1) for admission under sections 13(1) and 12(1)(c). Of the 25% reserved seats, at least 5% of SCs and 6.5 % of Backward Class must be admitted. (Haryana).
Non-Discrimination
<ul style="list-style-type: none"> Government shall ensure that no child admitted under section 12 (1) c is subjected to caste, class, religious or gender abuse in school or otherwise segregated or discriminated against. (Gujarat, Kerala, Manipur, Karnataka, and Odisha). They shall not be discriminated against compared to other children in any manner in respect of entitlements and facilities such as textbooks, uniforms, library and ICT facilities, co-curricular programmes, and sports. (Andhra Pradesh, Chhattisgarh, Karnataka, Madhya Pradesh, Meghalaya, Kerala, Nagaland, Manipur, Rajasthan, Sikkim, and Uttar Pradesh). The State shall ensure that all the children admitted in unaided schools under 12(1) (c) are given all the free entitlements which the children receive in a government school such as free uniforms, Mid-Day Meal etc. (Uttarakhand)
Reimbursement Criteria:
<ul style="list-style-type: none"> The unaided schools, entitled to reimbursement shall intimate the appropriate District Inspector of Schools of the concerned District at the start of each academic year and on completion of its admission process, the number of students against whom the school shall claim reimbursement. (West Bengal) With regards to the amount to be reimbursed to private schools, the amount per child would be equivalent to the total annual recurring expenditure incurred by the appropriate Government, from its funds, and funds provided by the Central Government and by any other authority, on Elementary education in all schools established, owned, or controlled by the government, divided by the total number of children enrolled in all such schools. The school shall be reimbursed expenditure incurred by it to the extent of per per-child expenditure as stated or the actual amount charged from the child, whichever is less. (All states have adopted this from the RTE Model Rules). The Government shall notify per-child expenditure every year before the commencement of the academic year, which shall be reimbursed in respect of admission of eligible children to private unaided schools. (Karnataka, Madhya Pradesh, Punjab, Tripura, and West Bengal) and if not notified, the previous year's per-child expenditure will be considered (West Bengal). A committee consisting of the Secretary (Finance), Secretary (Education), Director (SCERT) and State Project Director (RTE-SSA) shall assess the reimbursement claims and make its recommendations. In Haryana, the committee would meet to decide on the per-child expenditure incurred for the reimbursement of children in private schools. (Andhra Pradesh, Assam, Goa, Haryana, Kerala, Madhya Pradesh, Manipur, Mizoram, Nagaland, Puducherry, Rajasthan, and Uttarakhand).
Reimbursement Process
<ul style="list-style-type: none"> The reimbursement shall be made directly in the separate bank account maintained by the school, once a year (Mizoram) and in two instalments, during the academic year. (Andhra Pradesh, Chhattisgarh, Goa, Haryana, Karnataka, Kerala, Manipur, Nagaland, Puducherry, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttarakhand, West Bengal, and Uttar Pradesh). DEO, after verification, will make the reimbursement (Uttar Pradesh). First instalment of 50% shall be reimbursed in September (August in Rajasthan) and the balance of 50% shall be reimbursed in January/February (Assam, Goa, Haryana, Karnataka, Kerala, Manipur, Nagaland, and Puducherry). The reimbursement is to be made every month. (Tripura) If any state school is found to have concealed the facts or have made wrong claims, recognition of such school will be withdrawn. The school shall, in July (April for Mizoram) submit a list of children belonging to the weaker sections and disadvantaged groups admitted to the school and their claim for reimbursement of expenditure. (Arunachal Pradesh, Goa, Haryana, Manipur, and Nagaland). Reimbursement of the final instalment shall be done only after verification of the enrolment of children and attendance of every child to a minimum of 80% every month. (Goa, Haryana, Kerala, Manipur, Mizoram, and Nagaland).
Other provisions
<ul style="list-style-type: none"> School authorities should take awareness programme in the community before admission (Tripura).

- The school shall maintain a Unique Identification and biometric identification number for every child (Kerala and Uttar Pradesh).

Recommendations

- Each state needs to have detailed guidelines issued by the competent authority reiterating random selection of children admitted, non-discrimination, ensuring access to entitlements and including provision for the reservation of seats for children from SC/ST/OBC and girls.
- The concerned state governments must notify
 - Reimbursement criteria,
 - The quantum of per-child expenditure before the commencement of the academic session,
 - Process of conveying the list of children admitted (including key demographic details) and any other information sought and process of verification of the same,
 - Reimbursement process including processes of maintaining bank accounts, timelines and modality of disbursement and penalties for concealing facts or making wrong claims during the process.
 - A body to assess claims which should be the District Fees Regulation Committee instead of a standalone institution focussing on 12(1)(c) alone.
 - Details of information to be provided in the public domain around the implementation of this section including aggregated information at block and district levels.
 - Responsibility of the government to undertake awareness programmes ahead of the start of the admission period including the details of the admission process and grievance mechanisms available. This can include advertisements in newspapers with the highest circulation in the state/ district, use of radio channels, door-to-door efforts, and display of information on the websites of the education department along with concerned ward councillor offices.
 - A grievance redress mechanism (including timelines, provision of auto-escalation, appellate authorities, and other provisions) to enable students or parents whose children are admitted can register their complaints. This should be part of an overarching single-window mechanism for addressing all complaints related to private schools (described in a subsequent section) and not be restricted to only the implementation of 12(1)(c). Grievances can include, among others,
 - the admission process in schools on allotment of seats under 12(1)(c), including refusal to admit the child
 - charging of any fees for admission or otherwise in the schools (this is not clear across states), and
 - treatment of children admitted under this provision.
- Private schools need to be mandated to ensure public disclosure of the seats available and the admission processes being adopted.

CONCLUSION

Some of the key principles around ensuring effective regulation of the admission process, that emerge from this section are:

- Children should be allowed to seek admission throughout the year and there should be no specified timeframe from the date of commencement within which children must get admitted.
- The admission process should adhere to the principles of transparency, rationality and non-discrimination as suggested by MHRD guidelines. Measures to promote affirmative action should be promoted to address educational inequality and desegregate the education system.
- Clear grievance redress mechanisms must be established for the admission process, and such bodies must be vested with adequate powers and human resources.
- Admission fees should be collected only once and capped at one month's tuition fees.

- Schools must disclose details of teachers' salaries, calendar of activities and the quantum and types of fees to be charged throughout the year, at the time of the admission process.
- Children who are below the age of admission to Grade I should be admitted to preschool sections of the school.
- Detailed notifications are needed for the implementation of Section 12 (1) c under the RTE Act.

PROVISIONS REGARDING THE REGULATION OF FEES

Fee regulation is the most highly contested issue about private school regulation as well as the one that has the most provisions. According to estimates, the aggregate household spend on private schools is approximately 1.75 lakh crores¹²⁰. According to an ASSOCHAM survey, the costs of sending a child to school have risen by 160% over eight years period due to the increase in tuition fees. During the pandemic, a survey by LocalCircles found that 63% of parents said schools had raised school fees during the academic year 2021-22 despite classes having moved online; 33% said that the hike was over 20%.¹²¹ Apart from the direct levy of school fees, there are also indirect charges like the mandatory purchase of uniforms, textbooks and other materials from the school directly or a specific vendor at a high mark up over the retail price.¹²²

The contested nature of fee regulation was brought into great relief during the pandemic where there were multiple cases of litigation and counter-litigation¹²³ between school management, state governments and parent associations. The CBSE and some state governments have issued guidelines to schools to stop selling books, stationery, and uniforms from endorsed private vendors; however, the practice continues¹²⁴. Regulation of school fees and other charges has been some of the principal areas of recent legislation. This has been particularly critical from the perspective of parents, given that private school fees are a large component of household income.

The outcome of past litigation under TMA Pai Foundation versus State of Karnataka (2002), Islamic Academy of Education versus State of Karnataka (2003), Modern School versus Union of India (2004) and others have highlighted that educational institutions should be allowed to make a 'reasonable surplus', this surplus should be used for the growth and better facilities of said institution and finally, that this surplus could not be used for profiteering by the school management¹²⁵. However, what constitutes "reasonable surplus" is ill-defined and the lack of basic financial transparency by schools makes it difficult to verify whether funds were used appropriately. A recent audit of 25 unaided private schools by the Comptroller and Auditor General (CAG) found high levels of malpractice¹²⁶. A similar study in Telangana found that many private schools were taking fees under ineligible heads; none of the schools submitted the Annual Administrative and Audit Reports.¹²⁷

The recent Oxfam India survey found that 91% of parents said that they want the government to regulate school fees and ensure that private schools comply¹²⁸. Further, the implementation of existing provisions is ineffective. For instance, 57% of parents reported having to pay additional charges that were not part of the declared official break-up of fees.¹²⁹

This section compares provisions across existing state laws, demands of parent associations, NCPCR's model fee regulation and FICCI's model school code. It looks at issues of how fees can be utilised, provisions related to transparency, different committees to regulate fees and provisions related to preventing commercialisation.

MAJOR REGULATORY CHALLENGES:

1. Education is expected to be a not-for-profit sector, but schools continue to make a profit.
2. There is a lack of transparency in school fees. It is not always clear to parents what changes are permissible or not. Schools also continue to charge capitation fees at the time of admission.
3. Fees are enhanced arbitrarily regularly leaving parents feeling exploited and vulnerable. This is particularly difficult during situations of overall economic hardship.
4. It is not clear how fees are fixed or whom one can complain to if wrongdoing by the school is suspected. Penalties for violations by private schools are unclear and grievance redress mechanisms available to parents are weak.
5. Continued practice of mandatory purchase of uniforms/textbooks/stationery from specific vendors by the school.

1. WHAT COUNTS AS FEES FOR THE LEGISLATION?

Existing state laws	AIPA and demands of parent associations	National frameworks	FICCI framework
Any amount directly or indirectly collected for any purposes from a pupil for any class/course of study. (Bihar ¹³⁰ , Tamil Nadu ¹³¹ , Chandigarh ¹³² , Chhattisgarh ¹³³ , Rajasthan ¹³⁴ , Gujarat ¹³⁵ , Madhya Pradesh ¹³⁶ and Punjab ¹³⁷). This includes the purpose of admission, readmission, development, annual fees, study fee (tuition fees), books, teaching material, uniforms, transportation fees/charges, extra/co-curricular activities or for any purposes (Bihar). ¹³⁸	Any amount directly or indirectly collected for any purposes from a pupil for any class/course of study.	Fee means any amount collected directly or indirectly by a school to impart education or facilities/services related to imparting education. (NCPCR)	Fees consist of mandatory components- admission, annual fee, and optional components- transport, boarding, trips etc.

Recommendations

- Each state law should clearly define 'fee', and such definition should be broad enough to encompass any amount charged by the school at any point in the year.

2. WHAT TYPE OF FEES CAN BE LEVIED? UNDER WHAT HEADS?

Existing state laws	AIPA demands and of parent associations	National frameworks	FICCI framework

<p>The district/ divisional committee can indicate under which heads fees can be levied. (Maharashtra¹³⁹ and Tamil Nadu¹⁴⁰).</p> <p>In Uttar Pradesh¹⁴¹ the fee regulation Act suggests heads under which fees can be charged but flexibility is provided to the school in deciding heads under which to charge fees.</p> <p>The fees structure includes tuition fee, term fee, library fee and deposit, lab fee and deposit, gymkhana fee, caution money, examination fee, admission fee (which cannot exceed one month tuition fee, yoga and physical education fee, any other fee as regulated by Fee Regulatory Committee (Gujarat¹⁴²). A similar list is provided by Madhya Pradesh¹⁴³. Andhra Pradesh¹⁴⁴ differentiates between one-time fees (Application and registration fees which are capped and refundable Caution Deposit), tuition fees (based on an estimate of costs) and user charges (including costs of uniform, materials, transportation, extra classes; cost of advertisement to not be included in fees structure).</p>	<p>The fee regulation committee will determine the heads under which fees shall be levied.</p>	<p>The fee regulation committee will determine the heads under which fees shall be levied. (NCPCR)</p>	<p>Mandatory Fee Component</p> <p>a) Prospectus, Admission and Registration fee, b) Composite Annual School Fee.</p> <p>Optional Fee Components Various fees payable for optional activities and facilities provided by the school including but not limited to the following:</p> <p>a) Transport facilities b) Boarding facilities c) Mess or dining facilities d) Excursions.</p>
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Recommendations

- The Fee regulation committee at the district/divisional level should clearly define heads under which schools can charge fees, institute a mechanism of disclosure to enable complaints to be filed to ensure that fees are only charged as per the defined heads and provide oversight over the audit reports filed by private schools.
- Prohibit the charging of “optional fees” which would always be discriminatory and result in the exclusion of children.
- The individual school will levy the fees charged within the limits provided considering the resource needs of the schools and the facilities available while ensuring that all schools continue to operate as not-for-profit entities.
- There is a need for the policy to also spell out, in line with the Convention on the Rights of Persons with Disabilities, General Comment no. 4, 2016¹⁴⁵, that private schools should not charge additional fees for ensuring accessibility and/or reasonable accommodation for children with disability.

3. WHAT ARE THE PROVISIONS REGARDING DISCLOSURE AND PUBLIC DISPLAY OF FEES?

Existing state laws	AIPA and demands of parent associations	National frameworks	FICCI framework
The school is required to display the details of all types (Punjab ¹⁴⁶) of fees for last year and the present year on its notice board as also on its official website. (Andhra Pradesh ¹⁴⁷ , Maharashtra ¹⁴⁸ , Punjab, ¹⁴⁹ Bihar ¹⁵⁰ and Chandigarh ¹⁵¹)	Not defined.	<ul style="list-style-type: none"> Public disclosure of fees on the school notice board and website (NEP, NCPCR). Receipt with details of each head under which fees have been charged. (NCPCR) 	Statement of school fees should be uploaded on the website and school notice board 60 days before the commencement of the next academic year.

Recommendations

- Fees should be publicly displayed (both on the notice board and website) 60 days ahead of the start of the admission cycle with a clear break-up of different types of fees. This should include both the fees for the current and preceding year.
- The receipt should also contain this break-up with details of each head.

4. BY WHAT LEVEL CAN THE FEES BE RAISED?

Existing state laws	AIPA and demands of parent associations	National frameworks	FICCI framework
<ul style="list-style-type: none"> Bihar¹⁵² - 7% Chandigarh¹⁵³, Punjab¹⁵⁴, Chhattisgarh - 8% Madhya Pradesh,¹⁵⁵ Telangana^{156,157} and Jharkhand¹⁵⁸ - 10% Maharashtra¹⁵⁹ - 15% every alternate year <p>UP¹⁶⁰: Fee revision/hike should be equivalent to the average percentage per capita increase of monthly salary of the teaching staff of the previous year but shall not exceed the latest available yearly percentage increase in consumer price index + five per cent of the fee realised from the student.</p>	No specific percentage is defined.	10% (NCPCR)	<p>The annual percentage increase permitted, i.e., the latest yearly published consumer price index plus seven per cent, shall not exceed the average per capita increase in the monthly salary of the teaching staff.</p> <p>Provided that such annual percentage increase permitted, i.e., the latest yearly published consumer price index plus seven per cent, shall not exceed the average per capita increase in the monthly salary of the teaching staff.</p>

Recommendations

- Linking the fee hike to the increase in teacher salary and consumer price index offers a better foundation for fixing the extent of the fee hike than a blanket limit as fixed in most states. The NCPCR's framing may be adopted since it incentivizes private schools to promote the payment of teaching staff.
- Fees could be fixed three years in advance including the anticipated hikes that would be introduced annually.
- It may be important to insert special additional clauses to protect parents during pandemics or other exceptional moments of the financial crisis. State governments need to be empowered to put a freeze on or cap the extent of fee hikes during pandemics or other crises.

5. WHICH TYPE OF NON-STATE SCHOOLS DOES THE FEE REGULATION APPLY TO?

Existing state laws	AIPA and demands of parent associations	National frameworks	FICCI framework
This applies to schools that do not receive any aid from the government and includes all classes running in the school- from nursery to class X (Maharashtra ¹⁶¹ , Rajasthan ¹⁶² , Tamil Nadu ¹⁶³ , and Bihar ¹⁶⁴). In Uttar Pradesh ¹⁶⁵ also applies to Intermediate Colleges.	Applies to all private unaided schools including private playschools.	Applies to private unaided schools from the entry-level to the last higher class of the school (NCPCR).	Applies to schools which are self-financed institutions, receiving no aid or grant from the Government or any local authority. Does not include minority institutions.
It includes Unaided Minority institutions in Andhra Pradesh ¹⁶⁶ , Gujarat ¹⁶⁷ , Maharashtra ¹⁶⁸ , Madhya Pradesh ¹⁶⁹ , Punjab ¹⁷⁰ , Sikkim ¹⁷¹ and Uttar Pradesh ¹⁷² .			
It includes schools offering pre-primary instruction in Madhya Pradesh ¹⁷³ , Maharashtra ¹⁷⁴ , Bihar ¹⁷⁵ , Uttar Pradesh ¹⁷⁶ and Tamil Nadu ¹⁷⁷ . Jharkhand also has standalone Playschool (Recognition and Control) Rules, 2017.			
Exclusions include <ul style="list-style-type: none"> Schools imparting only religious education (Madhya Pradesh¹⁷⁸ and Tamil Nadu¹⁷⁹) Fully residential schools (Madhya Pradesh)¹⁸⁰ Aided Schools (Bihar¹⁸¹) The Fees Regulation Committee may exempt self-financing schools that charge fee lower than prescribed by the government from the determination of fees, provided revisions are in line with procedures laid down (Gujarat¹⁸²) Standalone preschools (Uttar Pradesh¹⁸³). 			

Recommendations

- Fee regulation should apply to all unaided private schools running classes ranging from nursery to class XII, intermediate colleges (grades XI to XII) as well as pre-primary schools. This included unaided private schools.
- Special provisions may need to be introduced to aided schools or schools receiving an in-kind subsidy from the government (e.g., subsidized land in lieu of free seats) in line with any agreements reached under the same. At the same time, specific provisions will need to be made for residential schools.

6. ARE THERE ANY PROVISIONS FOR THE PROHIBITION OF MANDATORY PURCHASE OF UNIFORMS/TEXTBOOKS/ STATIONERY FROM SPECIFIC VENDORS?

Existing state laws	AIPA and demands of parent associations	National frameworks	FICCI framework

<p>Schools cannot force parents to buy uniforms or textbooks from a specific vendor (Uttar Pradesh¹⁸⁴, Jharkhand¹⁸⁵ and Bihar¹⁸⁶).</p> <p>The school shall notify a minimum of 3 shops in the town where books/ notebooks/ stationery are available. Sale of books/ notebooks/Stationery at the School Counter, if any, shall be made at a Discount. It shall not be compulsory to purchase uniforms from the designated shops/sales Counter of the school (Andhra Pradesh¹⁸⁷).</p>	Not defined.	<p>Schools cannot run shops selling uniforms and textbooks on their premises or force parents to buy these from specific vendors. (CBSE directive)</p>	<p>No student shall be compelled to purchase books, shoes, socks, stationery etc. from the school or a particular shop.</p>
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Recommendations

- Fee regulation should include provisions to prohibit the mandatory purchase of uniforms/textbooks/ stationery/other materials from specific vendors including from the school itself or a shop set up in the school. Further, clear consequences for this violation should also be laid out.

7. ARE THERE ANY PROVISIONS PROHIBITING PROFIT-MAKING AND CAPITATION FEES?

Existing state laws	AIPA and demands of parent associations	National frameworks	FICCI framework
<ul style="list-style-type: none"> • All state RTE rules prohibit capitation fees; this tends to be the only fee-related clause within RTE Rules. • RTE Rules:¹⁸⁸ Schools that can apply for recognition generally have to be either societies registered under the Societies Registration Act, 1860 or under state government Acts for educational, religious, or charitable societies, registered Trusts or companies registered under Section 8 of the Companies Act 2013 having education as one of its objects. • In Arunachal Pradesh¹⁸⁹, recognition and affiliation can be withdrawn if the school collects unauthorized fees/funds etc. with a profit-oriented motive. • That the school is not run for profit to any individual, group or association of persons.¹⁹⁰ • The CAG has undertaken audits of private schools 	<p>Voluntary or involuntary donation linked to admission is prohibited.</p>	<ul style="list-style-type: none"> • Any school or person who receives a capitation fee, shall be punishable with fine which may extend to ten times the capitation fee charged. (RTE Act) • RTE Model Rules required schools to be non-profit to qualify for recognition. Every school applying for recognition should submit a self-declaration showing that they are "not run for profit to any individual, group or association of individuals or any other persons." • No school can charge capitation fees or accept donations for admission. (CBSE) 	<p>Capitation fee is prohibited.</p>

covering dimensions among others, fees collected, expenditures incurred and the extent to which they comply with other regulatory obligations ^{191,192} .			
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Recommendation

- All schools must operate as not-for-profit. This requires concrete steps to be taken including
 - transparency of school accounts. Audited school accounts should be disclosed on the school website and disclosed within the school.
 - Regular audits by the CAG of the accounts of private schools as has been done in some states like Delhi and Andhra Pradesh to identify instances of unreasonable profits.
- The law should lay out what reasonable profits mean and how they can be calculated. This would need to be linked to the regulation of fees.
- Those who have made profits should be liable to have their license cancelled, such as provided for in the Arunachal Pradesh Education Act 2010.
- Fee regulations in states should include explicit provisions prohibiting schools from charging capitation fees or accepting donations for admission, along with clear consequences for schools violating this norm.

8. HOW IS PROFITEERING/PROFIT DEFINED IN THE PROVISIONS?

Existing state laws	AIPA and demands of parent associations	National frameworks	FICCI framework
<p>Profiteering is defined to mean any amount accepted in cash or kind, directly or indirectly which is more than the fee fixed or approved as per the provisions of the Act and shall include profit earned from the school by a trust or company associated with the school (Gujarat¹⁹³, Maharashtra¹⁹⁴ and Himachal Pradesh¹⁹⁵)</p> <p>Commercialization or profiteering or profit or financial gain means an activity of charging fees by an unaided educational institution from any student or parents or guardians in excess of the fee, as fixed or increased. (Punjab¹⁹⁶)</p>	Not defined	Not defined	Not defined

Recommendations

- Profit, profiteering, and commercialization should be clearly defined in private school legislation.

9. HOW CAN FEES BE UTILIZED?

Existing state laws	AIPA and demands of parent associations	National frameworks	FICCI framework
<ul style="list-style-type: none"> • The monies should be used for the purpose for which they were intended (Andhra Pradesh¹⁹⁷) or for an educational purpose only. (Arunachal Pradesh¹⁹⁸, Assam¹⁹⁹, Chandigarh²⁰⁰, Delhi²⁰¹, Karnataka²⁰², Tamil Nadu²⁰³, Telangana²⁰⁴ and Goa²⁰⁵) • All the monies collected or held by the institution shall be deposited in the account of the institution in a bank. (Andhra Pradesh²⁰⁶ and TN²⁰⁷) 	Not defined	Fees collected cannot be diverted from the school to the Society or the Trust which runs such an	<p>Save as otherwise provided in this Code, this school fund/revenue shall be utilised for educational purposes.</p> <p>Not clearly defined except to say that the revenue generated will</p>

<ul style="list-style-type: none"> The surplus fund means all the monies that remain unused with the institution at the beginning of each academic year, after providing for all the objects, needs, requirements or improvements of the institution during the previous three academic years. (Andhra Pradesh²⁰⁸) No funds should be transferred to any other trust except for trusts under the management of the same society or trust. (Chandigarh²⁰⁹) <p>Andhra Pradesh²¹⁰</p> <ul style="list-style-type: none"> 5% fees earmarked as personal income to the management. 15% fees to be utilized for the maintenance of the institutions. 15% fees earmarked for expansion activities. 50% fees earmarked towards payment of salaries. 15% fees earmarked as management's contribution towards staff benefits. <p>Punjab²¹¹</p> <p>Fee collected cannot be diverted from the school to the society or the trust, or any other institution, except under the management of the same Society or Trust.</p>		<p>institution or to any other institution. (CBSE)</p>	<p>be used for educational purposes, which includes the creation of content, patents, research and development activities, teacher training programmes, upgradation of technology, vocational training, co-curricular activities and sports-related infrastructure and equipment.</p> <p>Up to 15 per cent of the gross revenue can be transferred to the eligible educational entity which means any society, trust, company, or body corporate engaged in the establishment, management, and maintenance of schools.</p>
Reserve Fund			
<p>(i) Every non-Government Institution shall maintain a reserve fund in the Board. The amount of the fund shall not be less than Rs. 12,000/- (rupees twelve thousand) only or an amount fixed by the Board from time to time and no withdrawal shall be made from the reserve fund except with the written permission of the Secretary of the Board. (ii) The reserve fund shall be forfeited if the institution is found to have transgressed or evaded the conditions laid down for affiliation and the privilege of affiliation is permanently withdrawn by the Board; (iii) The reserve fund shall be refunded to those institutions as and when the institution attains the status of a Government institution or ceases to exist. (Mizoram²¹²)</p> <p>Every non-Government Higher Secondary School shall maintain a reserve fund in the Board. The amount of the fund shall not be less than Rs.10,000/- (rupees ten thousand) only or an amount fixed by the Board from time to time and no withdrawal shall be made from the reserve fund except with the written permission of the Secretary of the Board; (ii) The reserve fund shall be forfeited if the institution is found to have transgressed or evaded the conditions laid down for affiliation in these regulations and the privilege of affiliation shall be permanently withdrawn by the Board; (iii)</p>			

The reserve fund shall be refunded to those institutions as and when the institution attains the status of a Government institution or ceases to exist. (Mizoram ²¹³)			
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Recommendations

- The school funds should be used only for the improvement of the school and its facilities or the original educational goal for which it was collected.
- Any money collected by the school should be deposited in the bank.
- The percentage of revenue that can be retained as surplus should be clearly defined.
- Any surplus created must be utilised only for activities directly linked to the education of the children enrolled in the school.

10. WHAT ARE THE SPECIFIC FACTORS TO BE CONSIDERED FOR FEE DETERMINATION?

Existing state laws	AIPA and demands of parent associations	National frameworks	FICCI framework
No self-financed school shall collect any fee in excess of the fee fixed by the FRC for admission of students to any standard or course of study (all states with fees regulation).			
Criteria for fixation of school fees by concerned committees			
<p>The committee shall determine the fee leviable by a private school considering the following factors (Rajasthan²¹⁴, Jharkhand²¹⁵, Chhattisgarh²¹⁶, Puducherry²¹⁷ and Gujarat²¹⁸):</p> <ul style="list-style-type: none"> • the location of the private school. • the investment incurred to set up the school. • the infrastructure available to students for the quality of education and facilities provided. • the expenditure on administration and maintenance. • the reasonable surplus required for the growth, development, and expansion of the private school. • qualified teaching and non-teaching staff as per norms and their salary, yearly increments. • expenditure incurred on students from the total income of the school. • any other factors as may be prescribed. <p>Madhya Pradesh includes a similar list of factors but includes the expenditure on providing free education under Section 12(1)(c) Of the RTE Act (Madhya Pradesh²¹⁹).</p> <p>In Punjab, the plans for the expansion and betterment of the institution subject to restrictions on profiteering are recognized as additional criteria.²²⁰</p> <p>For states with school-level committees (Maharashtra²²¹ and Rajasthan²²²) schools propose the fees to the committee for approval, failing which the matter is forwarded to the district level.</p>	<p>The committee shall determine the fee leviable by the school, taking into account:</p> <ul style="list-style-type: none"> (a) the location of the private school. (b) the available infrastructure. (c) the expenditure on administration and maintenance. (d) the reasonable surplus required for the growth and development of the private school. (e) any other factors as may be prescribed. <p>The committee will determine and communicate the fee to the private school.</p>	<p>NCPCR</p> <p>The fee must be determined for each School separately.</p> <ol style="list-style-type: none"> 1. Submission of proposal by the school to the Committee by 31st October of the preceding year on an online portal 2. Proposal will be analysed at the state level taking into consideration variable indicators of expenditure and income and constant indicators of the district 3. Analysis will provide a range of fee i.e., minimum, and maximum fee a School can charge and the same shall be forwarded to the DFRC 4. Before the final 	<ul style="list-style-type: none"> • operational expenses • provision of infra facilities <p>reasonable surplus for expansion including the establishment of a new branch/school under the same management of the existing entity.</p> <p>Schools are free to fix their own fees, but approval is needed from the zonal fee regulatory committee if the</p>

<p>In Chhattisgarh,²²³ the guardian union can make a representation which will be considered by the School Fees committee while making a decision.</p> <p>In Uttar Pradesh²²⁴, the increase in fees shall not exceed the latest available yearly percentage increase in the consumer price index + five per cent of the fee realised from the student.</p> <p>Schools are free to fix their own fees, but approval is needed from the district/divisional fee regulatory committee if the fees/hike proposed are higher than allowed within the Act. (Arunachal Pradesh²²⁵, Assam²²⁶, Bihar²²⁷, Chandigarh²²⁸, Goa²²⁹, Gujarat²³⁰, Himachal Pradesh²³¹, Karnataka²³², Madhya Pradesh²³³, Maharashtra²³⁴, Manipur²³⁵, Punjab²³⁶, Rajasthan²³⁷, Sikkim²³⁸ and Uttar Pradesh²³⁹).</p>		<p>order, a hearing may be offered to the school as well as PTA 5. Decision to be taken within 90 days.</p>	<p>fees/hike proposed are higher than allowed within the Act.</p>
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Recommendations

- A set of criteria for fee fixation would need to be prescribed to ensure fees are commensurate with input costs and schools operate not for profit. These include the costs incurred on children and the administration.
- It would be critical to link fee hikes to the consumer price index in line with the recommendations made in the Uttar Pradesh and NCPCR's model frameworks in addition to factors such as costs, location, salaries paid and reasonable surplus.
- Inputs must be taken from parent representatives while taking decisions to increase school fees.
- Reasonable surplus needs to be defined clearly else it provides a loophole for schools to hike their fees by an unreasonable amount.

11. HOW MANY LAYERS DOES THE LEGISLATION PROVIDE?

- Most states provide for at least two layers- viz district or Divisional/Zonal level and State level. This enables the State structure to serve an appellate function (while also playing specific functions described in the subsequent sections).
- Bihar provides for complaints to be submitted to the Bihar State School Teacher and Employees Dispute Redressal Rules, 2015. In Jharkhand, the Jharkhand Education Tribunal is leveraged for the same purpose. Gujarat has fees regulatory and fee revision committees, both at the district level.
- Four states additionally include a process at the level of the school. Kerala is also reportedly considering a three tier structure²⁴⁰.
- None of the states with divisional structures also have district-level structures. The decision to have a district or divisional structure appears to be driven by an estimate of the quantum of work expected from the body.
- No states provide for a structure at the Block level,

		Structures for Fees Regulation in various states			
		School	District	Divisional or Zone	State
1	Andhra Pradesh				
2	Bihar				
3	Chhattisgarh				
4	Gujarat				
5	Jharkhand				
6	Madhya Pradesh				
7	Maharashtra				
8	Puducherry				
9	Punjab				
10	Rajasthan				
11	TN				
12	Uttar Pradesh				

12. WHAT ARE THE PROVISIONS FOR THE FIXATION OF FEES AT THE SCHOOL LEVEL?

Existing state laws	AIPA and demands of parent associations	National frameworks	FICCI framework
Structure			
<p>School-level fee regulatory committees/ Parent- Teachers Association (Jharkhand²⁴¹, Maharashtra²⁴² and Rajasthan²⁴³) with the representatives of parents and the school management and the principal. Members of the PTA are appointed to this committee through a lottery among those parents willing to take part. In Maharashtra²⁴⁴ the committee should have at least 1 member from SC/ST/ OBC; 50% of members to be women.</p> <p>Jharkhand²⁴⁵ (i) Representative of management of the private school nominated by such management, (ii) Principal of the private school, (iii) Three teachers nominated by the management of the private school, (iv) Four parents nominated by Parents Teachers Association.</p> <p>Chhattisgarh²⁴⁶: Head of the School Management Committee (Chairperson), School principal (Member Secretary), Nodal Officer nominated by collector, nominated parents- one each of category nominated by collector and Principal respectively- guardian from primary, guardian from middle, guardian from High School and guardian from Higher Secondary.</p> <p>Andhra Pradesh²⁴⁷: The educational agency of every registered school shall constitute an Advisory Committee. The structure is different based on the level of the school (pre-primary only, elementary and pre-primary to secondary school). These include the correspondent of the school, its Head- Master, Deputy Education Officer/ Deputy Inspector of School/Mandal Education Officer, a number of parents elected from the Parents- Teacher Association of the school.</p>	Nothing at the school level	Nothing at the school level	Nothing at the school level. The managing committee at the school level fixes the fees.
Functioning			
<ul style="list-style-type: none"> List of members to be displayed on the school notice board within 15 days of formation. Term is one year. No parent member is eligible for drawing lot for next three years since the expiry of the term. (Rajasthan²⁴⁸) The Committee shall meet at least once in three months (Rajasthan²⁴⁹) or at least thrice a year (Andhra Pradesh²⁵⁰). Procedure for the same to be prescribed. (Rajasthan²⁵¹) 			

<ul style="list-style-type: none"> The PTA to have a general meeting at least once before 15th August each year. (Rajasthan²⁵²). The members of the committee are not eligible for fees/allowances. They can construct their own procedure. (Chhattisgarh²⁵³) Management to submit details of proposed fees along with relevant records to the School Level School Fees Committee for its approval at least six months before the commencement of the new academic year. While giving the approval, the fees committee has the authority to decide the amount of fees afresh. Fees to be approved within 30 days of the receipt of fees proposition and will also indicate the various heads. If the committee fails to reach agreement, the matter is referred to Divisional Fees Regulation Committee. During the pendency of reference, management has the liberty to collect the fee of the previous academic year plus 10% (Rajasthan) 			
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Recommendations

- Fixation of fees at the level of the individual school should be undertaken in consultation with parents.
- The School Fees Regulation Committee may be created as a sub-committee for the management committee with the majority of parents should be created to examine the need for a fee hike and make a recommendation. This should have representation from marginalized communities and be gender balanced. Selection to the same may be done by either lottery or election from the membership of the Parent Teacher Association.
- The PTA which is the general body of parents should approve this increase.
- In case the school management wants to increase fees beyond what has been determined by the committee, the proposal for fee increase (beyond the originally fixed fees) would be shared with the fee fixation committee for review.
- While this is not explicitly spelt out in any legislation, it would be desirable to spell out that
 - School management must extend logistical and other support to this committee for its functioning.
 - The Management Committee and School Fees Committee need to extend support to the District Fees Regulatory Committee.

13. WHAT ARE THE PROVISIONS REGARDING A DISTRICT/DIVISION/ZONAL FEE REGULATORY COMMITTEE? WHO ARE ITS MEMBERS?

Existing state laws	AIPA and demands of parent associations	National frameworks	FICCI framework
Members of the District/ Division/Zonal committee			
Chair of the Committee <ul style="list-style-type: none"> Commissioner (Bihar²⁵⁴, Punjab²⁵⁵, Rajasthan²⁵⁶) or Deputy Commissioner (Jharkhand²⁵⁷) Education Secretary: Chandigarh²⁵⁸ Judge or IAS: Gujarat²⁵⁹ 	The District committee will consist of a deputy director, education as chairperson	The Committee shall be headed by the District Collector/ District	Zonal fee committee Members <ul style="list-style-type: none"> a) Chairperson- a retired High Court Judge of the State, nominated by the serving Chief Justice of the High Court of the State.

<ul style="list-style-type: none"> Retired Judge: Maharashtra²⁶⁰, Tamil Nadu²⁶¹ DM: Madhya Pradesh²⁶², Chhattisgarh²⁶³ UP²⁶⁴ <p>Member Secretary/Coordinator</p> <ul style="list-style-type: none"> Director/ Deputy Director School Education: Chandigarh²⁶⁵, Maharashtra²⁶⁶, Rajasthan²⁶⁷ DEO: Gujarat²⁶⁸, Madhya Pradesh²⁶⁹, Chhattisgarh²⁷⁰ Additional Secretary to Government, School Education Department (Tamil Nadu²⁷¹) DEO and District Superintendent of Schools (Ex-Officio Member Secretaries (Jharkhand²⁷²)) District Inspector of Schools (UP²⁷³) <p>Members:</p> <ul style="list-style-type: none"> Members of Education Department Regional Deputy Director Education, District Education Officer of divisional headquarter (Bihar²⁷⁴, Andhra Pradesh²⁷⁵), Director, School Education, Deputy Director School Education, (Chandigarh²⁷⁶), Circle Education Officer of the concerned division; District Education Officer (Secondary Education) posted at the concerned Headquarter of the division; District Education Officer (Elementary Education) posted at the concerned Headquarter of the division (Punjab²⁷⁷), Director of School Education, Director of Matriculation Schools, Director of Elementary Education (Tamil Nadu²⁷⁸), Deputy Director, Secondary Education, Nominee of Director, Sanskrit Education (Rajasthan²⁷⁹), Parents: Two guardian representatives nominated by the Divisional Commissioner (Bihar²⁸⁰, Chhattisgarh²⁸¹, Jharkhand²⁸² and Rajasthan²⁸³) or one parent (UP²⁸⁴) Private Schools: Total two representatives of private schools Nominated by the Divisional Commissioner (Bihar²⁸⁵, Chhattisgarh²⁸⁶, Jharkhand²⁸⁷ and Rajasthan²⁸⁸), One representative from Self Finance School Management of that zone (Gujarat²⁸⁹ and UP²⁹⁰) Educationists: Two people nominated amongst the educationist (Chandigarh²⁹¹ and Punjab²⁹²), one academic of repute (Gujarat²⁹³ and Chhattisgarh²⁹⁴) 	<p>and other members as prescribed.</p>	<p>Magistrate as Chairperson and consist of</p> <p>i) District Education Officer as Member Secretary</p> <p>ii) District Audit Officer/ Auditor of Pay & Accounts Officer/ Treasury Officer.</p> <p>iii) District Road Transport Officer</p> <p>iv) Principal of District Institute of Education and Training (DIET).</p> <p>v) One Principal/He admaster of a renowned Government School such as KV/NV</p>	<p>b) Member- CA</p> <p>c) Member- Civil engineer</p> <p>d) Member- two persons of eminence and repute, as may be nominated by the Government.</p> <p>e) Member- an eminent retired head/ administrator of a self-financed independent institution, as may be nominated by the Government</p> <p>f) Member- representative of the Department of Education not below the rank of District Education Officer.</p>
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<ul style="list-style-type: none"> • Finance and Accounts: Two from Finance and Accounts (Chandigarh²⁹⁵), CA (Gujarat²⁹⁶ and Maharashtra²⁹⁷), District Treasury Officer, (Madhya Pradesh²⁹⁸ and Chhattisgarh²⁹⁹), a Deputy Controllers (Finance) (Punjab³⁰⁰), Treasury Officer of District Treasury, Deputy Director (Rajasthan³⁰¹), senior officer of State Finance and Accounts Service nominated by DM (UP³⁰²), District Audit Officer/Auditor of Pay and Accounts Officer (Andhra Pradesh³⁰³) • Civil Engineer: Civil Engineer/Government approved valuer (Gujarat³⁰⁴), Joint Chief Engineer (Buildings) Public Works Department (Tamil Nadu³⁰⁵ and UP³⁰⁶), • State Board: Divisional Chairman of the Maharashtra State Board of Secondary and Higher Secondary Education, retired head of CBSE/ICSE or retired office not below the rank of Joint Director of Education of the Government³⁰⁷. • Jurist: Chhattisgarh³⁰⁸ • District Transport Officer (Jharkhand³⁰⁹) • MP and MLA of area (Jharkhand³¹⁰) • District collector or his nominee (Andhra Pradesh³¹¹) 			
Functioning of the committee			
<ul style="list-style-type: none"> • Committee will regulate the conduct of its own business (Gujarat³¹², Chhattisgarh³¹³ and Bihar³¹⁴) • Meet when necessary but not less than once a quarter (Gujarat³¹⁵) • Quorum laid down and no order to be passed by the DFRC without a quorum (UP³¹⁶) • The DFRC may call for additional information for the management of the school that it considers necessary (Madhya Pradesh³¹⁷) • The members of the committee are not eligible for fees/allowances. (Chhattisgarh³¹⁸) • All orders and decisions of the Committee shall be authenticated by the Chairperson of the Committee (Gujarat³¹⁹) • The committee may appoint a CA to examine the records and submit a report (Madhya Pradesh³²⁰) • The Government may terminate the appointment of members of the committee so specified reasons (Gujarat³²¹) 			<ul style="list-style-type: none"> • Term of 3 years • At least 50% of the members need to be present along with Chairman; no order shall be passed unless a quorum is met. • The committee shall have all powers of a civil court. • For the purpose of inquiry, have the powers of a Civil Court and appellate court

<ul style="list-style-type: none"> Representatives of private schools and parents shall be for two years, and they are not eligible for reappointment; a process of filling vacancies post-resignation and removal of these members are laid down. (Rajasthan)³²² Karnataka³²³: Proposal to set up a Task Force for monitoring the abolition of the Capitation Fee in Primary and Secondary schools in bigger cities/block-wise in bigger cities. This can visit schools and submit reports to the authorities. This will include a leader from the EO cadre and two members of the high school HM cadre. It will submit weekly reports which will be reviewed monthly. The committee shall have powers of a civil court and appellate court under the Code of Civil Procedure, 1908 (Act 5 of 1908) while trying a suit, in respect of summoning and enforcing the attendance of any witness and examining him on oath; the discovery and production of any document; receiving of evidence on affidavits; and the issue of commission for the examination of the witness (Uttar Pradesh³²⁴, Madhya Pradesh³²⁵, Haryana³²⁶ and Jharkhand³²⁷) In case of violation of the decision of the District Committee, any nominated member of the District Committee will inform the concerned Divisional Commissioner within the stipulated period of 90 days of the decision of the District Committee. The Divisional Commissioner shall dispose of the complaint within a period of 60 days giving an opportunity to the hearing of members of the District Committee. (Jharkhand³²⁸) 			
Powers			
<ul style="list-style-type: none"> Scrutinize financial reports and fees structure of schools and verify that the fees structure is justified (Bihar³²⁹, Haryana³³⁰, Chandigarh³³¹, Punjab³³² and Gujarat³³³) Report any excess fees to the Education Authority (Gujarat³³⁴) or forward to the State Committee with comments on any proposal of increment of fee of more than 15% (Madhya Pradesh³³⁵) or decide only on proposals regarding fee increase beyond permitted fee increase (Uttar Pradesh³³⁶) Approve fees structure for all schools (Gujarat³³⁷ and Haryana³³⁸), including 	<ul style="list-style-type: none"> Determine fees Hear complaints Direct schools to refund excess fees To ask schools to place before it books of account 	<p>NCPCR Draft Guidelines:</p> <ul style="list-style-type: none"> To determine fees and take decisions regarding the fees Impose fine/recommend cancellation of recognition 	<p>The Zonal Fee Committee shall be empowered to a) take decisions on proposals received from the managing committee regarding the proposed fee increase being beyond the permitted fee increase under Section 13; and b) hear any complaints against a recognised school from the enrolled students, their parents or duly appointed legal guardians, in relation to i) fees being charged in</p>

<p>the various heads under which fees will be charged (Maharashtra³³⁹) or on proposals received from the management committee regarding the proposed fee increase beyond the permitted fee increase (Uttar Pradesh³⁴⁰)</p> <ul style="list-style-type: none"> • Verify that the school is recognized, and the school is affiliated with Board (Gujarat³⁴¹) • Hear complaints (Bihar³⁴², Gujarat³⁴³, Haryana³⁴⁴, Chandigarh³⁴⁵, Punjab³⁴⁶, Uttar Pradesh³⁴⁷ and Madhya Pradesh³⁴⁸) and adjudicate disputes (Maharashtra³⁴⁹) or initiate suo moto hearings (Gujarat³⁵⁰, Haryana³⁵¹ and Madhya Pradesh³⁵²) with regard to collection of excess fees, or for complaints which have been unheard by the Head of the School within fifteen working days regarding various matters regarding fees and charges (Uttar Pradesh³⁵³). • Authorise competent authority to conduct an inspection (Maharashtra³⁵⁴, Haryana³⁵⁵ and Madhya Pradesh³⁵⁶). • Pass appropriate order for a refund of excess fee to the student concerned or communicate their decision in favour of the school depending on the situation (Rajasthan³⁵⁷, Madhya Pradesh³⁵⁸ and Haryana³⁵⁹) or otherwise take a decision on complaints in stipulated time (Bihar³⁶⁰). • Impose penal action (Gujarat³⁶¹ and Madhya Pradesh³⁶²). Penalties may be imposed on private schools for violating the provisions of the Act (with the penalties of the second or higher offence being twice that of the first offence), which can recommend cancellation of approval of the school (Bihar³⁶³). In case the management fails to refund the amount, the DFRC can recover it as an arrear of land revenue (Madhya Pradesh³⁶⁴). • Erring schools charging excess fees or furnishing misleading or incomplete information to the committee may be published in leading daily newspapers (Gujarat³⁶⁵). • Recommend withdrawal of recognition provided the due process has been followed. Aggrieved parties can appeal to the Administrative Secretary. (Haryana³⁶⁶) • Ensure schools are not indulging in commercialisation (Chandigarh³⁶⁷ and 	<p>and other documents for scrutiny</p> <ul style="list-style-type: none"> • For the purpose of inquiry, have the powers of a Civil Court • direct officials to inspect school premises and records • Recommend cancellation of recognition/licence. 	<p>on/licence</p> <ul style="list-style-type: none"> • Conduct spot check of the school to verify the proposal • direct schools to refund excess fees 	<p>excess of the fee intimated to the appropriate authority under Section 19; ii) any discrepancy or complaint pertaining to Part B of the disclosure form under Section 19. iii) capitation fee being charged; iv) revision of fee during the ensuing academic year; and v) increase in fee more than the permitted threshold under the automatic route without obtaining approval from the authorities, as specified herein.</p> <ul style="list-style-type: none"> • take decisions on fees proposed by schools beyond the permitted increase • Hear complaints. <p>During the pendency of the proposal before the Zonal Fee Committee, the managing committee shall be permitted to collect the proposed increased fee, till the final decision of the Zonal Fee Committee.</p>
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(Punjab ³⁶⁸) or asking to do any other activity with a motive to gain financial benefit or profit (Punjab ³⁶⁹).			
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Recommendations

- A district-level committee needs to be established to regulate the fees of private schools under its jurisdiction. This committee could also assess claims for reimbursement for 12-1c.
- This should include the following members
 - Parent representatives to ensure their perceptions are taken into consideration. This should include representation of marginalized communities and be gender balanced to ensure options of both mothers and fathers are taken into consideration.
 - Chartered accountant or District Audit Officer/ Auditor of Pay & Accounts Officer/ Treasury Officer
 - Educationist of repute. Principal of DIET
 - Civil Engineer/Government approved valuer
 - DEO
 - Principal/Headmaster of a renowned Government School such as KV/NV
 - An eminent retired head/ administrator of a self-financed independent institution, as may be nominated by the Government.
- This needs to pay down processes for the functioning of the committee including
 - Term of the committee- three years
 - Quorum and frequency of meetings
 - All inquiries under the Act are deemed to be judicial proceedings within the Indian Penal Code and the committee shall have all powers of a civil court.
 - Additional delegated legislation may be drafted to frame the functioning of the committee.
 - The report on the functioning of this committee should be shared with the relevant education committee of the Zilla Panchayat to equivalent bodies under the 74th Constitutional Amendment.
 - While not explicitly stipulated in any of the state rules, it would be desirable to ensure that a regular report of the issues faced, complaints received, and redress and other relevant issues be shared with the state committee.
- Logistical and secretarial support must be extended to the committee by the government will need to be spelt out, especially to enable it to undertake any investigations which may be necessary. One solution may be to appoint an official of the rank of Deputy DEO within the DEO office to look at complaints, regulate the fees and other actions related to private schools. This person may also submit reports on the functioning of the committee to a dedicated State Cell at the state level.
- Karnataka-style Task Forces could be explored in urban areas in other states to establish a more direct connection between the district bodies and individual schools. It is recommended to have an ongoing consultative process with parents, education officials, academicians, and civil society organisations to understand practical bottlenecks that are preventing these bodies from exercising their given powers. Such consultations should be organised on an ongoing basis, almost like public hearings in a sense. In addition, would be crucial to take public feedback on the legislation itself at regular intervals³⁷⁰.
- Fee regulatory bodies in most states appear to have adequate powers on paper which need to be maintained. Powers vested in the body need to include the power to scrutinize financial reports, approve or reject fees structures being proposed, hear complaints, and impose penal action. At the same time, an explicit mention of the need to address the commercialization of education would be advisable.

14. DOES THE REGULATION PROVIDE FOR THE STATE-LEVEL FEE FIXATION AND REVISION COMMITTEES? WHO ARE ITS MEMBERS? WHAT IS ITS PROCESS?

Existing state laws	AIPA demands and of parent associations	FICCI framework
State-level fees regulation committees and their members		

<p>MP³⁷¹: Commissioner of Public Instruction (Chairperson), Director of Public Instruction (Member-Secretary), Additional Mission Director, Joint Director (Finance), Chief Engineer (Member). A quorum of three.</p> <p>Chhattisgarh³⁷²: a. Minister-in-charge of School Education Department, Government of Chhattisgarh – Chairman, b. Commissioner/Director Public Instructions Chhattisgarh – Member, c. Finance Controller / Joint Director Finance Directorate of Public Instructions -Member d. Secretary in charge of School Education Department Government of Chhattisgarh- Member-Secretary.</p> <p>Gujarat³⁷³: This is called a Fee Revision Committee. It will include the Retired Judge of the High Court, Secretary, and the Education Department (Primary and Secondary). Secretary to the Government of Gujarat, Finance Department, Secretary, Gujarat Secondary and Higher Secondary Education Board, one representative from self-financing school management and a CA (all nominated by the Government).</p> <p>Maharashtra³⁷⁴: Members of the revision committee: (a) A retired High Court Judge nominated by the Government in consultation with the High Court. Chairperson. (b)Any retired person holding the post of Director of Education or equivalent post or retired Head of the Central Board of School Education or Indian Certificate of Secondary Education or other such Boards. Member, (c) A Chartered Accountant or Costs and Works Accountant. Member, (d) Joint Director of Education (Secondary and Higher Secondary), Directorate of Education, Maharashtra State, Pune. Ex officio Member-Secretary.</p> <p>Rajasthan³⁷⁵ has a revision committee that consists of the Secretaries and Commissioners in charge of the Department of Elementary and Secondary Education, Commissioner Sanskrit Education, two representatives of private schools nominated by the State government, two representatives of parents nominated by the government, an accounts officer of the education department and the Senior Deputy Sec Education (Ex-Officio Member Secretary).</p> <p>Uttar Pradesh³⁷⁶: above the District Fee Regulatory Committee will be a state-level appellate authority which can be approached if unhappy with the decision of the DFRC.</p>	<p>Same as the fee fixation committee, consisting of:</p> <ol style="list-style-type: none"> Retired high court judge, chairperson Director of education, member Chartered accountant, member 	<ol style="list-style-type: none"> Retired judge of the Supreme Court or Chief Justice of the High Court- Chairperson Principal Secretary, Education- Member CA- Member Civil engineer- Member Eminent retired head of a self-financed independent institution, nominated by the Government- Member Two persons of eminence and repute, as may be nominated by the Government- Members <ul style="list-style-type: none"> Term of 5 years At least 50% of the members need to be present along with Chairman; no order shall be passed unless a quorum is met
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<p>Puducherry³⁷⁷: Committee for fixation of fees to be formed comprising of a Retired High Court Judge/ Retired IAS Officer (Chair), Director of School Education (Member Secretary), Ex Officio Members: Chief Engineer (Building), PWD, Deputy/Under Secretary, Education, Jt. Director, School Education, Deputy Dir of Elementary Education, Senior Accounts Officer, Directorate of School Education, Members; Chartered accountant nominated by government, 3 representatives of private school managements.</p> <p>Madhya Pradesh³⁷⁸: Commissioner of Public Instruction (Chair), Director Public Instruction (Member Secretary), Members: Additional Mission Director, State Education Center, Jt. Director (Finance), Public Instruction, Chief Engineer.</p> <p>Bihar: Appeal against the decision of the Fee Regulatory Committee may be filed before the State Appellate Authority constituted under the Bihar State School Teacher and Employees Dispute Redressal Rules, 2015.³⁷⁹</p> <p>In Jharkhand, the Jharkhand Education Tribunal plays a similar role at the State level³⁸⁰.</p>		
Powers		
<p>MP³⁸¹: Decide on proposals for the increment of fees and hear appeals against orders of the District Committee.</p> <p>Gujarat³⁸²: Revisions against the orders passed by the Zonal Fees regulation committee; decisions will be binding.</p> <p>Chhattisgarh:³⁸³ Decide the policy for fees, issue general directions to other committees and do other work given to it.</p> <p>Puducherry³⁸⁴: Determine the fees to be collected, verify if the fee proposed is justified/commensurate with facilities offered and hear complaints regarding the collection of excess fees.</p> <p>Uttar Pradesh³⁸⁵ and Maharashtra³⁸⁶: the committee shall function as the appellate authority.</p>		<p>The State Independent Schools Authority shall, from time to time, suo moto or upon a representation made by the recognised school, issue, through a notification, guidance on the revision of the fee commensurate to factoring the impact of the additional financial burden on the recognised school attributable to revision or introduction of any policies by the Government from time to time including, inter alia, the implementation of pay commission reports, adverse revision of tax regime, etc. over and above the permitted fee increase as provided under Section 13.</p> <p>In addition to the above, the State Independent Schools Authority can issue a notification for revision of fees either by taking suo moto cognisance or based on representation by a school to factor in additional financial burden on the school attributable to government policies</p>
Processes of the Committees		
<ul style="list-style-type: none"> Terms of office of the representatives of private schools and parents is two years (Rajasthan³⁸⁷) or three years (Puducherry³⁸⁸ & Jharkhand³⁸⁹). 		

<p>Representatives of private schools/parents are not eligible for reappointment. Process for their appointment and removal are laid down. (Rajasthan³⁹⁰)</p> <ul style="list-style-type: none"> • Decisions taken are final and binding on all parties for three academic years; the private school is at liberty to propose changes in its fee structure after the same. (Rajasthan³⁹¹) • It has the powers of a civil court (UP³⁹²) or all courts (except the High Court and Supreme Court³⁹³) • The Tribunal shall normally have its sitting in Ranchi, but it may hold its sitting at any district HQs of the state as decided by the Chairman and members (Jharkhand³⁹⁴). • Salaries and allowances payable, and other terms and conditions of service of the Chairman and other members will be as prescribed by the government (Jharkhand³⁹⁵). • The state government shall determine the nature and categories of the officers required to assist the tribunal and other officers. They will discharge their functions under the superintendence of the Chairman. Salaries, allowances, and conditions of services of employees shall be as prescribed by the rules (Jharkhand³⁹⁶). • The Divisional Commissioner of the concerned division will be authorized to be the competent authority for the imposition and execution of penalties prescribed. Fines/penalties collected will be deposited under the revenue head of the School Education and Literacy Department (Jharkhand³⁹⁷) • Appeal against judgements/orders passed by the Tribunal will be before the Jharkhand High Court within a period of 90 days of the judgements or orders. (Jharkhand³⁹⁸) 		
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Recommendations

- It would be desirable to have a state-level structure to serve as appellate authorities for complaints filed with the district fees regulation committees regarding the regulation of private schools.
- This should include
 - Retired judge of the Supreme Court or Chief Justice of the High Court- Chairperson
 - Representation of the line departments delivering education
 - Finance Controller / Joint Director Finance Directorate of Public Instructions
 - Representation from parent associations/civil society organizations
 - Any retired person holding the post of Director of Education or equivalent post or retired Head of the Central Board of School Education or Indian Certificate of Secondary Education or other such Boards.

- A Chartered Accountant or Costs and Works Accountant.
- This needs to pay down processes for the functioning of the committee including
 - Term of the committee- five years
 - Quorum and frequency of meetings
 - Additional delegated legislation may be drafted to frame the functioning of the committee.
- It would be critical to ensure that the State Committee also extend oversight of the functioning of the district committees. The State Committee may be expected to identify trends concerning regulatory compliance in private schools. Support based on the same may be submitted to the state standing committee and the Cabinet for consideration. It may also work with concerned quasi-judiciary bodies in the state including the State Commission for the Protection of the Rights of the Child and Women, human rights, minorities and SC and ST Commissions, where deemed necessary.
- The committee will serve the following functions
 - through a notification, guidance on the revision of the fees in private schools
 - Serve as the appellate authority for complaints
 - Discuss trends regarding private schools

15. WHAT MECHANISMS EXIST FOR ENHANCING THE REGULATORY CAPACITY OF THE STATE TO ENABLE IT TO REGULATE PRIVATE SCHOOLS?

- Most states expect specific officials to undertake the regulatory functions. However, research suggests that officials thus appointed or on whom the process relies (e.g., school inspectors) have excessive workloads and cannot meet the statutory responsibilities. Accordingly, it is proposed that human capacity be enhanced to create dedicated teams be set up to provide support.
- Accordingly, while not explicitly part of any state law, it may be recommended to establish a dedicated Cell in the State Education Department to
 - process complaints and address issues concerning private schools.
 - obtain feedback from parents about the functioning of parents to strengthen regulation and identify new trends in the sector
 - to extend support for the functioning of the District and State Committees, including with the compilation of the reports to be submitted.
- The State Fees Regulation Committee could form part of the SSSA as per the NEP, once established.

16. FOR WHAT PERIOD WILL THE FEES STRUCTURE BE BINDING?

Existing state laws	AIPA and demands of parent associations	National frameworks	FICCI framework
<ul style="list-style-type: none"> • 3 years (Tamil Nadu³⁹⁹, Puducherry,⁴⁰⁰ Gujarat⁴⁰¹ and Andhra Pradesh⁴⁰²) or 2 years (Jharkhand⁴⁰³) 	3 years	3 years (NCPCR)	1 year

Recommendations

- The fee structure once determined should be binding for three years while building in factors like inflation and the projected increase in staff salaries.

17. WHAT ARE THE CONSEQUENCES/PENALTIES FOR VIOLATION OF NORMS?

Existing state laws	AIPA and demands of parent associations	National frameworks	FICCI framework
For the school			
Bihar ⁴⁰⁴ – For the first offence, a maximum Rs 1,00,000/- (one lakh).	<ul style="list-style-type: none"> • Refund the excess amount with 9 % 	NCPCR: 1. In case of an incomplete proposal, the committee can	<ul style="list-style-type: none"> • Fine ranging from 1-5 lakh INR • The Second level, barred from drawing the

<p>(ii) For every subsequent offence, Rs- 2,00,000/- (Two lakh) per offence.</p> <p>(iii) In case of not depositing the determined penalty within a month, or in the case of commission of repeated offences, the Fee Regulatory Committee will have the power to make recommendation of cancellation of recognition or approval of the private school or any other course for which the Divisional Commissioner received a complaint in respect of the private school.</p> <p>(iv) If the Guardian submits a complaint about the exorbitant increase of fees or any other point with evidence and affidavit, the Fee Regulatory Committee shall make a decision within 60 (sixty) days.</p> <p>(v) On being not satisfied with the decision taken at the Fee Regulatory Committee headed by the Divisional commissioner, any party may prefer to appeal as per rules before the State Appellate Authority</p> <p>Gujarat⁴⁰⁵</p> <ul style="list-style-type: none"> • Fine up to 5 lakhs which may extend to 10 lakhs • Withdrawal of recognition on the third violation <p>Madhya Pradesh</p> <ul style="list-style-type: none"> • Order Refund or recommend withdrawing recognition.⁴⁰⁶ • For the first two offences, a fine and post that, fee regulatory committees can recommend cancellation of license. • Karnataka⁴⁰⁷ - prescribes a fine of Rs.10 lakh on any school that charges more than the prescribed fee. • Chhattisgarh⁴⁰⁸: First violation liable for a fine up to 50,000 or twice the excess fees charged, each subsequent violation for a fine of Rs 1 lakh or four times the excess fees. The trial of cases to be done by the competent court. <p>Jharkhand:⁴⁰⁹</p>	<p>p.a. interest within a month</p> <ul style="list-style-type: none"> • Cancellation of license/disaffiliation 	<p>recommend fine or barring admission</p> <p>2. In case of no proposal before commencement, comm. can suggest govt. taking over management of schools.</p> <p>3. in case of no proposal for multiple years, recognition can be withdrawn.</p>	<p>permitted payments towards the cost of capital</p> <ul style="list-style-type: none"> • Third level, withdrawal of recognition.
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Whoever the management or the private school contravenes any of the provisions of this Act. or the rules made there under shall be liable - (i) for the first offence, be punishable with a fine which shall not be less than fifty thousand rupees, but which may extend to two lakh fifty thousand rupees or twice the amount taken in excess of the fee as determined under this Act, whichever is higher, (ii) for the second or subsequent offences, be punishable with the fine which shall not be less than one lakh rupees or twice the amount taken in excess of the fee as determined under this Act, whichever is higher. (iii) In addition to the above penalties suitable action for de-recognition of the defaulting school shall be taken up and it shall be mandated on the part of the concerned affiliating body to de-recognize such schools.			
For the child/parents			
<ul style="list-style-type: none"> Not defined 	<ul style="list-style-type: none"> Not defined 	<ul style="list-style-type: none"> Not defined 	The name of a student may be struck off the rolls by the head of the school on account of non-payment of the requisite instalment of the composite annual school fee which may be due for payment, within twenty days from the last day of payment.
Companies			
Where an offence against any of the provisions of this Act have been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence (TN ⁴¹⁰ and Rajasthan ⁴¹¹).	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> 	

Recommendations

- A clear set of penalties must be defined based on the nature of the violation. In the first two instances of violation of norms, schools should be fined post which their license should be cancelled. The fines imposed need to be linked to inflation.
- Excess fees are to be refunded with interest to parents, within a month, such as provided in the UP-fee regulation and the AIPA model regulation.
- In case the parents are unable to pay fees at the stipulated time, the principle of keeping the child's best interests at the centre of all decisions by ensuring minimum interruption of the child's right to education. The parents should have the opportunity to make a representation to the school level fee committee, requesting additional time. If the parent is unable to make the payment after receiving the extension, the school should support and facilitate the process of the child's transfer to a different school.

18. CAN ADVANCE FEES BE COLLECTED?

Existing state laws	AIPA and demands of parent associations	National frameworks	FICCI framework
Not defined	Not defined	NCPCR No school can demand fees for more than one quarter at a time	Fees shall be payable in advance on a monthly/quarterly/half-yearly/annual basis. However, no school should solely provide that composite school fee only be paid on an annual basis.

Recommendations

- No school can demand fees for more than one quarter at a time.

19. WHAT ARE THE PROVISIONS REGARDING THE REVISION OF FEES?

Existing state laws	AIPA and demands of parent associations	National frameworks	FICCI framework
Maharashtra ⁴¹² and Chhattisgarh ⁴¹³ : Parents/guardian union, school management can approach the revision committee if dissatisfied	In case of urgent need, the school can apply for revision of fees before the expiry of the three-year period (time frame for which the approved fee structure would hold).	NCPCR schools may apply for revision of fees to state appellate authority under the following conditions: i) Change in affiliation Board; ii) Any change in norms and standards of affiliating/recognising body. iii) Introducing a new co-curricular activity; iv) Introducing new facilities such as transportation.	The zonal fee committee will have the power to hear complaints regarding the revision of fees. If schools/parents are unhappy with the decision, they can approach the state independent schools authority, which can approve the revision requested by the school factoring in the impact of the additional financial burden on the recognised school attributable to the revision or introduction of any policies by the Government including the implementation of pay commission reports, adverse revision of tax regime, etc.

Recommendations

- Schools may appeal to the district fees committee in instances when they feel revision of fees is necessary. The grounds for such a revision will need to be justified and be in line with the conditions specified.

20. WHAT ARE THE PROVISIONS REGARDING GRIEVANCE REDRESS REGARDING FEES?

Existing state laws	AIPA and demands of parent associations	National frameworks	FICCI framework
<p>Bihar⁴¹⁴: the complainant shall file his/her objections as a written complaint in the office of the Divisional Commissioner within 30 days from the date of determination of the fees. If not satisfied, appeal before state appellate comm.</p> <p>Punjab⁴¹⁵: Any student/ parent/ guardian may make a complaint to the Regulatory body including a self-attested affidavit disclosing the particulars. This will be scrutinized by the Regulatory Body and decide in 60 days. Concerned body to be given a hearing.</p> <p>Maharashtra⁴¹⁶: if unsatisfied with the decision of the Executive committee, parents can write to the divisional committee. The next level for complaint is the revision committee.</p> <p>Redressal of complaints within sixty days (Andhra Pradesh⁴¹⁷ and Haryana⁴¹⁸): The name of a student may be struck off the rolls by the head of the school on account of non-payment of fees and other dues for 10 days after the last day for payment.</p>	<p>Setting up a helpline for parents to report grievances</p> <p>Not clearly defined in the AIPA draft regulation</p>	<p>The parents may submit a written complaint to the District Education Officer for non-compliance with orders of the Committee, who will examine the complaint within sixty days considering orders of the Committee (NCPCR)</p> <p>NHRC guidelines- setting up a helpline for parents.</p>	<p>Parents can approach the Zonal fee committee and if dissatisfied, the State independent schools authority.</p>

Recommendations

- There needs to be a single window for filing complaints for all issues and not just for fees. This could include a physical window for filing complaints at the Block level and a helpline for those who cannot file written complaints to facilitate the filing of grievances.
- Regulations should lay out the timeline for filing and addressing complaints along with having a clear mechanism for escalating them.
- It would be desirable to place a timeline for when complaints are to be resolved. The NCPCR framework suggests that complaints be resolved within 60 days.

CONCLUSION:

Certain key principles around ensuring effective fee regulation that emerge from this section are:

- Public disclosure of fees to be levied and the audited financial statements of the school, to ensure that revenue from fees is utilized for activities directly related to children's learning, rather than the accrual of profits for the management.
- Parental representation on committees at school and district/divisional levels, that are responsible for fee fixation and regulation.
- The process of fee fixation and hike goes through a committee and is linked to the consumer price index, increase in teacher salaries in addition to factors such as costs, location, and reasonable surplus.
- Explicit clause in the regulation, preventing diversion of fees from school to a society/trust that runs such an institution.
- Prohibition on school forcing to buy uniforms and textbooks from specified vendors.
- Clear mechanisms for the redress of complaints related to fee hikes are essential.

STANDARDS FOR THE ESTABLISHMENT, RECOGNITION AND AFFILIATION OF SCHOOLS

This section provides an overview of the minimum standards of quality for an educational institution to be permitted to operate. While all schools are expected to be recognized, 17% of rural students enrolled in private schools in India are studying in unrecognized institutions (NSS 71st Round)⁴¹⁹.

All schools are expected to adhere to the minimum statutory norms for their state which should not fall below the minimum standards as laid down under the RTE Act. Updated information about compliance with the RTE Act is not available in the public domain, but in 2016-17, the extent of compliance with the 10 RTE Parameters was higher for the government than for private schools (14.6% government, unaided 8.1% and aided 6.7%). Pro-private school groups have repeatedly criticized the process of getting the necessary licenses as being excessively onerous⁴²⁰. However, failing to meet even the very basic RTE metrics suggests that much more needs to be done to ensure that private schools deliver quality education. This is an unfortunate omission since research suggests a connection between learning and the availability of facilities; Grade 3 mathematics and reading scores relate to the availability of infrastructure.⁴²¹ Ensuring the availability of basic infrastructure is also critical from a child protection and well-being perspective.⁴²²

Private schools are expected to be not for profit, but most schools are reported to be making margins of 25%⁴²³.

Even India's elite private schools fail to ensure student learning of a high standard. A study of the instruction processes of some of the "top schools" in metropolitan cities found that their performance was below the international average in Grade 4⁴²⁴. 60% of rural private school students in grade five cannot solve a simple division problem, and 35% of students in grade five cannot read a basic grade two level paragraph; even among students from richest 20% households, attending private schools, only 56% of children between eight and 11 year old can read a basic grade two level paragraph⁴²⁵. Students also exhibited rote learning and performed comparatively better in questions that are procedural or which did not involve a deeper understanding or application of concepts⁴²⁶.

Lastly, quality standards need to be defined for the various kinds of educational institutions. Thus, preschools, high secondary and residential schools require additional parameters from the perspective of ensuring age appropriateness and child protection respectively. The provisions for inclusive education need to be in line with the provisions of the Persons with Disabilities Act, but the implementation of most provisions is lagging. The education department failed to receive applications for even 1% of the reserved seats lying vacant for children with disabilities in private schools in Delhi⁴²⁷. A quarter of children with disabilities between 5-19 years do not attend any educational institutions⁴²⁸. Children who are admitted feel segregated within schools⁴²⁹. As such, the specific needs of marginalized communities will need to be also addressed.

This chapter, accordingly, looks at the various conditions regarding the recognition of private schools. This includes norms about school quality (curricula, language, infrastructure,

ancillary services), safety and financial preconditions. Provisions regarding Board affiliation are also included.

MAJOR REGULATORY CHALLENGES:

1. Schools are expected to be not for profit and no commercial or non-educational use of premises is prohibited.
2. The school needs to be set up in an appropriate location which is safe and has unmet educational needs.
3. Private schools, like all schools, need to adhere to the minimum standards of quality and safety. This should include making sure that they adhere to universal design and other standards as per the Persons with Disabilities Act.
4. Private schools which deliver ancillary services need to make sure that these are likewise safe. This includes a range of services including school transportation, school meals and delivery of first aid and other school health services, among others.
5. Many schools also deliver preschool education; the specific needs of the young child need to be accommodated.

1. WHETHER EVIDENCE OF ADEQUATE FINANCE IS NEEDED TO GET RECOGNITION?

Existing provisions
<ul style="list-style-type: none"> • School must show that adequate financial provision has been made. (Arunachal Pradesh⁴³⁰, Odisha⁴³¹ and West Bengal⁴³²) or that the school presents documents evidencing the availability of finances needed for the construction of proposed buildings (Andhra Pradesh⁴³³); in Karnataka⁴³⁴ and Andhra Pradesh⁴³⁵, this is through the creation of a security deposit; in Maharashtra⁴³⁶, through the creation of a self-endowment fund. • Evidence of adequate finance is also a condition for getting affiliated with CBSE.

Recommendations

- Provisions related to adequate finance for setting up a school must continue to be explicitly included in all legislation. The calculation of adequate finance should consider infrastructural costs as well as payment of teacher salaries and benefits as per the defined norms of the state.

2. WHAT ARE THE NORMS RELATED TO CURRICULUM, LANGUAGE, AND NATIONAL INTEGRATION?

Existing provisions
Curriculum
<ul style="list-style-type: none"> • Applicant school conforms to, seeks to, and has a curriculum to implement the values enshrined in the Constitution of India. (Model RTE Rules) • School promotes respect for the National Anthem, National Flag and National Emblem and National Integration (West Bengal⁴³⁷) • The educational agency shall not carry on or encourage any propaganda or practice wounding the religious feelings of any class of citizens of India or insulting the religious belief or that class or indulge in any act that undermines national integrity and insult to national anthem and national flag. (Andhra Pradesh)⁴³⁸ • Promotion from one class to the next higher class to be in accordance with the rules in force (Andhra Pradesh)⁴³⁹
Textbooks
<ul style="list-style-type: none"> • Textbooks, workbooks, and handbooks that are prescribed by the Government must be followed (Andhra Pradesh⁴⁴⁰, Delhi⁴⁴¹, Gujarat⁴⁴², Haryana⁴⁴³, Himachal Pradesh⁴⁴⁴, Karnataka⁴⁴⁵, Madhya Pradesh⁴⁴⁶, Tamil Nadu⁴⁴⁷ and Uttarakhand⁴⁴⁸). Likewise, duration of courses, medium of instruction, scheme of

<p>examination, number of working days and hours (Arunachal Pradesh⁴⁴⁹). These must adhere to the NCF (RTE Act, reiterated in the FICCI framework).</p> <ul style="list-style-type: none"> Strictly comply with the requirements for their respective affiliation and use of the textbooks which apply to them (Arunachal Pradesh⁴⁵⁰ and Assam⁴⁵¹). Documentary evidence regarding the purchase of library books, laboratory equipment sports material, furniture, and the appointment of qualified staff is essential for recognition (Andhra Pradesh⁴⁵²)
Language and Medium of Instruction
<ul style="list-style-type: none"> Teaching of regional language is compulsory (Kerala⁴⁵³ and Andhra Pradesh⁴⁵⁴). State language is the preferred medium of instruction for all schools; however, the institution is at liberty to adopt another medium of instruction under intimation to the appropriate authority and any linguistic minority to impart education in the mother tongue is permitted to do so. (Haryana⁴⁵⁵) In the teaching of languages (Delhi⁴⁵⁶) and in classes VI to VIII, three-language formula as adopted by the Government, shall be followed (Haryana⁴⁵⁷) Exemption may be given from compulsory study of language in an exceptional case where the mother tongue of the pupil is other than Malayalam, Tamil, or Kannada (Kerala⁴⁵⁸)
Others
<ul style="list-style-type: none"> Institutions should be so conducted to promote discipline and orderly behaviour and maintain a high moral tone⁴⁵⁹.

Recommendations

- All schools, both government and private, need to adhere to the norms as laid down by the RTE Act and follow the curriculum laid down by the academic authority. The latter has largely been notified as the SCERT/NCERT.
- Private schools must adhere to government norms and regulations regarding curricula, syllabi, textbooks, course duration, medium of instruction, scheme of examination, and the number of working days.
- While being affiliated with a particular board, many private schools use textbooks and workbooks developed by local publishers. The DIET should be tasked to undertake regular reviews of books used in private schools including the alignment of the content in such books with the values enshrined in the Constitution of India. This review can be supported by academicians, education experts, government officials and parent representatives.

3. WHAT ARE THE RECOGNITION CONDITIONS RELATED TO INFRASTRUCTURAL REQUIREMENTS?

Existing provisions
Overall Infrastructure and facilities
<ul style="list-style-type: none"> The RTE Act includes a Schedule I with the physical infrastructure and other basic facilities to be fulfilled by each school irrespective of whether they are government or private. Additional requirements are prescribed by state laws including buildings, sanitary arrangements, playgrounds, furniture, equipment, library, teaching aid, laboratory, research and extension, workshops, training, seminar and conference, symposia etc in private schools (Arunachal Pradesh⁴⁶⁰). Schools are expected to adhere to the National Building Code which includes grills in high-rise school buildings, fire extinguishers, first aid, maintenance of vehicles and obtaining fitness of the school vehicles from the Transport Authorities as prescribed by the Government from time to time. Expert Body may be established to make recommendations to the state government on norms and standards for regulating schools (Arunachal Pradesh⁴⁶¹). Building is certified as safe by the PWD/Panchayati Raj authorities, once in four years. (Punjab⁴⁶²)
Size of classroom and related requirements
<ul style="list-style-type: none"> Minimum carpet area of 8 sq. ft. per child plus 60 sq. ft. for teaching. However, relaxation is provided if schools achieve a certain level of learning outcomes. (Gujarat⁴⁶³) Classrooms of an area of a minimum of 400 sq. ft. (25 ft. X16 ft.) each which is comfortable and suitable for imparting lessons in and of not less than the number of class units (West Bengal⁴⁶⁴) Minimum classroom size of 24 x 18 (Haryana⁴⁶⁵) 6-8 sq. ft. per pupil and area calculated section-wise (Andhra Pradesh⁴⁶⁶) Separate rooms for the office, headteacher and staff and to accommodate the library and laboratory facilities (Andhra Pradesh⁴⁶⁷)

<ul style="list-style-type: none"> • Prescribed criteria for the selection of site, need for compound wall or fencing and the specifications for the school building (including floors, windows, doors, ventilation, rooms, dimension of classrooms and equipment expected); infrastructure must be kept in good repair (Kerala⁴⁶⁸). • A minimum of durable furniture of suitable dimensions approved by the Department (Kerala⁴⁶⁹), adequate furniture so that students do not have seats of more than three in bench (West Bengal⁴⁷⁰) or long bench for 5-6 students (Andhra Pradesh⁴⁷¹) • Private education institutions must have a minimum roll strength of students for each standard or class, including in terms of arts, commerce, and science streams (Mizoram⁴⁷²).
Water and sanitation facilities
<ul style="list-style-type: none"> • Barrier-free access needs to be provided along with adapted toilets for children with disabilities (West Bengal⁴⁷³ and Kerala⁴⁷⁴) • Adequate supply of drinking water and electricity (Tamil Nadu⁴⁷⁵, West Bengal⁴⁷⁶, Andhra Pradesh⁴⁷⁷, Assam⁴⁷⁸, Arunachal Pradesh⁴⁷⁹, Delhi⁴⁸⁰, Gujarat⁴⁸¹, Goa⁴⁸², Haryana⁴⁸³, HP⁴⁸⁴, Karnataka⁴⁸⁵, Mizoram⁴⁸⁶, Jharkhand⁴⁸⁷, Odisha⁴⁸⁸, Punjab⁴⁸⁹ and Sikkim⁴⁹⁰) • Lavatory and urinal facilities are provided in the schools as per the criteria to be specified by the competent authority, (Tamil Nadu⁴⁹¹) including separate toilets for boys and girls (West Bengal⁴⁹²) • Satisfactory sanitary certificate should be given by the Municipal Health Officer or Doctor of a Primary Health Centre (Andhra Pradesh⁴⁹³)
Common room and teachers' room
<ul style="list-style-type: none"> • If it is a co-education school; a girls' common room, if it is a girls' or co-education school; a teachers' room (West Bengal⁴⁹⁴)
Library
<ul style="list-style-type: none"> • An adequate number of books that cover subjects suitable to children to be provided (AP,⁴⁹⁵ Arunachal Pradesh,⁴⁹⁶ Delhi,⁴⁹⁷ Goa⁴⁹⁸ and Haryana⁴⁹⁹). • Library with sufficient books (not less than 500) on literature and other subjects but excluding textbooks or notes (West Bengal⁵⁰⁰). • At least 5 books per student, subject to a minimum of 1500 books (Bihar⁵⁰¹). • Include reference books for the use of teachers (Andhra Pradesh⁵⁰² and Mizoram⁵⁰³). • Desirable to have a reading room attached or adjacent to the library (Mizoram⁵⁰⁴).
Playground
<ul style="list-style-type: none"> • Need a playground (RTE Act) • Some states prescribe land requirements <ul style="list-style-type: none"> ◦ 2000 and 1000 sq respectively in rural and urban areas respectively (Andhra Pradesh⁵⁰⁵). • Need for leniency in urban areas where alternative measures may be adopted including <ul style="list-style-type: none"> ◦ Playground at a reasonable distance from the school (MHRD Order⁵⁰⁶), ◦ Entering an arrangement with a nearby school or urban park in urban areas (Andhra Pradesh⁵⁰⁷), ◦ Provision made for indoor games (Andhra Pradesh⁵⁰⁸ and Arunachal Pradesh⁵⁰⁹).
Land requirements
<ul style="list-style-type: none"> • Schools can run on a rented building on a leasehold basis with a minimum of 25 years of irrevocable lease deed. (Haryana⁵¹⁰) • Schools must hold valid titles for the land of the school (Mizoram⁵¹¹), including building, playground, and garden in AP⁵¹², be on a long-term lease (no less than 30 years in Himachal Pradesh⁵¹³ and Punjab⁵¹⁴) or otherwise have rights to occupy the premises that they occupy. If the land belongs to the Gram Panchayat, the permission of the Government department is essential. (Punjab⁵¹⁵) • At least 2 Bigha land in rural and 1 Bigha in urban (Assam⁵¹⁶). • Total land for rural and urban areas respectively for middle classes, matriculation, and senior secondary classes respectively. At the same time, a separate land requirement is laid down for multi-storeyed buildings (Punjab⁵¹⁷).
Provisions for children with disabilities
<ul style="list-style-type: none"> • All-weather building providing barrier-free access (RTE Act) • Make buildings, campuses, and various facilities accessible, provide reasonable accommodation according to the individual's requirements and provide transportation facilities to children with disabilities and attendants of children with disabilities with high support needs (PRWD Act, 2016). Delhi, UP and Sikkim provide for penalties for failing to provide the same.⁵¹⁸ • Provide necessary support environments that maximize academic and social development consistent with the goal of full inclusion and ensure that the education to persons who are blind or deaf or both is imparted in the most appropriate languages and modes and means of communication (RPWD Act, 2016).

<ul style="list-style-type: none"> Ramp to be provided if classes for CWDs cannot be held on the ground floor (Haryana⁵¹⁹). Safe transportation, free special learning and support material, and mapping of children with disabilities.⁵²⁰
Laboratory
<ul style="list-style-type: none"> Have a laboratory in the school (Gujarat,⁵²¹ Haryana,⁵²² Himachal Pradesh,⁵²³ Karnataka,⁵²⁴ Mizoram,⁵²⁵ Manipur,⁵²⁶ and Odisha⁵²⁷). Laboratory equipment/science equipment such as apparatus, chemicals, and specimens for teaching the topics included in the syllabus at least for demonstration purposes by the teacher (Andhra Pradesh,⁵²⁸ Arunachal Pradesh,⁵²⁹ Assam⁵³⁰ and Delhi⁵³¹). Laboratory of size 15' to 25' up to matriculation and 20-30' for Senior Secondary (Punjab⁵³²).
Teaching Learning Materials
<ul style="list-style-type: none"> Teaching aids for effective teaching and learning processes and play materials and equipment for use in pre-primary schools (Andhra Pradesh⁵³³). Have educational appliances and instruments for mathematical drawing, globes, maps and charts, laboratory equipment, materials and equipment and necessary appliances for the teaching of special subjects (Kerala⁵³⁴).
Hostels and other accommodation
<ul style="list-style-type: none"> Additional requirements for the maintenance and establishment of hostels in schools. (Mizoram⁵³⁵ and Haryana⁵³⁶). The school Management of the schools with the residential facility should ensure the implementation of NCPCR's Regulatory Guidelines for Hostels of Educational Institutions for Children (MHRD Guidelines for fixing accountability of school management towards safety and security of children in schools). have adequate accommodation for staff in respect of upper primary schools and high schools (Andhra Pradesh⁵³⁷).
ICT Facilities
<ul style="list-style-type: none"> facilities for information and communications technology-enabled education (FICCI Framework).
Workshop Space for Vocational Education
<ul style="list-style-type: none"> Facility for workshop practice (Arunachal Pradesh,⁵³⁸ Delhi,⁵³⁹ Goa⁵⁴⁰ and Haryana⁵⁴¹). Workshop of size 33'X 33' for each vocational trade (other than those trades where it is not required) (Punjab⁵⁴²).
Co-Curricular Facilities
<ul style="list-style-type: none"> Provide space and facilities for co-curricular activities in the schools (Haryana,⁵⁴³ Goa,⁵⁴⁴ Delhi,⁵⁴⁵ Mizoram⁵⁴⁶ and Arunachal Pradesh⁵⁴⁷).
Safety
<ul style="list-style-type: none"> 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. (MHRD Guidelines for fixing accountability of school management towards safety and security of children in schools) Every school should prepare and display School Safety Plan that is prepared involving children and the PTA (ibid). Specific requirements have been issued for the safe transport of children. These are usually not anchored by the education departments⁵⁴⁸. maintain first aid kits in sufficient numbers on the school premises (Andhra Pradesh⁵⁴⁹). Ensure grills on the balconies in high rise buildings (Andhra Pradesh⁵⁵⁰). follow the rules and regulations regarding parking of school vehicles /maintenance of vehicles and ensure the safety of children and shall obtain fitness of the school vehicles from the Transport Authorities as prescribed by the Government from time to time (Andhra Pradesh⁵⁵¹). the cost of providing zebra crossings at the road crossing near the schools, which are located in Municipal Corporation/Towns shall be met by the School Management (Andhra Pradesh⁵⁵²). have adequate personnel to guide the movement of the children to ensure road safety and transportation (Andhra Pradesh⁵⁵³). produce a structural soundness certificate of the school building/ premises and produce an occupancy certificate from the authorities concerned. All school buildings that have more than one floor, shall immediately conform to the standards of the National Building Code for Educational Institutions, and Indian Standards Code IS:8827.1978 for requisite features (Andhra Pradesh⁵⁵⁴).

<ul style="list-style-type: none"> compulsorily provide fire extinguishers and firefighting equipment as prescribed in the National Building Code of India part IV Fire Protection, 1997 and approved by the Fire Service Department of the State (Andhra Pradesh⁵⁵⁵).
Other requirements
<ul style="list-style-type: none"> Staff quarters for a guard (Bihar⁵⁵⁶). Distance from nearest cemetery or cremation ground or slaughterhouse (Kerala).⁵⁵⁷

Recommendations

- Infrastructural requirements for all private schools for elementary education should not fall below the norms prescribed in the RTE Act 2009. While provisions for elementary education exist for elementary education, similar norms will need to be created by the Ministry of Education/Education Department for secondary and higher secondary education and for preschool sections of the schools operating on school premises.
- A school shall not be operational from residential buildings or buildings not earmarked for school use and the school must have a valid title or long term-lease or otherwise have the rights to occupy the premises that they occupy.
- Infrastructure norms for buildings, WASH facilities and other sanitary arrangements, playgrounds, furniture, labs, equipment, library, teaching aid, provisions for children with disabilities and other steps need to be spelt out. It will be critical to address some dimensions which are occasionally omitted in state rules including norms for ensuring the inclusion of children with disabilities in all schools which must be in line with the provisions of the RTE and RPWD Acts.
- Schools must have adequate learning infrastructure
 - Adequate classroom sizes as prescribed in the current state legislation.
 - Library including an adequate number of suitable age-appropriate books and reference material for teachers including space for reading of the books therein.
 - Laboratory equipment and materials.
 - Adequate number of teaching aids and play materials that is age appropriate and enables teaching of all subjects.
 - facilities for information and communications technology-enabled education.
 - Facility for workshop practice for vocational subjects being covered.
- Co-curricular facilities including
 - Playground or alternative measures in urban areas.
 - facilities for co-curricular activities in the schools.
- Distinct forms of schools will require additional relevant standards. These include
 - Private schools with hostels which would require adequate standards for residential facilities, including ensuring child safety.
 - Special schools for children with disabilities require different quality standards.
 - Aided schools will have additional requirements tied to the granting of grants in aid.
- Modalities for ensuring the facilities are maintained need to be prescribed and the status of the same may need to be checked during the stage of renewal of recognition. School licenses may be cancelled on failing to meet the prescribed norms.
- Infrastructure and facilities of the school must be kept in good repair. Schools would need adequate furniture.
- Checklists around the norms should be made available to all parents in the school, and the PTA should be empowered to file a complaint if it believes any of these norms are not being met.

4. WHAT ARE THE PROVISIONS RELATED TO ADMISSION AND RECOGNITION?

Provisions
<ul style="list-style-type: none"> No school, other than a school established, owned, or controlled by the appropriate Government or the local authority, shall, after the commencement of this Act, be established or function, without obtaining a certificate of recognition from such authority, by making an application in such form and manner, as may be prescribed. (RTE Act) Admission of students into unrecognized institutions is prohibited (Karnataka⁵⁵⁸). No admission beyond Class III shall be made by any school before the sanction of its recognition or in its anticipation (Gujarat⁵⁵⁹ and Haryana⁵⁶⁰). The school does not run any unrecognized classes within the premises of the school or outside, under the same name of the school (Kerala).⁵⁶¹

- No school other than a recognized school or new school awaiting recognition in accordance with the provisions of this Act shall have the word “school” or its equivalent in any Indian Language as a part of its name. Penalties are proposed for doing so. (MP⁵⁶²)

Recommendations

- Admission of students to unrecognized institutions must be prohibited. Given the large number of unrecognized institutions, this is a broader issue that pertains to the operation of unrecognized schools and not just the admission process.
- Public disclosure on the status of recognition will be critical in making parents aware of the status.
- Penalties need to be imposed for schools running without recognition. At the same time, penalties need to be imposed for falsifying/ falsely claiming recognition has been given by the State.

5. WHAT ARE THE CONDITIONS RELATED TO THE SCHOOL LOCATION?

Existing provisions

- The school is located in a relatively noise-free and pollution-free area/with sanitary and healthy surroundings (Arunachal Pradesh⁵⁶³ and West Bengal⁵⁶⁴).
- The applicant must satisfy the authority that the institution proposed is located in sanitary and healthy surroundings (Andhra Pradesh).⁵⁶⁵

Recommendations

- The administration needs to lay down clear and achievable standards for where schools should not be established. Thus, schools must not be established in markets, close to garbage dumps and drains. It is the responsibility of the municipal authorities to ensure sanitary and healthy surroundings.

6. SHOULD THERE BE A PROCESS FOR DEMONSTRATING THE NEED FOR A SCHOOL TO BE SET UP IN THAT LOCATION?

Existing Provisions

- There should be a satisfactory need for an educational institution to be set up in the proposed area, to be determined based on school mapping or for the type of education intended to be provided by the institution. (Maharashtra⁵⁶⁶, Andhra Pradesh⁵⁶⁷, Arunachal Pradesh⁵⁶⁸, Goa⁵⁶⁹, Manipur⁵⁷⁰ and Kerala⁵⁷¹). In addition, Kerala requires the school mapping to be carried out by an authorised agency and needs to be certified by the local authority and AEO. In Andhra Pradesh, the competent authority is expected to, from time to time, conduct a survey to identify the educational needs of the locality in its jurisdiction and notify in the prescribed manner through local newspapers calling for applications from educational agencies desirous of establishing educational institutions.⁵⁷²
- School must demonstrate that it meets a real need of the locality and is not likely to adversely affect the enrolment in the already recognised neighbouring school. (Andhra Pradesh⁵⁷³, Arunachal Pradesh⁵⁷⁴, Assam,⁵⁷⁵ Delhi,⁵⁷⁶ Goa,⁵⁷⁷ Himachal Pradesh,⁵⁷⁸ Manipur,⁵⁷⁹ Sikkim⁵⁸⁰ and Tamil Nadu⁵⁸¹)
- No new school will ordinarily be allowed to be opened in a locality if the Board is convinced that it is likely to result in unhealthy and/or unfair competition with an existing institution within a reasonable distance. (Gujarat⁵⁸²)

Recommendations

- Permission of opening a school in any geographical zone must be decided by the authority based on the need for schools in that zone. If there is an adequate number of government schools to cater to the children of that geographical area and the new school lacks a significant differentiating characteristic from the schools already in existence (e.g., the new school is a minority school), no new private school may ordinarily be needed in those localities.
- The competent authority must examine the need for a new school in that area based on the number of children and only if the need exists, should the school be granted permission to be established in that area. This could be the BEO of the concerned block. A transparent mapping process must be carried out, details of which must be made available in the public domain.
- Authority may propose an alternative zone for the opening of the school if permission is denied.

7. WHAT ARE THE CONDITIONS RELATED TO THE USE OF THE SCHOOL CAMPUS AND BUILDINGS?

Existing provisions
<ul style="list-style-type: none"> • School buildings or other structures or grounds are used only for education and skill development (Model RTE Rules). • No unrecognized classes can run within the premises or outside in the same name of the school (Gujarat⁵⁸³ and Kerala⁵⁸⁴). • Unrecognized school should not be allowed to conduct classes on the premises of any recognised school (Andhra Pradesh⁵⁸⁵). • The school buildings and premises are not used day or night for commercial or residential purposes or communal, political or noneducational activity (Delhi⁵⁸⁶) or that the school building or other structures or the grounds are used only for the purposes of education and skill development (Jharkhand⁵⁸⁷). • No sale, mortgage, lease, pledge, charge, or transfer possession in respect of any property of a private institution except with the previous permission in writing of the competent authority on an application made on this behalf. The permission will not be refused unless it adversely affects working on the institution. The decision is to be made in 60 days from receipt of the application. (Andhra Pradesh⁵⁸⁸)

Recommendations

- Commercial and non-educational activities must be disallowed in legislation. At the same time, unrecognized classes may not be run within the premises of the school.
- Violation of this norm should lead to the cancellation of the license.

8. WHAT ARE THE SAFETY REQUIREMENTS AND PROVISIONS FOR DISASTER RISK REDUCTION THAT NEED TO BE FULFILLED FOR SCHOOLS TO GET RECOGNITION?

Existing provisions
<ul style="list-style-type: none"> • 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. (MHRD Guidelines for fixing accountability of school management towards safety and security of children in schools) • Every school should prepare and display School Safety Plan that is prepared involving children and the PTA (ibid). • The compendium of architectural norms and guidelines for educational institutions prepared by the Central Public Works Department provides a compilation of structural norms for building construction.⁵⁸⁹ • Prepare a student protection plan, carry out safety needs assessment through annual hazard hunt exercise, prepare a disaster management plan, take measures to ensure the safety and security of students, including protection from sexual offences and take measures for strengthening institutional commitment to the safe learning environment for students, planning for safety, implementation of safety actions, capacity building for school safety and monitoring school safety in the manner detailed (Karnataka⁵⁹⁰). • Set up fire extinguishers or other fire security arrangements as per National Building Code-Part 4 (Madhya Pradesh⁵⁹¹ and Andhra Pradesh⁵⁹²). • Have a building with a separate staircase for entrance and emergency exit (West Bengal⁵⁹³). • Have sufficient fire safety equipment and have a trained person among the staff for using fire safety equipment (West Bengal⁵⁹⁴). • Adequate personnel to guide the movement of children at road crossings near a school (Andhra Pradesh). • No objection certificate is needed from the Police dept as well as the concerned local authority confirming that the building meets the standards of the National Building Code for Educational Institutions, and Indian Standards Code (Andhra Pradesh). • Maintain first aid kits in sufficient numbers on the school premises; (Andhra Pradesh⁵⁹⁵). • Follow the rules and regulations regarding parking of school vehicles / maintenance of vehicles and ensure the safety of children and shall obtain fitness of the school vehicles from the Transport Authorities as prescribed by the Government from time to time (Andhra Pradesh⁵⁹⁶).

- The cost of providing zebra crossings at the road crossing near the schools, which are in Municipal Corporation/Towns shall be met by the School Management (Andhra Pradesh⁵⁹⁷).
- Have adequate personnel to guide the movement of the children to ensure road safety and transportation (Andhra Pradesh⁵⁹⁸).
- Produce a structural soundness certificate of the school building/ premises and produce an occupancy certificate from the authorities concerned. All school buildings that have more than one floor, shall immediately conform to the standards of the National Building Code for Educational Institutions, and Indian Standards Code IS:8827.1978 for requisite features (Andhra Pradesh⁵⁹⁹).

Recommendations

- Schools must ensure safety and promote disaster risk reduction by ensuring that all schools
 - Adhere to the National Building Code.
 - Comply with the roles and responsibilities assigned under NCPDR's Manual on Safety and Security of Children in Schools and any other guidelines, as applicable.
 - Have a sanitary certificate from the concerned health workers.
 - Every school should prepare and display School Safety Plan that is prepared involving children and the PTA.
 - The school needs to have a fire extinguisher and maintain first aid kits in sufficient numbers on the school premises.
 - Follow the rules and regulations regarding parking of school vehicles /maintenance of vehicles and ensure the safety of children and shall obtain fitness of the school vehicles from the Transport Authorities as prescribed by the Government from time to time.
 - Have adequate personnel to guide the movement of the children to ensure road safety and transportation.
 - Produce a structural soundness certificate of the school building/ premises and produce an occupancy certificate from the authorities concerned.
 - Have a NOC from the Police Department.

9. WHAT ARE THE PROVISIONS RELATED TO LEARNING OUTCOMES?

Existing provisions

- All states to prepare "class-wise, subject-wise learning outcomes for all elementary classes" and devise "guidelines for putting into practice continuous and comprehensive evaluation, to achieve the defined learning outcomes." (RTE Amendment)⁶⁰⁰
- Schools are directed to undertake child tracking, which involves maintaining records of the child's attendance and learning achievements. (Andhra Pradesh⁶⁰¹)
- Any institution that continues to get less than 20% pass for 3 years consecutively in the public examination shall be liable for being closed. (Andhra Pradesh⁶⁰²)
- The RTE Rules in Gujarat allow for exemptions from the scheduled norms and standards prescribed under the RTE Act if specific learning outcomes are achieved by the school seeking exemptions from the norms and standards. This is to be independently assessed by third parties every four years.
- Affiliation by-laws of CBSE stipulate that non-performance as defined by securing less than 50% pass percentage at boards for three consecutive years, is a ground for withdrawal of affiliation.
- "Satisfactory exam results" are a pre-condition for permanent recognition. (Haryana⁶⁰³)
- Poor academic performance is one of the grounds to withdraw school recognition. (Maharashtra⁶⁰⁴)
- Gujarat education rules allocate 70% weightage to learning outcomes of the total criteria for granting recognition: (Annex 1).⁶⁰⁵

Recommendations

- Private schools must maintain class-wise, subject-wise learning outcomes for all elementary classes, ensure implementation of continuous and comprehensive evaluation and maintain records of the progress of individual children.
- Student retention (particularly of girls, children from marginalized communities and those admitted under Section 12-(1)(c) of the RTE Act and consistency of the performance of students on Board exams in a school should be factored in while renewing school recognition.

10. ARE THERE ANY CONDITIONS RELATED TO THE ADMISSION PROCEDURE AND FEES?

Existing provisions
<ul style="list-style-type: none"> The school is required to have a students' admission procedure and fees structure duly published by the School Management Committee (West Bengal⁶⁰⁶).

Recommendations

- Transparency and complete disclosure of the admission process and detailed fee structure must be made a mandatory condition for schools to get recognition.

11. WHAT ARE THE ANCILLARY SERVICES THAT MUST BE DELIVERED IN THESE SCHOOLS?

Existing provisions	National frameworks
<ul style="list-style-type: none"> Medical Examination and Health services, meals and refreshments, facilities for recreation and physical training, guidance, and library services (Karnataka⁶⁰⁷ and Arunachal Pradesh⁶⁰⁸). Cultural activities and activities like NCC, NSS and Scouts and Guides in all recognized educational institutions. (Arunachal Pradesh⁶⁰⁹) Process of defraying expenses for the provision of meals to be provided (Karnataka⁶¹⁰). 	

Recommendations

- Private schools need to ensure child health facilities and maintain basic sanitary facilities during the provision of meals and refreshments on their premises.
- A process of defraying expenses on the latter would need to be also maintained.
- Schools may be encouraged to undertake social and cultural activities on their premises.

12. WHAT ARE THE PROVISIONS REGARDING RELIGIOUS TEACHING/ACTIVITY?

Existing provisions
<ul style="list-style-type: none"> No teacher/student is compelled to attend class with religious instruction or take part in any religious activity (Arunachal Pradesh⁶¹¹, Assam⁶¹² and Kerala⁶¹³). No penalties for missing religious instruction or claiming exemption from attendance to religious exercises or religious instruction by him or his parent or guardian. (Assam⁶¹⁴) A school shall not be held in Churches or places of public worship or prayer houses (Kerala⁶¹⁵). The educational agency shall not force the staff or students of the institutions to take part in the religious discourses and preaching or religious instruction irrespective of whether they belong to the same belief or not. (Andhra Pradesh⁶¹⁶)

Recommendations

- No student, teacher or non-teaching staff of the school should be compelled to attend any religious classes in the school. If a school is found to violate the rule, the recognition should immediately be withdrawn.
- If any other option exists, a place of worship should not be used, for running the school.

13. Are there any specific provisions regarding preschool education?

Existing provisions	National frameworks	FICCI framework
<ul style="list-style-type: none"> Requirement of registration of playschool/preschool (Andhra Pradesh⁶¹⁷, Jammu and Kashmir⁶¹⁸, Jharkhand⁶¹⁹, and Tamil Nadu⁶²⁰). The NCPCR ordered action on this in Manipur.⁶²¹ Prescribed norms and conditions for playschools/preschools (Jammu and Kashmir,⁶²² Jharkhand⁶²³ and Tamil Nadu⁶²⁴) including 	The National ECCE Policy 2013 lays down some standards for the facilities to be provided in	Not covered

<p>safety/ security of children, availability of personnel (teacher, caregiver), hygiene, play area and teaching-learning aids and space.</p> <ul style="list-style-type: none"> • Process for recognition of preschool (Jharkhand).⁶²⁵ • In Andhra Pradesh⁶²⁶ there is a requirement of forming an advisory body for every preschool. The advisory body shall advise the management with regards to fees, and admissions, evolve the procedure of accounting, evolve the procedure of recruitment and conditions of service of teaching and non-teaching staff. • Tamil Nadu⁶²⁷ includes preschools in the definition of the school itself - "private school" means a Play School, Nursery and Primary, Primary, Middle, High and Higher Secondary School or Teacher Training Institute imparting education and training, whether receiving grants from the Government or not, established and administered or maintained by an educational agency and recognized by the competent authority. 	<p>ECCE programmes⁶²⁸. NCPCR has developed detailed regulatory guidelines for Private Play Schools⁶²⁹</p>	
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Recommendations

- Processes for standard-setting, recognition, admission and functioning of preschools are necessary for both government and private schools. While separate legislation may be required for private playschools or standalone preschools, it would be critical to lay down minimum standards for early childhood education provided in private schools and put in place mechanisms for ensuring compliance with the same.

14. WHAT ARE THE PROVISIONS REGARDING BOARD AFFILIATION?

Existing laws provisions	National frameworks	FICCI framework
<p>States make it important for every recognized high school must be affiliated with one or more Boards or councils undertaking public examinations.</p> <p>If a school is de-recognized, it will automatically stand disaffiliated from the Board or Council to which it was affiliated (Meghalaya⁶³⁰ and Haryana⁶³¹).</p>		<p>Any eligible educational entity intending to establish or manage a school which it proposes to have affiliated with any Board shall be bound to comply with the requirements of any such Board, in addition to any other requirements for establishing such school in the State (FICCI).</p>

Recommendations

- Private secondary schools will need to continue to get affiliation with respective Boards of examination.
- The requirements of affiliating Boards would also need to be complied with; schools losing recognition would be disaffiliated from their Board.

15. WHAT RECOMMENDATIONS ARE NEEDED FOR CHILDREN WITH DISABILITIES?

Recommendations

- Several states have provisions for persons with disability. However, most provisions do not adhere to the UN Convention on the Rights of Persons with Disabilities (UNCRPD) and other international treaties, general comments of treaty bodies, particularly General Comment No 4 on Article 24- the right to inclusive education⁶³². At the same time, most are also not in line with the provisions of the Rights of Persons with Disabilities Act, 2016. Any regulatory framework must include specific provisions to ensure the creation of an enabling environment for children with disability. This could draw upon some of the recommendations made earlier made by the Vidhi Law Centre for the harmonization of the PWD and RTE Acts⁶³³.
- More specifically, all private schools need to adhere to RTE norms and standards on infrastructure for the inclusion of children with disabilities (ramps, handrails, etc.)⁶³⁴ and provide for reasonable accommodation⁶³⁵.

- There must be penalties for contravening these provisions. Thus, Uttar Pradesh and Sikkim state Rules under the RPWD Act⁶³⁶ state that private schools may not receive recognition unless they comply with these standards⁶³⁷.
- India, likewise, needs distinctive standards for special schools for persons with disabilities that address their specific roles. However, this would require specific regulations that are outside the purview of this document.

CONCLUSION

Certain key principles around school establishment, recognition and affiliation of schools that emerge from this section are:

- Schools need to remain not-for-profit, and facilities should not be used for commercial purposes.
- The applicant school must show evidence of adequate financing to ensure the sustainability of the school.
- Schools need to demonstrate the need for an additional school in a proposed locality.
- Schools must adhere to national standards in terms of curriculum, textbooks adhering to the National Curriculum framework and promoting constitutional values.
- Optimum infrastructure and facilities, teaching-learning materials, and other infrastructure necessary for learning, child safety and well-being. At the same time, the needs of teachers and other personnel would need to be met.

PROVISIONS REGARDING THE PROCESS FOR OBTAINING AND RENEWING RECOGNITION IN PRIVATE SCHOOLS

Obtaining recognition is critical to ensure all schools adhere to the standards outlined in the previous section. However, processes of obtaining the same are often delayed. Thus, in its study of inspections in 11 states, the CAG notes massive shortfalls and an inability of the state departments to cover even the minimum mandated number of inspections⁶³⁸. Thus, in Delhi, the mandated time to obtain the essentiality and recognition certificates is eight months. However, research suggests that the process can take over 73 months in practice; just 60 schools were inspected in 2018 in the state due to capacity constraints in the government⁶³⁹. An inspector is responsible for inspecting 205 schools in Delhi.⁶⁴⁰

Inspections, furthermore, have been criticised by private school owners as triggering corruption. Furthermore, many of the schools that have gained recognition fail to adhere to even a reduced set of quality standards⁶⁴¹. The inspection system, furthermore, does not place adequate focus on monitoring teaching quality⁶⁴². Many unrecognized, especially low fees private schools instead operate through an informal shadow institutional framework,⁶⁴³ a set of codified yet informal set of norms and procedures that enable them to function without formal recognition. The absence of clear incentives for obtaining recognition or real penalties for remaining unrecognized means there is no incentive to apply for recognition.⁶⁴⁴

This section looks at the processes for the recognition of private schools, their upgradation and closure. This includes an overview of the processes adopted by various states for private schools to obtain recognition, the measures for upgrading schools already in existence and mechanisms for derecognition of those schools which are no longer able to adhere to the prescribed norms. Processes to be adopted for the voluntary closure of schools have also been included in this section. This section is not covered under the AIPA framework unless specifically mentioned. Accordingly, this column is not included in this analysis.

MAJOR REGULATORY CHALLENGES:

- Despite a clearly defined process of recognition, unrecognized schools continue to exist.
- Recognition processes are often delayed due to inadequate human resources within the government to undertake the tasks.
- recognition process is perceived as a bureaucratic hurdle, not a learning exercise where the school receives feedback or one that is undertaken to ensure that the rights of the child are upheld.

21. WHAT IS THE PROCESS OF OBTAINING RECOGNITION?

Existing provisions	FICCI framework
No school running without recognition	
<ul style="list-style-type: none"> • No private school should not run without obtaining a certificate of recognition by making an application in such form and manner as may be prescribed. (RTE Act) • No school other than a recognized school or a school awaiting recognition under the state Act can have the word "school" or its equivalent in any Indian language as part of its name. (MP⁶⁴⁵) • An unrecognized school should not be allowed to conduct classes on the premises of any recognised school. (Andhra Pradesh⁶⁴⁶) 	Not covered

Authority or authorities tasked for the provision of recognition	
<ul style="list-style-type: none"> The authority prescribed shall issue the certificate of recognition in such form, within such period, in such manner, and subject to such conditions, as may be prescribed: Provided that no such recognition shall be granted to a school unless it fulfils norms and standards specified under Section 19 (RTE Act). A formal authority (Andhra Pradesh⁶⁴⁷ and Jharkhand⁶⁴⁸), specified government officials (Deputy Commission through the Deputy Direction of school education in Arunachal Pradesh⁶⁴⁹ or the Deputy Director of Public Instruction in Karnataka⁶⁵⁰) or committee is tasked with providing recognition (at the block level in Uttarakhand⁶⁵¹ or a scrutiny committee for the entire state/different areas in Maharashtra⁶⁵²). This committee could include an educationist, a government representative, and the respective Inspecting Officer (Nagaland)⁶⁵³. Nominees of the concerned State Board or other relevant bodies (e.g., Madrasah Board) could also be included (West Bengal⁶⁵⁴). Intimation/application must be given to this group to obtain recognition in a format prescribed. This could be in electronic (MP⁶⁵⁵, Nagaland⁶⁵⁶ and West Bengal⁶⁵⁷) or other modes prescribed. A receipt for the submission should be issued to the applicant (Nagaland⁶⁵⁸ and Uttarakhand⁶⁵⁹). 	Not covered
Scrutiny and display of application	
<ul style="list-style-type: none"> Every self-declaration received shall be placed by the District Education Officer in the public domain within fifteen days of its receipt. (RTE Model Rules). In WB, a preliminary hearing is held where documents and deposit of processing charges are verified.⁶⁶⁰ The declaration should be placed in the public domain within a stipulated number of days of the submission to allow scrutiny for 15 (in Tamil Nadu⁶⁶¹, Tripura⁶⁶² and UP⁶⁶³) or 30 days (Uttarakhand⁶⁶⁴, Manipur⁶⁶⁵, Odisha⁶⁶⁶, Sikkim⁶⁶⁷ and Meghalaya⁶⁶⁸). Putting the application in the public domain includes disclosure electronically and physical display on the notice board of the Gram Panchayat (Odisha⁶⁶⁹). 	<p>On receipt of the application, the appropriate authority shall scrutinize and cause such verification of the application as is necessary, and if satisfied, issue a letter of intent to the applicant within ninety days from the receipt of such application.</p> <p>If no decision is taken within the specified period, permission shall be deemed to have been granted.</p>
Inspection to verify information provided	
<ul style="list-style-type: none"> The District Education Officer shall, within three months of the receipt of the self-declaration, cause the on-site inspection of such schools which claim to fulfil the norms and standards and the conditions mentioned. The inspection report shall be placed by the District Education Officer in the public domain (RTE Model Rules). In all states, the recognition would be made after an on-site inspection to verify the information disclosed. This inspection should be done within one (Manipur⁶⁷⁰ and Meghalaya⁶⁷¹) or three months from the submission of the application (Goa⁶⁷², Himachal Pradesh⁶⁷³, Kerala⁶⁷⁴, Sikkim⁶⁷⁵, TN⁶⁷⁶, Tripura⁶⁷⁷, Mizoram⁶⁷⁸ and UP⁶⁷⁹). The report of inspection must be placed in the public domain to allow for any objections (Goa⁶⁸⁰, Himachal Pradesh⁶⁸¹, Karnataka⁶⁸², Sikkim⁶⁸³ and TN⁶⁸⁴). 	Not covered
Granting of recognition	
<ul style="list-style-type: none"> Schools found to be conforming to the norms, standards and conditions shall be granted recognition by the District Education Officer in Form No. 2 within a period of fifteen days from the date of inspection. (RTE Model Rules). 	Every application made shall be considered by the appropriate authority and the decision thereon shall

<ul style="list-style-type: none"> • Schools which do not conform to the norms, standards, and conditions after three years from the commencement of the RTE Rules shall cease to function (RTE Model Rules). • Recognition must be granted if the school fulfils the norms, within 15 days (Himachal Pradesh⁶⁸⁵ and Mizoram⁶⁸⁶), one month from the date of inspection (Goa⁶⁸⁷, Karnataka,⁶⁸⁸ Kerala,⁶⁸⁹ Manipur,⁶⁹⁰ Mizoram,⁶⁹¹ Meghalaya,⁶⁹² Sikkim,⁶⁹³ TN⁶⁹⁴ and Uttarakhand⁶⁹⁵) or 45 days (MP⁶⁹⁶). • The authority may, after checking if all the conditions are fulfilled, either grant or refuse the recognition certificate (Andhra Pradesh⁶⁹⁷ and Delhi⁶⁹⁸). • In case the application is denied, the reasons thereof need to be intimated to the applicant (Andhra Pradesh⁶⁹⁹, Arunachal Pradesh⁷⁰⁰ and Uttarakhand⁷⁰¹). • If the applicant school shows a deficiency in complying with the norms, the school may reapply, and the inspection committee may inspect the school within a month/three months and shall submit its report on the points of deficiency. If the deficiencies are removed the recognition may be granted. (TN⁷⁰² and WB⁷⁰³). • The list of schools that have received recognition or failed to receive recognition must be maintained (by the DEO in UP⁷⁰⁴) and placed in the public domain. (TN⁷⁰⁵). 	<p>be communicated to the applicant within three months from the date of receipt of the application.</p>
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Recommendations:

- Ensuring all schools are recognized:
 - No private school should run without recognition. This includes not allowing unrecognized schools to run classes on their premises.
 - It should be the responsibility of the PRIs and ULBs, with the support of CRCs, to ensure all educational institutions running in their territory (including any running without registration) register with a national online registry. Periodic surveys are to be undertaken with the support of the local community, local SMC members and schoolteachers to ascertain if any new educational institutions have opened.⁷⁰⁶
- Transparency of applications:
 - A private school seeking recognition would submit to the concerned authority in a format prescribed by the government.
 - This should ensure that all private schools adhere to the minimum standards of the RTE Act and other minimum provisions essential for child safety and wellbeing. The process of submission must be rationalized to ensure that only critical information is being sought to avoid delays in obtaining documents and their subsequent verification. This application will need to be scrutinized to ensure that the form is complete and includes all information sought. A receipt would be issued acknowledging the application.
 - The declaration should be placed in the public domain (both online and on the notice board of the Gram Panchayat) within 15 days of the submission to allow scrutiny.
 - A report on the status of recognition of private schools, outcomes of consultations with PTAs and a broad sense of the functioning of private schools in a district should be shared with the relevant education committee of the Zilla Panchayat or equivalent body under the 73rd and 74th Amendments.
 - The list of recognized and unrecognized schools must be placed in the public domain.
- Gaining recognition:
 - There should be a designated public official tasked with granting recognition. This official should be allotted several schools to be inspected in a year which is fixed based on a realistic assessment of feasibility. The position must likewise be backed by adequate resources to enable optimum functioning.
 - All positions of inspectors in line with this requirement must be filled in a stipulated time.
 - The decision of recognition is not to be taken based on the decision of the inspector alone. This should take the form of self-assessment and peer review enabling multiple stakeholders to give feedback about the functioning of the school and make suggestions for improvement. This should ensure that all schools comply with the minimum norms for recognition and involve a process to understand the issues of parents, particularly at the stage when recognition is

being renewed. A detailed description of how the inspection process is to be undertaken is described in the next chapter.

- The inspection should be undertaken within a stipulated time from the submission of the application.
- The recognition would be made after an on-site inspection to verify the information disclosed and take the form of supportive supervision.
- The report of the inspection is to be displayed both physically in the school and online (both on the website of the school and a specifically maintained website maintained by the government for the purpose). These reports should be done in a simple consistent format.
- Recognition:
 - Recognition must be granted if the school fulfils the norms, within one month from the date of inspection. If no decision is taken within the specified timelines, temporary permission could be deemed to have been granted for one year after which the school would need to re-apply.
 - If the applicant school shows a deficiency in complying with the norms, the school may reapply, and the inspection committee may inspect the school within a month and shall submit its report on the points of deficiency. If the deficiencies are removed the recognition may be granted.
 - In case the application is denied, the reasons thereof need to be intimated to the applicant.
- The recognition may be time-bound for three years and may be extended in a manner prescribed.
- Schools whose application is denied or experienced corruption or other illegal behaviour during the inspection may file a complaint around the same with the concerned authorities. A clear grievance redress mechanism needs to be defined to ensure there is no conflict of interest within/among state officials/departments.
- Schools that have received recognition could then apply for affiliation with a specific Board of education.

22. DETAILS OF THE PROCESS TO BE FOLLOWED BY FILING THE APPLICATION FOR RECOGNITION?

Existing state laws	AIPA and demands of parent associations	National frameworks	FICCI framework
<p>The application should contain details including</p> <ul style="list-style-type: none"> • The area/zone/alternative zone in which the new school is proposed to be established. (Arunachal Pradesh⁷⁰⁷, Haryana,⁷⁰⁸ Delhi,⁷⁰⁹ Goa⁷¹⁰ and Himachal Pradesh⁷¹¹). • An estimate of the student intake and the stage of education intended to be imparted in the new school. (Arunachal Pradesh⁷¹² and Haryana⁷¹³). • The financial resources from which the expenses of the establishment and running of the school are proposed to be met. (Arunachal Pradesh⁷¹⁴, Haryana⁷¹⁵, Delhi⁷¹⁶, and Madhya Pradesh⁷¹⁷). • Composition of the managing committee of the proposed new school. (Arunachal Pradesh⁷¹⁸, Haryana⁷¹⁹ and Delhi⁷²⁰). • The proposed procedure of hiring and scale of pay for the personnel in the school. Salaries should not fall below the minimum wage of the state. (Arunachal Pradesh⁷²¹, Haryana⁷²² and Delhi⁷²³). • Admissions, tuition, and other fees, which would be levied on students. (Arunachal Pradesh⁷²⁴ and Haryana⁷²⁵) 	<p>The District committee constituted under the Act shall have the power to inspect and seize the records of an unaided private school.</p>	<p>No school shall be established without obtaining a certificate of recognition (RTE Act, 2009).</p>	<p>An educational entity shall be permitted to establish or manage a school, only if it conforms to the minimum norms and conditions prescribed concerning:</p> <ul style="list-style-type: none"> a) adequacy of funds to ensure continued and efficient maintenance of a school. b) suitable infrastructure in compliance with standard building norms, health, and sanitary norms and the Swachh Bharat Mission. c) suitable policies for child protection, disaster management and prevention of sexual harassment. d) qualified and trained teaching and non-teaching staff. e) scheme of management as required. f) provisions for enabling affiliation to any Board.

<ul style="list-style-type: none"> Any other facility, which is proposed to be provided for the students at the proposed new school. (Arunachal Pradesh⁷²⁶) Evidence of the registration of the school under a society or public trust constituted under some law in force (Karnataka,⁷²⁷ Kerala⁷²⁸, Manipur⁷²⁹, Meghalaya⁷³⁰, Mizoram⁷³¹ and Odisha⁷³²). Adherence with the infrastructure and other norms laid down for recognition. (RTE Act and rules) <p>It should also include an undertaking that the school will (Andhra Pradesh⁷³³, Karnataka⁷³⁴, Kerala⁷³⁵, Manipur⁷³⁶, Punjab⁷³⁷, Tripura⁷³⁸, Meghalaya⁷³⁹, Mizoram⁷⁴⁰ and Odisha⁷⁴¹)</p> <ul style="list-style-type: none"> conform to the values enshrined in the Constitution. will not run for profit to any individual, group or association of persons. ensure that the school buildings or other structures or the grounds shall not be used for a non-educational activity. be open to inspection by any officer authorized by the State Government/ local authority. furnish such reports and information as may be required by the competent authority. <p>In addition, it should include submitting an undertaking that the school will</p> <ul style="list-style-type: none"> ensure that the fees collected should not be utilized for any purpose other than for the development of the same school in which the fees have been collected. (Kerala⁷⁴²) promote the regional language and the use of the mother tongue and cultural heritage of the State and no teacher or student shall be compelled to attend religious instruction. (Kerala⁷⁴³) the school buildings or other structures or the grounds shall not be used during the day or night for commercial or residential purposes (except for the residence of any employee of the school) or for the political or non-educational activity of any kind whatsoever (Andhra Pradesh⁷⁴⁴, Assam⁷⁴⁵, Delhi⁷⁴⁶ and HP⁷⁴⁷). school building and its premises shall not be used during school hours and school working days for other purposes (Tripura⁷⁴⁸). biometric and unique identification of children maintained in school (Kerala⁷⁴⁹). 			<p>g) conformity with the National Curriculum Framework and/or the State's educational objectives, as amended from time to time.</p> <p>h) facilities for physical education, library service, laboratory works, workshop practice, canteen, and co-curricular activities.</p> <p>i) information and communications technology-enabled education; and</p> <p>j) any other matter which it may deem necessary from time to time.</p>
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Application for its continuance shall be made not later than three months before the expiry of the period of the temporary recognition. (Andhra Pradesh ⁷⁵⁰)			
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Recommendations

- The application should contain information about the school that provides
 - Information necessary to determine whether the school adheres to the minimum standards for recognition of schools in the state. This includes the school's intended location, infrastructure and facilities, student intake, staffing structure, admission policies and fees to be charged to students.
 - From a management point of view, it should provide an overview of the financial resources, a summary of the fees/other charges to be levied, the composition of the managing committee and details of the evidence of the registration of the school under a society or public trust constituted under some law in force.
 - Undertaking that the school will adhere to other regulations and obligations.
- A timeline for obtaining recognition is necessary which needs to be dovetailed with the academic calendar.

23. WHAT IS THE PROCESS FOR THE REJECTION OF AN APPLICATION FOR RECOGNITION?

Existing provisions	FICCI framework
Rejection	
<ul style="list-style-type: none"> The competent authority may reject the application if it considers that any one of the conditions of recognition has not been satisfied (Andhra Pradesh⁷⁵¹ and Assam⁷⁵²). The grounds of rejection shall be communicated in writing (Delhi⁷⁵³ and Andhra Pradesh⁷⁵⁴) to the school within two months from the date of receipt of the application (Andhra Pradesh⁷⁵⁵) or before the 1st of May of the academic year, and the same shall be displayed on the State Government Website (Maharashtra⁷⁵⁶). The SCPCR shall after seeking an explanation from the concerned school and after due examination, prepare and send its recommendations to the State Education Department. The State Department based on the recommendations convey its decision to the DEO. The DEO shall order cancelling the recommendation granted (Tripura⁷⁵⁷). 	The reasons for not granting recognition shall be communicated to the applicant within the said period.
If immediate approval is not granted	
<ul style="list-style-type: none"> Any applicant to whom recognition is refused may appeal before the State Government whose decision thereon shall be final. (Assam⁷⁵⁸) 	Not covered
Suspension of recognition	
If the appropriate authority is satisfied that the deficiencies or defects are capable of immediate or early removal, it may, instead of withdrawing the recognition, suspend the recognition for such period as it may think fit to enable the managing committee of the school to remedy the deficiencies or defects to the satisfaction of the appropriate authority. (Delhi ⁷⁵⁹ and Manipur ⁷⁶⁰)	Not covered
Transfer of permission	
<ul style="list-style-type: none"> If the management of a private education institution is proposed to be transferred, the management and the person to whom the management is proposed to be transferred may before such transfer, apply jointly to the competent authority for approval. On any transfer without approval for the same within three months. Fees for the application have been prescribed. (Himachal Pradesh⁷⁶¹) Whenever an educational agency of any private school proposes to transfer the management of the school to another educational agency having similar objectives, such educational agency should apply to the competent authority for necessary approval. An application for the same shall be in such form accompanied by such documents as may be prescribed⁷⁶² The following are considered reasons for lapsing of recognition (Haryana⁷⁶³) 	

a) the school ceases to exist or moves to a locality not already approved 'by the Department. b) school is transferred to a different managing body not approved by the Department	
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Recommendations

- If the competent authority is of the view that the school authority has failed to fulfil the requirements for recognition, it should have the power to refuse the same to the school.
- The authority must provide the school with the reason for rejection in writing.
- The rejection must be done within a stipulated time frame from both the submission of the application and well ahead of the start of a new academic session.
- A competent authority must be given the power to suspend the recognition if the school is found to not fulfil the requirements for a given period. If the school removes the deficiencies, the authority can remove the suspension.

24. DURATION OF VALIDITY OF RECOGNITION AND LAPSING OF RECOGNITION?

Existing provisions	FICCI framework
Duration of validity	
<ul style="list-style-type: none"> • Validity is two (Assam⁷⁶⁴ and Manipur⁷⁶⁵), three years (MP⁷⁶⁶ and West Bengal⁷⁶⁷) or five years (Uttarakhand⁷⁶⁸). While Haryana⁷⁶⁹ includes provision for permanent recognition, the recognition granted to schools affiliated to any board shall be reviewed after every 10 years; if the school fails to comply with the conditions of the rules, the appropriate authority can withdraw its recognition. The validity may be extended in the manner prescribed. (MP⁷⁷⁰) • If the school fulfils the required norms and standards within the time frame specified, the District Education Officer can provide formal recognition; if it does not claim recognition during this time, it would be derecognized. (Uttarakhand⁷⁷¹) 	The permission shall be valid for two years, which may further be extended by the appropriate authority upon receipt of an application in writing, in such form and manner as may be prescribed.
Permanent Recognition is granted	
<ul style="list-style-type: none"> • Permanent recognition is granted if (Andhra Pradesh⁷⁷²) <ul style="list-style-type: none"> ◦ the school has a pucca building ◦ completed 10 years of existence after receiving temporary recognition, management has implemented all instructions issues ◦ admission has not been denied on religion, caste, race, or language ◦ it has not encouraged any propaganda or practice that will insult religion ◦ not refused to be an exam centre for board exams. • If the temporary recognition must have worked satisfactorily fulfilling the terms and conditions for at least three years from the date of temporary recognition, the management has complied with the provision of the rules and orders issued by the Director of Education, students have shown satisfactory examination results and the institution complies with the minimum norms laid down. (Rajasthan⁷⁷³) 	
Temporary recognition is provided	
<ul style="list-style-type: none"> • The initial permission may be temporary (Andhra Pradesh⁷⁷⁴ and Rajasthan⁷⁷⁵). • If the school only partly fulfils the norms, a school may be granted a provisional certificate granting the school permission to run the school for three years (Uttarakhand⁷⁷⁶). 	
Lapsing of recognition	

<ul style="list-style-type: none"> If the applicant fails to establish the school within one (Delhi⁷⁷⁷), year and a half (Maharashtra⁷⁷⁸) the application is deemed to have lapsed. In Assam⁷⁷⁹, if the applicant fails to establish it in two years, he/she can apply for a year's extension. Other reasons for lapsing recognition include (Haryana⁷⁸⁰) <ul style="list-style-type: none"> c) in the case of provisional recognition, the conditions imposed are not fulfilled on the expiry of the period of provisional recognition, d) an application for permanent application is not received in the office of the District Education Officer concerned three months before the expiry of the said period. 	Not covered
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Recommendations

- There should be validity of three years for the certificate post which the school should reapply for the renewal of recognition.
- The renewal must be done only after an onsite inspection undertaken by a panel constituted for the same. There will not be any permanent recognition.
- If a school is not made functional within one year of getting recognition, the recognition should lapse.
- Re-recognition would be required in the event that there are significant changes in the school including a change in location or transfer to a new unrecognized management body.

25. REQUIREMENTS AND PROCESSES FOR UPGRADING THE SCHOOL OR STARTING A SECOND SHIFT?

Existing provisions	FICCI framework
Process of upgrading schools	
<ul style="list-style-type: none"> Upgrading schools requires permission (Assam⁷⁸¹ and Andhra Pradesh⁷⁸²). The competent authority will assess the need and abilities of the school before granting permission (Assam⁷⁸³ and Chhattisgarh⁷⁸⁴). 	The application must be submitted to the appropriate authority for permission to upgrade the school.
Upgrading without permission	
<ul style="list-style-type: none"> Where recognition or permission is not granted, the reasons for not granting such recognition or premises shall be communicated to the applicant (Chhattisgarh⁷⁸⁵). Opening additional classes in an existing school, without the prior permission of the Authority, shall on conviction be punishable with imprisonment for a term which may extend to six months or a fine which may extend to fifty thousand rupees or with both. (Goa⁷⁸⁶) 	Not covered
Shift	
<ul style="list-style-type: none"> That no institution shall run in a shift system without explicit permission from the competent Authority. All institutions shall follow the timings as laid down by the Competent Authority. (Andhra Pradesh⁷⁸⁷) 	

Recommendations

- Schools should not upgrade classes beyond the range of grades for which recognition has been granted without permission.
- A process for obtaining up-gradation should be prescribed.
- Permission for upgrading the school should be granted only after assessing its ability to meet the post-upgradation requirements.
- Reasons for not granting permission for upgradation should be communicated to the applicant in the event of the permission being denied.
- Upgrading a school without permission should result in penalties for the school management.

26. WHAT ARE THE PROVISIONS FOR THE WITHDRAWAL OF RECOGNITION AND OTHER PENALTIES FOR FAILING TO ADHERE TO NORMS?

Existing state laws	National Frameworks	FICCI framework
<ul style="list-style-type: none"> On the contravention of the conditions of recognition, the prescribed authority shall, by an order in writing, withdraw recognition: Provided that such order shall contain a direction as to which of the neighbourhood school, the children studying in the derecognised school, shall be admitted: Provided further that no recognition shall be so withdrawn without giving an opportunity of being heard to such school, in such manner, as may be prescribed. With effect from the date of withdrawal of the recognition under sub-section (3), no such school shall continue to function (RTE Act). If a school ceases to fulfil the norms and standards for the recognition, the competent authority must issue notice to the school and can seek an explanation. If this is found unsatisfactory, the government can cause an inspection to be undertaken (Chhattisgarh,⁷⁸⁸ Goa⁷⁸⁹, Gujarat⁷⁹⁰, Karnataka⁷⁹¹, Kerala⁷⁹², Manipur⁷⁹³, Meghalaya⁷⁹⁴, Mizoram⁷⁹⁵, Nagaland⁷⁹⁶ and Odisha⁷⁹⁷). A committee to inspect the school must be formed with representation from civil society representatives, media people, parents' association, and a government representative. The committee shall prepare a report and submit it to the competent authority based on which the decision to withdraw or suspend recognition must be taken. (Goa⁷⁹⁷, Gujarat⁷⁹⁸, Karnataka⁷⁹⁹, Kerala⁸⁰⁰, Manipur⁸⁰¹, Meghalaya⁸⁰², Mizoram⁸⁰³, Nagaland⁸⁰⁴, Haryana⁸⁰⁵, HP⁸⁰⁶, Uttarakhand⁸⁰⁷ and Odisha⁸⁰⁸). The management of the school must be allowed to be heard before withdrawing recognition. (Haryana⁸⁰⁷, Jammu & Kashmir⁸⁰⁸ and Himachal Pradesh⁸⁰⁹). The administration can take the support of the civil administration or police if the occasion requires this. (Assam⁸¹⁰) Other grounds of de-recognition include <ul style="list-style-type: none"> support by the management or staff for agitation against government authority or disaffection against the government or involvement of students in political meetings (Jammu and Kashmir⁸¹¹, and Himachal Pradesh⁸¹²). denial of admission to any citizen on the grounds of religion, race, caste, language, or any of the same. 	<p>RTE Act: Where the District Education Officer, on his motion, or any representation received from any person, has reason to believe, to be recorded in writing, that a school has violated one or more of the conditions for grant of recognition or has failed to fulfil the norms and standards, shall issue a notice to the school specifying the violations of the condition of the grant of recognition and seek its explanation within one month, in case the explanation is not found to be satisfactory or no explanation is received within the stipulated; time period, the said Officer may cause an inspection of the school, to be conducted by a Committee of three to five members comprising of educationists, civil society representatives, media, and government representatives, which shall make due inquiry and submit its report, along with its recommendations for continuation of recognition or its withdrawal.</p> <p>The order of withdrawal of recognition passed by the said Officer shall be operative from the immediately succeeding academic year and shall specify the neighbourhood schools to which the children of that school shall be admitted.⁸¹⁷</p>	<ul style="list-style-type: none"> Grounds of derecognition need to be specified. If a school ceases to fulfil the norms and standards, the competent authority must cause an inspection of the school. A committee to inspect the school must be formed with representation from civil society representatives, media people, parents' association, and a government representative. The committee shall prepare a report and submit it to the competent authority based on which the decision to withdraw or suspend recognition must be taken. The management of the school must be given an opportunity to be heard before withdrawing recognition. The administration should be able to take the support of the civil administration or police if the occasion requires this.

<p>Propagating or practising the wounding of religious feelings or running educational institutions on religious or political affiliation or allegiance or a communal basis (Arunachal Pradesh⁸¹³).</p> <ul style="list-style-type: none"> ○ failure to comply with orders of the competent authority regarding equipment, syllabi, textbooks, appointment, punishment, and dismissal of teachers, hiring of unqualified teachers, failure to ensure safety and collecting unauthorized fees/funds with a profit-oriented motive. (Arunachal Pradesh⁸¹⁴). • Any person who establishes or runs a school without obtaining a certificate of recognition or continues to run a school after withdrawal of recognition, shall be liable to a fine which may extend to one lakh rupees and in case of continuing contraventions, to a fine of ten thousand rupees for each day during which such contravention continues. (RTE Act) • Rajasthan⁸¹⁵ provides several appellate authorities with whom an appeal may be filed in case of denial of recognition based on the nature of the educational institution. The memorandum of appeal shall contain the full facts of the case and shall be accompanied by a copy of the order appealed against and other relevant documents in support of the appeal. On receipt of the appeal, the Appellate Authority shall call for the relevant records from the authority who refused recognition and after examination of such record and giving an opportunity to be heard. • The order for de-recognition shall be operative from the immediately succeeding academic year and shall specify the neighbourhood schools to which the children of the derecognized school shall be admitted. (Tripura⁸¹⁶) 		
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Recommendations

- If there is a suspicion or complaint that a school has ceased to fulfil the norms and standards, the competent authority must cause an inspection of the school. This must include representation from civil society representatives, media people, parents' associations, and a government representative. The administration should be able to take the support of the civil administration or police if the occasion requires this to ensure that the inspection takes place. The District Fees Regulation committee shall prepare a report and submit it to the competent authority based on which the decision to withdraw or suspend recognition must be taken.
- Grounds of derecognition need to be specified and due process followed while making the decision. Management must be given a chance to respond.
- A process of closing the school to ensure minimum disruption to children's education and smooth disposal of assets of the school would need to be prescribed. No school should be ordinarily closed without permission of competent authorities and giving notice of a year.

27. PROCESS FOR VOLUNTARY CLOSING DOWN OF SCHOOLS?

Existing provisions	FICCI framework
No closure without permission and due notice	
<ul style="list-style-type: none"> No school or grade in the school should be closed without permission from the competent authority (Arunachal Pradesh,⁸¹⁸ Himachal Pradesh,⁸¹⁹ Delhi⁸²⁰ and Tamil Nadu⁸²¹). The school should give notice of a year (Odisha,⁸²² Goa,⁸²³ Manipur,⁸²⁴ Meghalaya,⁸²⁵ Odisha⁸²⁶, Puducherry⁸²⁷, Rajasthan⁸²⁸, Sikkim,⁸²⁹ Tamil Nadu,⁸³⁰ Uttarakhand⁸³¹ and West Bengal⁸³²), 18 months (Maharashtra⁸³³) or one month (Andhra Pradesh⁸³⁴) in advance of the impending closure and inform the parents about the school's decision. No closure without satisfying competent authority that adequate arrangements have been made for either continuance of instructions or the refund of fees paid to students (Himachal Pradesh⁸³⁵). In Tamil Nadu⁸³⁶, permission to close may be denied if the notice given is defective, the continuance of the instruction of the pupil of that private school or class or course or medium of instruction, as the case may be, for the period of study for which the pupil have been admitted has not been assured; the reason adduced for the closure is the lack of finance even if factually the educational agency has adequate financial resources, the reasons for closure are directly attributable to the mismanagement or maladministration on the part of the educational agency, the reasons given for closure are not bonafide or the closure will adversely affect the educational opportunity available to the pupils of the local area where the private school is situated. Where the competent authority has refused to give permission for closure, the agency shall continue to run the private school or class or course or medium of instruction. Failing to give notice of closure should carry penalties as prescribed by the government. Any institution which has been closed without prior permission of the competent authority or any institution which has been closed with the prior permission of the competent authority and has remained so for more than five years, shall be treated as a defunct institution. If the defunct institution is proposed to be reopened, it should be treated as a fresh proposal and all the conditions prescribed for the establishment of the new institution shall be applicable to it. (Andhra Pradesh⁸³⁷) 	<ul style="list-style-type: none"> No school should be closed until a notice of six months has been submitted. After the notice, the school will be given an opportunity to be heard and if the authority is convinced with the reason given by the school for being closed, s/he can grant the permission. Authority shall report to the Government for taking appropriate action to accommodate the affected students. The Government shall take appropriate action to accommodate such affected students to other available recognised schools in the neighbourhood.
Safeguarding children's interests	
The school must make arrangements for the continuance of the instruction of the pupils of private schools for the period of study for which pupils have been admitted (Tamil Nadu ⁸³⁸).	Not covered.
Handling property, assets, and records	
<ul style="list-style-type: none"> A process for handing over custody of properties, records and accounts must be undertaken (Arunachal Pradesh⁸³⁹ and Andhra Pradesh⁸⁴⁰). No transfer of assets of such a school can be undertaken without the permission of the competent authority (Arunachal Pradesh⁸⁴¹ and Andhra Pradesh⁸⁴²). 	Not covered.

<ul style="list-style-type: none"> No educational agency shall, except with the prior permission in writing of the competent authority, transfer the property of a private school by way of sale, exchange, mortgage, charge, pledge, lease, gift or in any other manner whatsoever (Tamil Nadu⁸⁴³, Andhra Pradesh⁸⁴⁴ and Sikkim⁸⁴⁵). 	
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Recommendations

- No school or grade in school should be closed without permission from the competent authority.
- A process for doing so needs to be prescribed.
- The school should give notice at least a year in advance and should inform the parents about the school's decision.
- School should present to the authority its plan to admit children to recognized schools in the neighbourhood.
- Failing to give notice of closure should carry penalties as prescribed by the government.
- A process of disposing of the assets of the school would need to be prescribed both during the process of closure of the school and after the same.

28. WHAT IS THE PROCESS PRESCRIBED FOR THE INSPECTION?

Existing state laws	FICCI framework
Provision for inspection	
<ul style="list-style-type: none"> Inspection should be undertaken at least once in each financial year (Delhi⁸⁴⁶ and Uttarakhand⁸⁴⁷) or be undertaken suo moto by the State Government or competent authority (Karnataka⁸⁴⁸, Meghalaya⁸⁴⁹ and Tamil Nadu⁸⁵⁰) Unless a surprise visit is considered necessary, advance intimation of the proposal to carry out an inspection of a school shall be given to the head of the school. (Delhi⁸⁵¹) Schools should be open to inspection by the Director of Medical Services, the Health Officer of the local authority concerned, the Medical and Health Officer authorized by the appropriate authority or the Director to examine the health of students or the sanitary conditions of the institution and surroundings. (Assam⁸⁵²) 	Not covered
Rights of inspectors	
<ul style="list-style-type: none"> The competent authority has the power to enter the educational institution at any time during normal working hours to inspect any records, registers, documents or any movable or immovable properties or the teaching or other work related to that institution. (Andhra Pradesh⁸⁵³, Maharashtra⁸⁵⁴, Delhi⁸⁵⁵, Telangana⁸⁵⁶ and Arunachal Pradesh⁸⁵⁷). Inspecting officials may seize any such record, register or other documents to ascertain whether there is or has been any contravention of the provisions of the state Act. (Telangana⁸⁵⁸) 	Not covered
Records of inspection	
The authority must produce a report of such inspection, and if any deficiency is found, must ask the school to address it within a specified time limit. The school shall be allowed 30 days to rectify the identified defects. If action is not taken, the Director can act against the school to rectify the deficiencies. (Sikkim ⁸⁵⁹)	Not covered

Recommendation

- Inspection should be undertaken at least once in three years in conjunction with the process of recognition unless a surprise visit is considered necessary.
- The competent authority should be given the power to enter the educational institution at any time during normal working hours to inspect any records (including financial records), registers, documents or any movable or immovable properties or the teaching or other work related to that institution. Inspections by public health officials should be permitted to examine the health of students or the sanitary conditions of a school.

- Inspections should be undertaken by a panel including the following members. The review team will be decided by lottery and the team will be provided logistical and other support by the government.
 - Private school peer representative. Each private school nominates a faculty member to be a peer reviewer for inspections taking place in the locality. The peer representative should not belong to the same school chain or be part of a school having competing operations in the same area as the school being reviewed.
 - Parent representative. The PTA of a school will nominate a parent representative who would be trained by the government to undertake the role.
 - Educationist
 - The school inspector (heading the panel as a government representative).
- Orientation of the inspection team would need to be undertaken by the government and materials for inspection updated to enable the inspection process to fulfil this expanded mandate.
- The authority must produce a report of such inspection, and if any deficiency is found, must ask the school to address it within a specified time limit.
- Research highlights the absence of dedicated government capacities as a critical gap in the inspection process. Research suggests that adequate human resources are often not available to undertake inspections, examine documents once submitted and enforce rules based on the findings. In its study of inspections in 11 states, the CAG notes massive shortfalls and an inability of the state departments to cover even the minimum mandated number of inspections⁸⁶⁰. As such, it would be critical to ensure that any regulatory framework puts in place the requirement for adequate personnel to undertake regulation.

29. WHAT ARE THE PROCESSES FOR TAKING OVER A PRIVATE SCHOOL BY THE GOVERNMENT?

Existing state laws	FICCI framework
Provision for taking over schools	
<ul style="list-style-type: none"> • The government should have the right to take over a private school if it is found to be in the public interest or to secure the proper management of the institution to do so. (Goa⁸⁶¹, Karnataka,⁸⁶² Sikkim,⁸⁶³ Arunachal Pradesh,⁸⁶⁴ Andhra Pradesh,⁸⁶⁵ Meghalaya,⁸⁶⁶ Uttar Pradesh,⁸⁶⁷ and Tripura⁸⁶⁸) • After taking over, all persons who are in the management on the date of the notification shall cease to hold any office in the management and shall be deemed to vacate their office as of that date. (Arunachal Pradesh,⁸⁶⁹ Sikkim,⁸⁷⁰ and Tripura⁸⁷¹) • No resolution passed by any member of the managing committee of such school shall be given effect unless approved by the Government. (Meghalaya⁸⁷²) 	Not covered
The processes that must be followed	
<ul style="list-style-type: none"> • This should follow due process. Schools must be given a show-cause notice against the proposed action (Meghalaya⁸⁷³ and Tripura⁸⁷⁴) or a notice of one month (Karnataka,⁸⁷⁵ Sikkim,⁸⁷⁶ Arunachal Pradesh,⁸⁷⁷ and Andhra Pradesh⁸⁷⁸) before doing so. • A specific process of taking over a school including taking over the assets, rights, leaseholds, powers, authorities, privileges, and property- movable and immovable including lands, buildings, stores, instruments and vehicles, cash balance, revenue fund, investments and book debts and other rights and interests arising out of such property as they were immediately before the date of taking over the management of the institution (Andhra Pradesh⁸⁷⁹ and Arunachal Pradesh⁸⁸⁰). 	Not covered
Duration for taking over	
The government can take the school for a maximum duration of one (Karnataka ⁸⁸¹) or three years (Madhya Pradesh, ⁸⁸² Goa ⁸⁸³ and Meghalaya ⁸⁸⁴).	Not covered
Procedures to be maintained in the interim	
<ul style="list-style-type: none"> • The government is expected to pay rent for the property at a level that may be fixed by the collector (MP⁸⁸⁵ and Karnataka⁸⁸⁶). • All the liabilities of the educational institution shall stand postponed for five years or till the institution is finally acquired, whichever is earlier (Sikkim⁸⁸⁷). 	Not covered

<ul style="list-style-type: none"> During the period, the service conditions shall not be varied to the disadvantage of the employees, all educational facilities shall continue to be delivered and the School Fund and all other existing funds shall continue to be available for being spent for the purposes of the school. (Meghalaya⁸⁸⁸) and all staff will become employees of the State government and will continue the same rights including gratuity and other entitlements, including when the employment under the State government is terminated (Tripura⁸⁸⁹). 	
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Recommendation

- The government should have the right to take over a private school if it is found to be in the public interest to do so.
- This should follow due process. Schools must be given a notice of three months before doing so and the government should define the maximum duration for which the school can be taken over. This should not be for a period of more than a year at a time to enable the school the opportunity to improve.
- During the period, the service conditions shall not be varied to the disadvantage of the employees, all educational facilities shall continue to be delivered and the School Fund and all other existing funds shall continue to be available for being spent for the purposes of the school.
- No resolution passed by any member of the managing committee of such school shall be given effect unless approved by the Government.

CONCLUSION

Certain key principles around the process of recognition that emerge from this section are:

- No school should run without recognition.
- A specific authority must be tasked with the provision of recognition in consultation with a panel of reviewers. A format for filing applications and provision of recognition must be prescribed.
- The process may include a mechanism for scrutiny and display of the application, a process of inspection to verify the information provided, the granting of recognition and the duration for which the recognition will remain valid.
- Processes for upgrading the school will need to be prescribed to ensure schools can meet most upgradation requirements.
- The process of closing the school to ensure minimum disruption to children's education and smooth disposal of assets of the school would need to be prescribed. No school should be ordinarily closed without the permission of competent authorities and giving notice of a year.
- A process of withdrawal of recognition of the school in the event of it failing to fulfil the norms and standards of recognition would likewise need to be provided.

PROVISIONS REGARDING HUMAN RESOURCES OF THE SCHOOL

An education system is only as good as its personnel, particularly its teachers. There are significant challenges concerning teachers in private schools.⁸⁹⁰ The proportion of teachers in private schools who report working without a job contract is as high as 69% cent. Private school teachers earn only about 43% of what a government schoolteacher does at the primary and general secondary school levels. Rural private school teachers earn less at INR 11,584 and women private teachers in rural schools make only INR 8,212.⁸⁹¹ Teaching in the unaided private school sector is feminized; overall, 62 per cent of teachers are women in these schools, and up to 73% of teachers in private unaided schools located in urban areas are women⁸⁹². It would, therefore, be critical for any legislation to include clear measures to protect the labour rights of teachers and other educational personnel in private schools.

This section reviews the provisions related to the qualifications, recruitment norms and pay and benefits of education personnel, particularly teachers. While the focus is on teachers, it is critical to note that schools have a range of employees including support staff, counsellors, and drivers, among others. The chapter covers the code of conduct of staff, the disciplinary processes to be adopted, the mechanisms for teacher training and steps to be taken to ensure staff motivation. The AIPA model framework does not include this column has been removed.

MAJOR REGULATORY CHALLENGES:

- Large number of teachers in private schools are not qualified. Most also do not receive adequate in-service training.
- Most private school teachers lack job security and access to social protection measures, particularly female teachers.

1. WHAT ARE THE CONDITIONS FOR THE APPOINTMENT AND RECRUITMENT OF PERSONNEL IN A RECOGNIZED SCHOOL?

Existing provisions
Appointments of staff of schools
<ul style="list-style-type: none"> • The school committee of a private school may appoint such staff as may be considered necessary for the efficient functioning of the school provided (TN⁸⁹³). • Employing a teacher with a certificate that has been cancelled or suspended teaching after due inquiry is a basis for the derecognition of a school (Andhra Pradesh⁸⁹⁴).
Records of personnel
<ul style="list-style-type: none"> • Every private educational institution is expected to maintain a schedule of employees including their names, qualifications, grade of pay and other particulars. This must be shared with the Department of Education within three months of the start of a new academic session. (Karnataka⁸⁹⁵). • State government shall make rules regarding the recruitment and conditions of service of employees in all recognized private educational institutions. (Arunachal Pradesh⁸⁹⁶). • The salary and allowances shall be truly reflected in the expenditure statement towards salary and other allowances of the staff submitted by such school to the Fee Determination Committee constituted under the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009. (Tamil Nadu⁸⁹⁷).
Recruitment norms
<ul style="list-style-type: none"> • The qualifications of the principal and teaching staff and their numbers are not lower than those prescribed in government and aided schools (Delhi⁸⁹⁸). • The qualifications prescribed shall not apply to any person who is already employed in any private school in accordance with the qualifications in vogue at the time of appointment (TN).⁸⁹⁹

<ul style="list-style-type: none"> Minimum qualifications for teachers are to be laid down by the academic authority and shall apply to each school (RTE Act, NCTE⁹⁰⁰, Goa⁹⁰¹ and Himachal Pradesh⁹⁰²) or satisfy the minimum qualification norms for teachers set by the National Commission for Teacher Education (West Bengal⁹⁰³). No person who does not possess minimum qualifications shall be appointed to any private school (TN⁹⁰⁴). Have recruited teachers as per the staff pattern and qualifications specified by the State Government or the Board with which it is affiliated (West Bengal⁹⁰⁵). No teacher shall be appointed whose certificate has been suspended or cancelled or who has been declared unfit to be a teacher in a recognized school or who has been convicted for offences involving moral turpitude (Andhra Pradesh⁹⁰⁶). Arbitrarily removing a teacher is a basis for school derecognition (Andhra Pradesh).⁹⁰⁷ In case of non-availability of trained/qualified teachers in particular subjects, relaxation may be given to the qualifications by the Director of School Education (Mizoram⁹⁰⁸). The salary and allowances shall be truly reflected in the expenditure statement towards salary and other allowances of the staff submitted by such school to the Fee Determination Committee (TN⁹⁰⁹).
Private Tuition by Teachers
<ul style="list-style-type: none"> Teachers shall not engage in private teaching activities (RTE Act, Andhra Pradesh,⁹¹⁰ Karnataka,⁹¹¹ Delhi⁹¹² and West Bengal⁹¹³)

Recommendations

- The government should prescribe the minimum qualifications required for the appointment of teaching and non-teaching staff in all schools. The qualification for elementary school teachers should not fall below the standards laid down under the RTE Act and NCTE Acts.
- No untrained and unqualified teachers should be appointed. No teacher shall be appointed whose certificate has been suspended or cancelled or who has been declared unfit to be a teacher in a recognized school or who has been convicted for offences involving moral turpitude.
- To ensure parity in teacher quality, provisions should ensure that teachers recruited in unaided private schools met the qualification norms laid out for government and aided schools. In addition, pay and benefits for private school teachers should also be as per the concerned Pay Commission.
- Every private educational institution is expected to maintain a schedule of employees including their names, qualifications, grade of pay and other particulars. This must be shared with the Department of Education within three months of the start of a new academic session. Their salary and allowances should be truly reflected in the expenditure statement towards salary and other allowances of staff submitted to the fee regulation committee.
- Teachers should not be allowed to engage in private teaching.
- Having teachers from marginalized communities is critical to provide role models for students from the same. As such, reservations for teachers from those communities would be important.

2. WHAT ARE THE CONDITIONS RELATED TO PAY, ALLOWANCES AND TERMS OF PAYMENT OF TEACHERS AND OTHER PERSONS EMPLOYED IN PRIVATE SCHOOLS?

Existing state laws	FICCI framework
Payment and Allowances <ul style="list-style-type: none"> Different states take different positions regarding pay parity <ul style="list-style-type: none"> Parity with Government: scales of pay and allowances, medical facilities, pension, gratuity, provident fund, and other prescribed benefits of the employees of a recognised private school shall not be less than those of the employees of the corresponding status in a school run by the appropriate authority (Goa⁹¹⁴, Delhi⁹¹⁵ and Karnataka⁹¹⁶). If these fall below those paid to teachers employed by the authority, the appropriate authority may direct the school to bring parity. Failure to act upon this is deemed to be non-compliance with the condition of recognition. (Delhi⁹¹⁷) Private schools are free to make their own rules: Private schools all private schools are free to frame and notify their terms and conditions of service for teaching and non-teaching staff including conditions related to pay, gratuity, provident fund, and age of retirement. (Jammu and Kashmir⁹¹⁸) or educational agency shall adopt the Teachers Provident Fund Scheme or any such scheme for the benefit of its employees as prescribed by the government (Andhra Pradesh⁹¹⁹). 	Every recognised school shall be allowed to appoint teaching and non-teaching staff on a part-time, temporary, contractual, or permanent basis. 2) Such recognised school shall enter a written contract of service with its

<ul style="list-style-type: none"> ○ Abide by any government notifications, but do not specify parity: Adhere to the pay structure of teaching and non-teaching staff as directed by the State Government; (West Bengal⁹²⁰, Goa⁹²¹, Andhra Pradesh⁹²² and Kerala⁹²³). 	teaching and non-teaching staff in terms of the rules prescribed, with such variations, as may be required, based on the type of appointment referred to in sub-section (1).
Conditions of payment	
<ul style="list-style-type: none"> • Pay and allowances would be paid every month in a manner prescribed by the school administrator (TN⁹²⁴). • The managing committee of every unaided minority school shall enter a written contract of service with every employee of such school (Goa⁹²⁵). • The educational agency shall adopt contributory provident fund and gratuity for teaching and non-teaching staff (West Bengal⁹²⁶) or adopt a Teachers Provident Fund Scheme or any other Scheme meant for the benefit of its employees as prescribed by the government from time to time. (Andhra Pradesh⁹²⁷) • State Government may make rules for pay, allowances, post-retirement and other benefits, and other conditions of service of employees of private schools and reservation of an adequate number of posts for members of the backward classes. (Madhya Pradesh⁹²⁸) 	

Recommendations

- The government must prescribe the pay scale for teachers and other school personnel and the schools must abide by the prescribed government pay scale and other social protections.
- The managing committee shall enter a written contract of service with every employee. The scales of pay and allowances, medical facilities, pension, gratuity, provident fund, and other prescribed benefits of the employees of a recognised private school shall not be less than those of the employees of the corresponding status in a school run by the appropriate authority.
- While this is not part of the rules in any state, it would be important to undertake regular assessments to ensure gender pay parity (and for the social groups) is ensured. It would also be important to ensure reasonable working hours and the availability of clear complaint mechanisms for school staff who are women or from marginalized communities.

3. IS THERE A CODE OF CONDUCT AND OTHER STANDARDS FOR STAFF DISCIPLINE IN SUCH SCHOOLS?

Existing state laws	FICCI framework
Every employee of a private educational institution shall be governed by the prescribed code of conduct and if s/he violates any provision thereof, shall be liable for the prescribed disciplinary action (Arunachal Pradesh ⁹²⁹ , Andhra Pradesh ⁹³⁰ , Karnataka ⁹³¹ and Tamil Nadu ⁹³²).	All teaching and non-teaching staff of a recognised school shall be governed by such code of conduct as may be prescribed by the managing committee.
In Delhi ⁹³³ , the Code of Conduct for the teachers at the recognised schools shall be as follows: (a) No teacher shall <ul style="list-style-type: none"> (i) knowingly or wilfully neglects his duties. (ii) propagate through his teaching lessons or otherwise, communal, or sectarian outlook, or incite or allow any student to indulge in the communal or sectarian activity. (iii) discriminate against any student on the ground of caste, creed, language, place of origin, social and cultural background, or any of them. (iv) indulge in, or encourage, any form of malpractice connected with examination or any other school activity. (v) while being present in the school, absent himself (except with the previous permission of the head of the school) from the class which is required to attend. (vi) remain absent from the school without leave or the previous permission of the head of the school. Provided that where such absence without leave or the previous permission of the head of the school is due to reasons beyond the control of the teacher, it shall not be deemed to be a breach of the Code of Conduct, if, on return to duty, the teacher has applied for and obtained, ex post facto, the necessary sanction for the leave. (vii) accept any job of a remunerative character from any source other than the school or give private tuition to any student or other person or engage himself in any business. 	

<p>(viii) prepare or publish any book or books, commonly known as keys, or assist, whether directly or indirectly, in their publication.</p> <p>(ix) engage himself as a selling agent or canvasser for any publishing firm or trader.</p> <p>(x) ask for or accept any contribution, associate himself with the raising of any funds or make any other collections, whether in cash or kind, in pursuance of any object whatsoever, except subscription from the members of any association of teachers.</p> <p>(xi) enter any monetary transactions with any student or parent, nor shall exploit his influence for personal ends; nor shall conduct his matters in such a manner that he has to incur debt beyond his means to repay.</p> <p>(xii) accept, or permit any member of his family or any other person acting on his behalf to accept any gift from any student, parent, or any person with whom he has come into contact by virtue of his position in the school.</p> <p>(xiii) practice, or incite any student to practice, casteism, communalism or untouchability.</p> <p>(xiv) cause, or incite any other person to cause, any damage to school property.</p> <p>(xv) behave, or encourage or incite any student, teacher, or other employees to behave, in a rowdy or disorderly manner on the school premises.</p> <p>(xvi) be guilty of, or encourage, violence, or any conduct which involves moral turpitude.</p> <p>(xvii) be guilty of misbehaviour or cruelty towards any parent, guardian, student, teacher, or employee of the school.</p> <p>(xviii) organize or attend any meeting during school hours except where he is required or permitted by the head of the school to be punctual in attendance and in respect to his classwork and for any other work connected with the duties assigned to him by the head of the school; abide by the rules and regulations of the school and show due respect to the constituted authority.</p> <p>In Arunachal Pradesh⁹³⁴, the following acts of teachers and other employees shall constitute a breach of the code of conduct- (a) Habitual late coming and negligence of duty. (b) Use of abusive language. Quarrelsome and riotous behaviour. (c) Insubordination and defiance of lawful orders. (d) Disrespectful behaviour and character assassination. (e) Making false accusations or assaults either provoked or otherwise. (f) Use of liquor or narcotics on school/office premises. (g) Misappropriation of school/ office funds or theft or fraud. (h) Mutilation/destruction of records/documents. (i) Conviction of a court of law for a criminal offence. (j) Possession of weapon/ objectionable materials in the school premises/offices. (k) Indulging in malpractice. (l) Divulging confidential matters regarding school/office. (m) Obstructing the other members of the staff from lawful duties. (n) Taking an active part in politics. (o) Provoking or inciting any student/staff to indulge in communal activities. (p) Activating banned activities. (q) Wilful absence. (r) Indulging an act of moral turpitude. (s) Formation of a group to dominate others unlawfully.</p>	
Providing false information or obstructing government officials	
<ul style="list-style-type: none"> • If any person obstructs any authority, officer, or person from entering any educational institution in the exercise of powers he shall be punished with a fine (Andhra Pradesh⁹³⁵ and Sikkim⁹³⁶) which may extend to rupees two thousand (Sikkim⁹³⁷). • If a person omits to furnish such information or furnishes any information, which he knows, or has reasonable cause to believe, to be false, (or not true, in any material particular) s/he shall be punishable with a fine which may extend to one hundred rupees. (TN⁹³⁸) 	

Recommendations

- Many states currently spell out a proper code of conduct for schools in each state. This could continue to be prescribed. Individual private schools should, additionally, have some flexibility to make an addition to the code to provide for any specific adaptations required by an individual school/local context.
- Any person obstructing the competent authority in performing any of his/her functions must be penalised. Furnishing wrong information or misleading the authority shall also be punishable.

4. WHAT PROVISIONS EXIST FOR TEACHER TRAINING AND MOTIVATION?

Existing laws and frameworks	FICCI framework
Not covered	Every recognised school shall, on a continuous basis, undertake regular teacher training/ motivation programmes to update and upgrade the skill sets of their teaching staff. 2) Every recognised school shall formulate and implement teacher training programmes for each academic year which shall be conducted by internal as well as external experts.

Recommendations

- Every recognised school shall, on a continuous basis, undertake regular teacher training/ motivation programmes to update and upgrade the skill sets of their teaching staff. It shall formulate and implement teacher training programmes for each academic year in line with the broad parameters of existing frameworks for teacher training laid down by the NCTE, State academic authority or other authorized body which shall be conducted by internal as well as external experts.
- While not part of any state law, it would be important to ensure the sensitization of teachers. Private school teachers must undertake orientation on the Preamble and other provisions in the Constitution to analyse privileges inherent in society and promote values of equality, fraternity and social justice among both children and teachers. At the same time, private school teachers, other school personnel and school management must be sensitized to anti-discrimination guidelines and anti-peer bullying measures to ensure that those from low-income and caste backgrounds are not victimized. Organizations may be empanelled for delivery of such courses, with the government undertaking quality assurance of the same.
- In-service teacher training on inclusive education for children with disabilities would be critical.

5. WHAT ARE THE PROVISIONS REGARDING THE RETRENCHMENT, DISMISSAL, REMOVAL, OR REDUCTION OF THE RANK OF EMPLOYEES?

Existing state laws
Resignation
<ul style="list-style-type: none"> • If any employee intends to resign his post in any private school, at any time after the appointed date, he shall draw up a letter of resignation in duplicate and sign both copies of that letter and put the date thereon. He may then forward one copy to the Management by registered post and keep the other copy with him (Madhya Pradesh⁹³⁹).
Retrenchment
<ul style="list-style-type: none"> • In Kerala⁹⁴⁰ where any retrenchment of teachers in aided schools is to be undertaken, the government or the manager of the school is competent to appoint them to any government or aided school.
No penalties to be without due process
<ul style="list-style-type: none"> • No employee of a recognized private school shall be dismissed, removed, or reduced in rank nor shall his service be otherwise except with the prior approval of the competent authority. (Meghalaya⁹⁴¹, Madhya Pradesh⁹⁴² and Punjab⁹⁴³). • Penalties to be imposed into minor (censure, withholding of increment not exceeding two at a time) and major penalties (removal from service and dismissal). The chairman of the Managing Committee will be the disciplinary authority and procures for imposing both types of penalties are prescribed. (Meghalaya⁹⁴⁴).
Subsistence Allowance
<ul style="list-style-type: none"> • Suspended employee will be provided with subsistence allowance at the prescribed rate, during the tenure of his/her suspension (Arunachal Pradesh⁹⁴⁵). • A subsistence allowance, at an amount equal to one-half of the pay last drawn and dearness allowance at the appropriate rate is to be paid in the same manner as salary. (Delhi⁹⁴⁶).

Recommendations

- Processes of resignation and retrenchment of teachers will need to be included.
- No management shall suspend its employees, reduce his/her rank, or dismiss them without due process and without allowing the accused to be heard.

- A process of investigating accusations and imposing penalties must be prescribed including a process of hearing appeals. Prior approval from competent authority should be taken before taking such serious punitive measures. Detailed guidance may need to be issued for the same by individual states.
- The duration for such a penalty would need to be stipulated.
- Suspended employees should be provided with a subsistence allowance during the period of suspension. Government should set the norms for the amount that should be paid as an allowance.

CONCLUSION

Thus, certain key principles related to the deployment of human resources in private schools that emerge from this section are:

- Minimum qualifications of teachers cannot fall below prescribed national standards.
- The pay structure of staff is to be in line with the directions of the State government; teachers must receive the contributory provident fund, gratuity, and other benefits. They should also be paid monthly.
- Teachers shall not engage in private teaching activities.
- 15% reservation of vacancies of teaching staff for SC/ST or other measures to ensure representation of staff from marginalized communities in private schools with a view of providing positive role models to students.
- Every private educational institution must maintain the record of employees.
- A code of conduct should be prescribed for personnel and any provision of false information or obstructing government officials should be penalized.
- Due process should be prescribed for investigating any allegations against teachers.
- All schools undertake in-service teacher training and motivation programmes to upgrade teacher skills.

CHILD PROTECTION, PARTICIPATION AND OTHER PROVISIONS

A survey by OutLawed Initiative found that 36% of schools have students about the POCSO Act, 33.9% conducted workshops on sexual abuse, 13.4% had a Sexual Harassment Committee and 17.4% had yearly teacher training programmes.⁹⁴⁷ However, out of 1,635 schools, only 70 had all the required resources while 307 schools (18%) had absolutely no resources to prevent and combat sexual abuse. A range of high-profile instances of sexual harassment has been reported in the news with the violence allegedly inflicted by a range of actors including school management⁹⁴⁸, teachers⁹⁴⁹ and peers⁹⁵⁰. While large scale on these issues is limited, there is also some evidence of higher bullying in private schools in states like Rajasthan⁹⁵¹ and Chandigarh⁹⁵². The recent Oxfam India survey showed that 37% of children from SCs faced harassment or abuse by either school staff or their peers during the pandemic.⁹⁵³ On average, so-called Upper caste students experience lower harassment in primary and lower secondary school than their lower caste peers.⁹⁵⁴ Ensuring safety for children should include steps to other risks students face, including risks faced during the commute from home to school. In a recent survey, 30% of children reported witnessing a crash during their commute to school and 41% of parents reported that the school lacked a transport manager.⁹⁵⁵ New risks like cyberbullying are also emerging with the growth of educational technology.⁹⁵⁶

Addressing these challenges requires action to strengthen grievance redress mechanisms more broadly. However, in the recent Oxfam India survey, less than 5% were satisfied with the action taken by the school; 60% of parents reported that no action was taken on the complaint, instead, in 36% of the instances the children were allegedly harassed over the complaint. While only 15% of parents complained to the education department; half the parents feel the complaint process is too complex and there is an overall lack of faith in redress.⁹⁵⁷

Accordingly, this section includes provisions specific to children including their rights to participation and protection. It also includes any responsibilities vested in children in any state legislation. The AIPA and FICCI frameworks do not cover these dimensions and hence these columns have not been included in the analysis.

MAJOR REGULATORY CHALLENGES:

1. There is inadequate space for child participation or for their voice to be heard in decision-making about their school.
2. Weak and cumbersome complaint mechanism for students and parents alike in instances where their rights are violated.
3. Sexual harassment, bullying and discrimination continue to be reported. At the same time, other challenges related to child safety including safety during the commute and cyberbullying are emerging as problems.

1. WHAT MEASURES EXIST FOR CHILD PROTECTION?

Existing Provisions
Prohibition of corporal punishment and mental harassment
<ul style="list-style-type: none"> No child shall be subjected to physical punishment or mental harassment. (RTE Act).

<ul style="list-style-type: none"> Teachers must ensure that (i) the pupils are handled not by coercion but by persuasion so that their tender age is not abused; (ii) the pupils are taught in a friendly, conducive, cordial, hygienic and congenial atmosphere by adhering strictly to the medium of instruction in precise, lucid, understandable and simple language; (iii) the pupils are not scolded, punished, slapped or beaten up; (iv) the pupils are not segregated on the ground of caste, sex, region, religion, community or grounds in like manners. (Arunachal Pradesh⁹⁵⁸) The education agency and principal of the school shall ensure that students are not subject to corporal punishment (Andhra Pradesh⁹⁵⁹).
Non-Discrimination
<ul style="list-style-type: none"> The appropriate government and the local authority also must ensure that children belonging to weaker sections or disadvantaged groups are not discriminated against and prevented from pursuing and completing elementary education on any grounds (RTE Act). The library is required to not contain any book or literature that espouses or propagates communal disharmony or casteism or discrimination based on religion, region, language etc. (Bihar⁹⁶⁰) If a school, directly or indirectly, encouraged in the educational institution any propaganda or practice wounding the religious feelings of any class of citizens of India or insulting the religion or the religious beliefs of the class, that can be a basis for derecognition of the school (Andhra Pradesh⁹⁶¹). 48 hours of compulsory instruction every year is to be provided on child rights and gender justice. (Goa⁹⁶²). No discrimination in admission or segregation (as described earlier in the chapter on enrollment. Provision for social audit of private schools receiving reimbursement under section 12 (1) c of the RTE Act, the institutionalization of grievance redress mechanisms for discrimination and encouraging inclusiveness in schools by holding regular meetings with both sets of parents, having sensitization workshops with parents, children, teachers, and other school staff.⁹⁶³
Steps for Child Protection
<ul style="list-style-type: none"> All schools must constitute a Grievance Committee for Child Sexual Abuse (CSA) within a month of the beginning of each academic year. The Committee and school staff should be oriented about their role under Section 19 of the POCSO Act, 2021. An Anti-Bullying Committee may be constituted comprising of Vice Principal, and a Senior Teacher. School Doctor, Counsellor, PTA representative, Legal Representative, Peer educator, etc. The decisions taken by the above committees should be discussed in the meeting of the PTA and the PTA should be made responsible for compliance with the Manual. In case of non-compliance with the recommendations of the PTA by the school management, the PTA should approach the BEO and subsequently the DEO and the DC/DM respectively. (MHRD Guidelines for fixing accountability of school management towards safety and security of children in schools). The State Commission for Protection of Child Rights may set up a child helpline to register complaints regarding violations of the rights of the child under the Act, which may be monitored by it through a transparent online mechanism (Delhi⁹⁶⁴). Educational agency is required to take all possible measures to ensure the safety and security of the pupil including protection from mental harassment or physical injury or sexual abuse (Tamil Nadu⁹⁶⁵).
Student Councils
<ul style="list-style-type: none"> All schools shall have elected student councils, for students above grade 8 (Goa⁹⁶⁶).
Complaints and suggestions for the functioning of the school
<ul style="list-style-type: none"> Provide suggestion boxes in prominent places on the school premises (Andhra Pradesh⁹⁶⁷).

Recommendations

- All schools shall have elected student councils, for students above grade 8. This should include specific rules for their functioning and provisions to encourage leadership by girls and children from marginalized communities. The student representatives should have the formal mandate to liaison with the management committee and/or PTA where necessary.
- All schools must constitute a Grievance Committee for Child Sexual Abuse (CSA). This committee could also take on the mandate of looking at issues of bullying.
- The Committees and school staff should be oriented about their roles in these structures.

- All schools must have clear mechanisms for grievance redress for any instances of ongoing discrimination against pupils based on class, gender, caste, or other prohibited grounds. The use of the Prevention of Atrocities Act could be explored for instances of discrimination in private schools.
- The education department will need to set up a comprehensive mechanism for grievance redress in private schools that flow from the school to the state level. Detailed guidelines for the same need to be issued. This needs to include both online and offline modes of filing complaints, a grievance redress matrix with appellate officials and timelines, adequate staffing and resourcing of the mechanism and include a mechanism for auto-escalation if the complainant does not receive satisfactory redress. Each state must have delegated legislation at the state level.
- Schools to promote communal harmony and oppose casteism and discrimination. Children compulsorily receive orientation on child rights and gender justice.
- Social audit of the functioning of private schools, especially those which receive government aid or other financial or in-kind support from the government.
- Steps need to be taken to address cyberbullying in all schools, including in private schools. Detailed guidelines for this would need to be developed by the government and compliance with the same ensured by the schools.
- PTA meetings should include sensitizing and educating parents on the issues of the LGBTQIA+ community and gender-nonconforming students to ensure supportive families for children. Private schools must appoint counsellors who are LGBTQIA+ inclusive, for the staff and students.

2. IS THERE A CODE OF CONDUCT FOR STUDENTS?

Existing state laws	FICCI framework
(a) Insolent behaviour towards teachers and other employees of the institution. (b) Deliberate/intentional disturbance in the school premises. (c) Absence from class without permission. (d) Intimidation of others. (e) Theft cases and damaging/disfiguration of school property. (f) Procession/Strike/disruption of classes. (g) Misbehaviour towards girls' students. (h) Activation of banned activities. (i) Propagating communal/caste feeling. (j) Physical violence of any kind. (k) Use of abusive language, quarrelsome and riotous behaviour. (l) Unauthorized/forceful collection. (m) Antisocial/anti-national activities. (n) Disobeying teacher/school authority. (o) Possession of weapon/explosive/objectionable materials on the school premises. (p) Indulging in the acts of moral turpitude. (q) Formation of the group to dominate others unlawfully. (r) Impersonation in examination and others. (s) Production of fake documents/mutilated documents. (t) Any other behaviour unsuitable for students. (Arunachal Pradesh ⁹⁶⁸)	All students of a recognised school shall be governed by such code of conduct as may be prescribed by the managing committee.

Recommendations

- A code of conduct for students may be necessary for the functioning of individual schools. However, this would need to be revisited in line with the current understanding of child rights and not be considered binding.

CONCLUSION

Thus, certain key child-focused principles in private schools that emerge from this section are:

- All schools should have an elected student council for child participation that is reflective of the true diversity of Indian society, and which hence includes representation of girls and students belonging to marginalized communities.
- All schools must have a Grievance Committee for Child Sexual Abuse (CSA) that could also look at issues of bullying.
- Steps to ensure enforcement of the complete prohibition on physical punishment, mental harassment, and discrimination.

- Teacher sensitization on child rights, non-discrimination, gender, and measures to address inequality and other measures.
- Sensitization of students on child rights, gender justice, non-discrimination and addressing inequality.

PROVISIONS RELATED TO PARENT PARTICIPATION IN PRIVATE SCHOOLS

Proponents of school choice argue that the growth of private schools reflects popular choice and demand. However, these very parents report having little voice and agency in the school. In an Oxfam India study,⁹⁶⁹ 51% of parents say they have no voice and agency around key decisions taken in the school; less than 5% of those who filed complaints were satisfied by the action taken by the school. In the same survey, 78% of parents want the complaint processes to be made easier and complainants' children to be protected from harassment.

In various states, provisions view parental participation through the narrow prism of setting up Parent-Teacher Associations, rather than defining clear processes to ensure parents are involved in key decisions taken by the school, that concern children and parents. Thus, this section reviews existing provisions around parental participation in school management and decision-making and offers recommendations to strengthen parental participation. In the previously mentioned Oxfam India survey, under 20% of parents report that their school has a parent-teacher association. Where a PTA existed, four in five parents were not consulted over decisions taken by the school.

More concrete steps are needed to ensure that private schools are run in a manner that is more transparent and more accountable concerning their obligation to realize the right to education of their pupils. As part of the regulatory mechanisms, private unaided schools are required to submit an Annual Administrative Report (AAR) and annual reports every financial year, however, most fail to do so.⁹⁷⁰

This section reviews the provisions related to the setting up of Parent-Teacher Associations, their roles and powers, and provisions related to membership. There is variation in provisions across states, and these are also scattered across multiple laws.

MAJOR REGULATORY CHALLENGES

- Many schools lack a formal structure for parental participation.
- Where structures for parental participation in the form of Parent-Teacher Associations exist, these often lack real powers.
- Limited space exists for broad social accountability like social audits of the functioning of private schools.
- Grievance redress mechanisms available to parents are also weak.

1. WHAT ARE THE PROVISIONS REGARDING THE SETTING UP OF PTAS?

Existing state laws	AIPA & demands of Parent associations	National and framework	FICCI framework
<ul style="list-style-type: none"> • PTA to be setup up by the head of the school within thirty days of the start of the session (Karnataka⁹⁷¹ and Rajasthan⁹⁷²). • Manager of the school shall constitute a parent-teacher association (Sikkim⁹⁷³). • Every private school will have to constitute a PTA (Maharashtra⁹⁷⁴, 		NCPDR: Each school is to constitute a PTA.	<ul style="list-style-type: none"> • Every recognised school should constitute a PTA.

Rajasthan. ⁹⁷⁵ Andhra Pradesh, ⁹⁷⁶ Telangana ⁹⁷⁷ and Tamil Nadu ⁹⁷⁸].			
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Recommendations

- Each private school should have a PTA which is set up within 30 days of the start of the new session.
- There should be mechanisms for spot checks of the functionality of PTA. Representatives of the district committee must have a space to speak with members of the PTA.
- The PTA needs to have representation of marginalized communities including SCs, STs, persons with disabilities and educationally lagging minorities among others.
- The Directorate of Education will need to be tasked to ensure that the management committees include parents and cause PTA to be put in place.

2. WHAT ARE THE REGULATIONS REGARDING THE ROLE OF PARENTS IN SCHOOL MANAGEMENT? WHAT IS THEIR ROLE IN FEE REGULATION?

Existing state laws	AIPA and demands of parent associations	National and framework	FICCI framework
<ul style="list-style-type: none"> • One parent representative (member of PTA) will be part of the school management committee (Delhi⁹⁷⁹, Goa⁹⁸⁰ and Chhattisgarh⁹⁸¹). • Members of the PTA will be chosen for the School level regulatory committee through a lottery (Maharashtra⁹⁸² and Rajasthan⁹⁸³). • Karnataka⁹⁸⁴: Parents can register their names for being eligible for selection to the school's managing committee; registered members will select two persons amongst themselves for representation on the managing committee. • Puducherry⁹⁸⁵: Two parent members to be elected from within the PTA for the managing committee; one being a woman and both possessing minimum educational qualification of graduate level. 	Representation of at least 50% of parents the in management of unaided schools,	<p>NCPCR- The PTA shall appear before the Committee for a hearing on fee determination as and when called by the Committee.</p> <p>PTA shall inspect the school using the checklist provided in the NCPCR's Manual and other guidelines for safety and suggest appropriate measures (MHRD Guidelines for fixing accountability of school management towards safety and security of children in schools).</p>	One parent representative will be a member of the managing committee that fixes the fees.

Recommendations

- Members should be elected through a democratic process. This should have a gender-balanced composition with respect to involving both mothers and fathers in the education of their education.
- A clear link should be established between parent-teacher associations and the structures being created for fee regulation and other dimensions of school functioning. A representative of the PTA should be elected to serve on the Management Committee where key decisions are taken.
- The PTA must be consulted before any fee revision.

3. WHAT ARE THE PROVISIONS REGARDING MEMBERSHIP OF PTAS?

Existing state laws	National and framework	FICCI and AIPA frameworks
<ul style="list-style-type: none"> • Every teacher of the school and parent of every student in the school shall be a member of the 	<p>NCPCR (members)</p> <ul style="list-style-type: none"> • One parent from each class; 75% of members to be parents 	Not mentioned

<p>Parent-Teachers Association (Rajasthan⁹⁸⁶ and Telangana⁹⁸⁷).</p> <ul style="list-style-type: none"> • A set of parents and teachers: <ul style="list-style-type: none"> ◦ Karnataka:⁹⁸⁸ a) Three representatives of the parents of the students who have studied up to SSLC or above of whom one shall be a woman and they shall be selected from among the willing parents. (b) The head of the institution; (c) Three class teachers in the institution selected by rotation; (d) the Secretary of the Governing Council of the Educational Institution. ◦ Maharashtra⁹⁸⁹: The parents of every student in the school shall be a member of the Parent-Teachers Association. • Sikkim:⁹⁹⁰ It shall consist of not more than ten members comprising five members from the parents and the other five from the teachers. 	<p>(25% of which to be parents of children admitted under section 12 I c).</p> <ul style="list-style-type: none"> • Teachers from each level of schooling to be members- 50% to be nominated by parent members and 50% by management. • One member of the local authority. • One representative of school management. • Draw procedure for parent members shall be undertaken after receipt of self-nominations by the School Principal. • 50% of members are women. 	
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Recommendations

- Every teacher of the school and parent of every student in the school shall be a member of the Parent-Teachers Association. Specific action may be needed to ensure adequate inclusion of women, marginalized communities and parents of children admitted under section 12 (1) c in practice.

4. WHAT ARE THE DEFINED FUNCTIONS OF PTAS?

Existing state laws	National framework and	FICCI framework
<p>Karnataka⁹⁹¹: (a) redress the grievances of students and their parents and (b) devise programmes as could be conducive to healthy student-teacher, parent-teacher, teacher-management, and parent-management relations. (c) any other activity conducive to the welfare of the students.</p> <p>J&K⁹⁹²: a) consult them on matters of academic importance and co-curricular activities b) apprise them about the performance and various activities of the school.</p> <p>Rajasthan⁹⁹³: The PTA shall discharge such duties and perform such functions as may be assigned to it under this Act. These include a) to get information about tuition fees, term fees and fees for co-curricular activities as decided by the school Level Fees Committee, to observe the completion of syllabus as per planning, to assist the school in planning of other co-curricular activities and assessing the needs of co-curricular activities.⁹⁹⁴</p>	<p>NCPCR: a) Appear before Committee for hearing on fee determination b) Conduct periodic meetings and record decisions c) any other function.</p>	<ul style="list-style-type: none"> • Facilitating interaction/ channel of communication between parents and teachers. • Making suggestions to the school and rendering advice in the interests of the students.

Recommendations

- The powers of the PTA must be described. It must be
 - Consulted for fee hikes.
 - Consulted on academic matters, a proposed yearly calendar of co-curricular activities, and planned expansion/development of the school.
 - Instrumental in Facilitating interaction/ channel of communication between parents and teachers.

- Be a forum for making suggestions to the school and rendering advice in the interests of the students.
- Regulations must provide for a social audit of the school through parents and children, as suggested in the NEP as well.
- It is critical to ensure that the guidelines provide mechanisms for grievance redress in private schools. This needs to provide a holistic approach that addresses all dimensions regarding issues around which children and parents in private schools have complaints. In the absence of clearly defined mechanisms for redress, parents are currently relying on the courts as the principal mechanisms for handling complaints which can be strengthened by introducing stronger mechanisms for quasi-judicial and administrative redress.

5. WHAT ARE THE NORMS REGARDING THE FUNCTIONING OF PTAS (VOTING, FREQUENCY OF MEETINGS ETC.)?

Existing state laws	National and framework	FICCI and AIPA frameworks
<ul style="list-style-type: none"> • Frequency of meetings: Twice a year (Telangana⁹⁹⁵, J&K,⁹⁹⁶ Sikkim⁹⁹⁷), three months (Karnataka⁹⁹⁸) or one year. (Rajasthan⁹⁹⁹) • An annual amount of rupees 50 (urban) or 25 (rural) shall be collected from each member of such association. (Rajasthan¹⁰⁰⁰) • A lottery shall be conducted by drawing the lots of willing parents to constitute a School Level Fees Committee and a notice of one week before such lottery will be given (Rajasthan¹⁰⁰¹). • Every decision of the Parent-Teacher Committee shall be taken by an ordinary majority of the elected members present and voting. In case of equality of votes, the Chairman shall have a casting vote. (Karnataka¹⁰⁰²) • Quorum- one-third of members (Karnataka¹⁰⁰³). • The minutes of the meeting shall be forwarded to the District Education Officers for information and action, if necessary. The minutes of the meeting shall be forwarded to the District Education Officers for information (Sikkim¹⁰⁰⁴). 	<ul style="list-style-type: none"> • Not defined 	<ul style="list-style-type: none"> • Not defined

Recommendations

- Details of the parent association must be put in the public domain.
- The frequency of meetings, quorum, and mechanism for maintaining minutes of the same will need to be prescribed.
- To make PTAs truly functional, regulation should lay out the process of decision-making along with details such as the necessary number to constitute a quorum, such as provided in Karnataka.
- The ADEO tasked with the implementation of the regulation of private schools may be tasked to monitor and reinforce the implementation of these provisions. Regular reports of the functioning of the same should be shared with the government. At the same time, the directorate would need to invest in publicizing the government orders in existence for parent participation in private schools.
- While none of the state rules provides for the same, it may be desirable to establish a connection between the Legal Services Authority and parents' teacher associations to provide legal aid to parents who have aggrieved during the process. The Directorate may need to undertake orientation of the LSA on the requisite legal provisions. This would be critical to simplify grievance redress processes and equalize the playing field between parents and school management.
- Another possibility not explored in existing state legislation, is the possibility of holding an annual Conclave of private school's PTAs/parent management committee members at the district level. This could provide a platform for parents to collectively discuss issues of concern to parents in a locality and help to evolve collective solutions.

6. WHAT ARE THE PROVISIONS FOR THE DISPLAY OF INFORMATION?

Existing state laws	FICCI framework	NEP
Information to be provided		

<ul style="list-style-type: none"> Schools should display at the minimum information related to recognition status, Board affiliation, registration number, neighbourhood to which the school belongs, fees structure, admission policy, number of teachers, number of students, the composition of the school management committee and facilities (including hostel, sports, co and extracurricular activities) that the school claims to provide (West Bengal¹⁰⁰⁵ and UP¹⁰⁰⁶). It should also display the calendar of major events organized school for students and teachers respectively (UP¹⁰⁰⁷). 	<p>The school must, not later than sixty days before the commencement of the academic year, publish on its notice board, website, if any, and in the form of a brochure to be provided along with the admission form, the following details in the prescribed form:</p> <p>general information about the recognised school, accreditation, and affiliation. b) admission policy; c) details of the fee and fund structure for the previous year, current year and the ensuing year; d) details of facilities including hostel, sports, co-curricular activities and extra-curricular activities; e) details of student to space ratio and student to teacher ratio; f) complete information of title, cost and sources for purchase of textbooks and uniforms; g) calendar of major events being organised by the recognised school throughout the academic year for students; and h) calendar of major events being organised.</p>	<ul style="list-style-type: none"> Transparent public self-disclosure of all the basic regulatory information, as laid down by the SSSA, will be used extensively for public oversight and accountability. The dimensions on which information must be self-disclosed and the format of disclosure will be decided by the SSSA in accordance with global best practices for standard-setting for schools. This information will have to be made available and kept updated and accurate by all schools, on the aforementioned public website maintained by the SSSA and on the schools' websites. (NEP) <p>Public disclosure on the school website and the SSSA website - for both public and private schools - would include (at the very least) information on the number of classrooms, students, and teachers, subjects taught, any fees, and overall student outcomes on standardized evaluations such as the NAS and SAS. (NEP)</p>
Financial Information		
<ul style="list-style-type: none"> The audited financial return and other returns and documents of the school shall be placed on the public portal of the website of the Directorate of Education; the expenditure account and balance sheet must be disclosed on the school website (Delhi¹⁰⁰⁸ and Chandigarh¹⁰⁰⁹). Additionally, The Delhi School Verification of Accounts and Refund of Excess Fee) Bill, 2015 proposes for constitution of a committee for the verification of the accounts of the school. 	<p>The State shall, by notification in the Official Gazette, exempt any recognised school from making disclosure related to the financial information of the school.</p>	
Mode of display		
<ul style="list-style-type: none"> This display should be published on the school's notice board/website and as a prospectus to be provided to students along with the admission form (UP¹⁰¹⁰). 	<p>The display should be published on the school's notice board/website and as a brochure to be provided to students along with the admission form. This display should be made 60 days</p>	

<ul style="list-style-type: none"> This display should be made 60 days before the commencement of admission in each academic year (UP¹⁰¹¹). 	before the commencement of admission in each academic year.	
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Recommendation

- Schools should display at the minimum information related to recognition status, Board affiliation, registration number, neighbourhood to which the school belongs, fees structure (past, current and next year), complete information of title, cost and sources for purchase of textbooks and uniforms; admission policy, number of teachers, number of students, the composition of the school management committee and facilities (including hostel, sports, co and extracurricular activities) that the school claims to provide and planned events being organized in the upcoming year. The NEP also suggests that the number of classrooms and student outcomes on standardized evaluations like the NAS and SAS be disclosed.
- Information thus disclosed needs to be made available on the school website, if any, and in the form of a brochure to be provided during the admission process. Information about the school may also be put in the public domain in the panchayat. It should also be uploaded on the government website of the SSSA or other appropriate government body. This should be displayed ahead of the start of the new academic session.
- Information about the benefits and other qualifications that have been submitted to the government should also be available for inspection by the employees concerned.
- While most states provide for the submission of audited statements by private schools, these are often not disclosed on their website/public portal. Therefore, the public disclosure of audited financial statements of the school on the school/government website is recommended. Additionally, a committee at the district level should be constituted to verify the school accounts.

CONCLUSION

Thus, certain key principles around ensuring effective parental participation in private schools that emerge from this section are:

- Formation of Parent-Teacher Associations should be made mandatory in each school, along with mechanisms to review the functionality of these bodies.
- PTAs should be given a broader mandate (beyond fee regulation) around school management that includes involvement in decisions related to academics, curricular activities, and child safety, amongst others.
- Provisions should include a requirement for a social audit of all private schools as per the NEP implementation plan, which would be crucial to strengthening social accountability of private schools, ensuring participatory governance, and making private schools safe and child-friendly spaces.
- Strengthen grievance redress mechanisms in private schools and track the status of complaints filed.
- The school must disclose the audited report, fee structure, admission policy, number of teachers, number of students, the composition of the school management committee, outcomes of school inspection reports and facilities that the school claims to provide. Information about the benefits and other qualifications that have been submitted to the government should also be available for inspection by the employees concerned.

OTHER PROVISIONS REGARDING THE ADMINISTRATION OF SCHOOLS

Private schools need to be well administered. However, a recent Oxfam India rapid survey found that 84% of parents felt that the government has been unable to regulate private schools effectively; 91% want the government to regulate school fees and ensure that private schools comply and 84% want school finances to be made more transparent by giving parents access to audited accounts of the school.¹⁰¹²

This chapter covers the structure and functioning of the managing committee, the scheme of management of schools and the procedures to be followed to address lapses or irregularities by the institution. At the same time, processes for the maintenance of financial reports and audits are described. Private schools must furnish all information authorised by the Government. Additional requirements may need to be prescribed for government-aided schools, minority educational institutions and schools running in PPP mode.

MAJOR REGULATORY CHALLENGES:

- Private schools are often not transparent and key information about their functioning is often not available in the public domain. This includes audit information, enrolment, and other information.

1. WHAT ARE THE PROCESSES FOR THE CONSTITUTION AND COMPOSITION OF THE MANAGING COMMITTEE?

Existing state laws and national frameworks	AIPA and demands of parent associations	FICCI framework
<ul style="list-style-type: none"> A Managing Committee should be constituted in every individual private school (Andhra Pradesh¹⁰¹³, Assam¹⁰¹⁴, Goa¹⁰¹⁵, Jammu and Kashmir¹⁰¹⁶, Karnataka,¹⁰¹⁷ Delhi¹⁰¹⁸ and Odisha¹⁰¹⁹). The committee must be approved by the government in Mizoram.¹⁰²⁰ The committee has a term of two (Assam¹⁰²¹) or three years (Odisha¹⁰²²). The Managing committee should include the headteacher and representatives of the parents and teachers of a school (Assam¹⁰²³, Tamil Nadu¹⁰²⁴ and Andhra Pradesh¹⁰²⁵). The parent and teacher representatives should be elected by the parents themselves (Karnataka¹⁰²⁶ and Delhi¹⁰²⁷). The management committee could include 	<p>There shall be at least 50% representation of parents in the management of an unaided private school.</p> <p>The manner of selection of parent representatives shall be</p>	<p>Each recognised school shall prepare, in conformity with the guidelines prescribed, a scheme of management for its operation and management, which may include:</p> <p>a) composition and term of office of the managing committee.</p> <p>b) functions of the managing committee.</p> <p>c) duties, powers, and responsibilities of the head of the school as well as the manager; and</p> <p>d) any other matter which it may deem necessary from time to time.</p> <p>2) The composition of the managing committee shall consist of a minimum of nine members and a maximum of eleven members. The managing committee shall include the following members:</p> <p>a) a representative of the eligible educational entity.</p> <p>b) the head of the school as an ex-officio member with the right to vote.</p> <p>c) the manager of the recognized school.</p> <p>d) one parent, who is a member of the parent-teacher association of the recognised school</p> <p>e) one teacher from up to primary school and one teacher from post-primary school, nominated by the management each year by rotation.</p>

<p>educationists from the locality (Delhi¹⁰²⁸).</p> <ul style="list-style-type: none"> Steps to avoid conflict of interest by not including people from the same family would be advisable. (Arunachal Pradesh¹⁰²⁹) Detailed instructions for the functioning of the committee including the appointment of a President and Secretary (and their removal) and spelling out the steps to be taken for conducting meetings and conveying decisions taken. operationalization. (Arunachal Pradesh¹⁰³⁰) 	<p>determined as may be prescribed.</p>	<p>f) two other persons of eminence and repute in the field of education nominated by the eligible educational entity and of whom one shall be a woman; and</p> <p>g) the remaining members, if any, to be nominated or elected, as the case may be, in accordance with the charter documents of the eligible educational entity.</p> <p>In case an eligible educational entity runs more than one school, the eligible educational entity shall constitute a separate managing committee for each recognised school under this Code.</p> <p>4) No person shall, after the commencement of this Code, be a member of more than ten managing committees at the same time.</p>
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Recommendation

- A Managing Committee should be constituted in every individual private school. In case an eligible educational entity runs more than one school, the eligible educational entity shall constitute a separate managing committee for each recognised school.
- The Managing committee should include
 - Headteacher and/or manager of the recognized school
 - Representatives of the teachers of a school.
 - Representative of the eligible educational entity
 - Parent representatives who are elected by the parent-teacher association.
 - Educationists from the locality.
- Parent representatives must be elected by the parent-teacher association and include representation of gender and representation of marginalized communities (SCs, STs, minorities or persons with disabilities).
- There should be a cap on the number of school management committees that a single individual can be part of Steps to avoid conflict of interest by not including people from the same family would be advisable.
- The term and mode of functioning of the Committee will need to be spelt out to ensure its operationalization.
- None of the regulations under the state laws include any provisions for training of the management committee or manager. The government may develop a short face-to-face or online module for managers and management for their orientation including legal obligations, responsibilities to ensure equity and other dimensions which may be relevant.

2. WHAT ARE THE DUTIES OF THE MANAGING COMMITTEE AND MANAGERS?

Existing state laws	FICCI framework
Role of the managing committee	
<ul style="list-style-type: none"> The managing committee should be responsible for providing administrative and financial oversight of the school. (Andhra Pradesh¹⁰³¹ and Goa¹⁰³²) both jointly and severally (Chhattisgarh¹⁰³³). The managing committee is expected to develop the scheme of management for the functioning of schools (including the term of office of members, the process of election to the same, duties and powers of the committee, duties, powers, and responsibilities of the head of the school etc) and should be responsible for ensuring that the school abides by the rules set by the government. (Assam¹⁰³⁴ and Delhi¹⁰³⁵) It is expected to maintain control over appointments, disciplinary action, and control of staff, ensure that the school receive the necessary infrastructure, 	Not covered

<p>facilities, and supplies, provide that no financial irregularity is committed, or any irregular procedure is followed and impose any disciplinary measures necessary. (Delhi¹⁰³⁶ and Tamil Nadu¹⁰³⁷)</p> <ul style="list-style-type: none"> The Board of Trustees, governing body, or Wakf Board, by whatever name called, constituted, or appointed under any other law for the time being in force related to charitable and religious institutions and endowments and wakfs, shall be deemed to be management (Andhra Pradesh¹⁰³⁸). 	
Role of the manager	
<ul style="list-style-type: none"> A manager is to be appointed to look after day to day functioning of the school. (Andhra Pradesh¹⁰³⁹) The Manager is expected to maintain records and accounts as prescribed (Andhra Pradesh¹⁰⁴⁰, Sikkim¹⁰⁴¹, JSK¹⁰⁴² and Tamil Nadu¹⁰⁴³) and submit to the prescribed authority (Andhra Pradesh¹⁰⁴⁴) including handing over of properties, records etc on closure (Andhra Pradesh¹⁰⁴⁵). Penalties are proposed for failing to hand over the same (Andhra Pradesh¹⁰⁴⁶). The manager is expected to ensure that all money collected, granted, or allotted are expended for educational purposes. (Andhra Pradesh¹⁰⁴⁷) The Manager is required to aid inspectors and hand over properties and records to the competent authority including inspectors. (Andhra Pradesh¹⁰⁴⁸ and Delhi¹⁰⁴⁹) The manager must submit a report at the end of every academic year to the Director giving particulars of the movable and immovable properties, income and expenditure and details of the activities of the institution both curricular and extra-curricular in the academic year. (Sikkim)¹⁰⁵⁰ 	Not covered
Appointment and removal of manager	
<ul style="list-style-type: none"> The management shall nominate a person to manage the affairs of the institution, called by the name of secretary, correspondent or by other name and intimate such nomination within 30 days to the competent authority. Where the competent authority is satisfied that the management is responsible for the lapses or irregularities of the institution, the competent authority may make representation and for reasons to be recorded in writing suspend the management and appoint a special officer till reconstitution of the management. When the competent authority is satisfied that the manager alone is responsible, the action shall be taken against him by the management, as recommended by the competent authority. The competent authority may, for reasons to be recorded in writing, declare a person to be unfit to be the manager of a private institution after giving such person an opportunity to make his representation against such declaration and under intimation to the management and on such declaration, the person shall cease to be the manager of the private institution and the management shall nominate another person as a manager in his place in accordance with the provisions of the act. No manager of a minority education institution shall be declared to be unfit under this section safe for mismanagement. (Andhra Pradesh¹⁰⁵¹) 	

Recommendation

- The managing committee is responsible for providing administrative and financial oversight at the school. It will develop the scheme of management for the functioning of schools (including the term of office of members, the process of election to the same, duties and powers of the committee, duties, powers, and responsibilities of the head of the school etc) and should be responsible for ensuring that the school abides by the rules set by the government. It is expected to maintain control over appointments, disciplinary action, and control of staff, ensure that the school receive the necessary infrastructure, facilities, and supplies, provide that no financial irregularity is committed, or any irregular procedure is followed and impose any disciplinary measures necessary.
- While not explicitly mentioned in any legislation, it would be important to ensure that the Management Committee to share a report of the overall functioning of the school and educational outcomes achieved with the Village Education Committee or other relevant committees created under the 73rd and 74th Amendments.
- It could appoint a manager to look after the day-to-day functioning of the school. He/she is expected to maintain records and accounts as prescribed, aid inspectors, hand over properties and records to

the competent authority and submit a report at the end of every academic year to the Director giving particulars of the movable and immovable properties, income and expenditure and details of the activities of the institution both curricular and extra-curricular in the academic year.

3. WHAT ARE THE PENALTIES TO BE IMPOSED ON THE MANAGEMENT/MANAGER?

Existing state laws	FICCI framework
<ul style="list-style-type: none"> If the management is found to be responsible for lapses or irregularities of the institution, the management should be allowed to make a representation before penalties are imposed. (Andhra Pradesh¹⁰⁵²) If the response is found to not be satisfactory, the management can be suspended, and a special officer appointed till the constitution of new management (Andhra Pradesh¹⁰⁵³). The person responsible for the overall management of the institution or the owner shall be held responsible and liable. (Assam¹⁰⁵⁴) If the manager alone is responsible for the lapses and irregularities, s/he should be penalised including imprisonment or fine. If he/she incurred debt without permission of the managing committee, the debt is to be personally paid by the manager (Andhra Pradesh¹⁰⁵⁵). Penalties may increase incrementally over time. punished with a fine which may extend to Rupees ten thousand for the first offence and in the event of the commission of every subsequent offence the fine may extend to Rupees fifty thousand. (Assam¹⁰⁵⁶) If a person omits to furnish such information or furnishes any information, which he knows, or has reasonable cause to believe, to be false, (or not true, in any material particular) s/he shall be punishable (Andhra Pradesh¹⁰⁵⁷) with a fine which may extend to ten thousand rupees or imprisonment of six months (Tamil Nadu).¹⁰⁵⁸ If any person obstructs any authority, officer, or person from performing any function (Andhra Pradesh¹⁰⁵⁹) or entering any educational institution in the exercise of powers he shall be punished with a fine which may extend to rupees two thousand. (Sikkim¹⁰⁶⁰) 	Not covered

Recommendation

- The person responsible for the overall management of the institution or the owner shall be held responsible and liable. A process of investigation to hold the right person responsible must be laid down before penalties are imposed.
- Penalties must be graduated and include lesser penalties like fines. In severe cases, the management should be suspended, and an interim appointment must be made till the constitution of the new management.

4. ARE ANY OTHER STRUCTURES RECOMMENDED?

Existing state laws	Other frameworks
Advisory Body	
<ul style="list-style-type: none"> An advisory body for pre-primary, primary, upper primary and secondary classes separately via a process prescribed. (Andhra Pradesh¹⁰⁶¹) It shall advise the management in evolving the fees structure, evolving the procedure for admission of students, evolving the procedure for accounting, and auditing the accounts of the school, guidelines for administration without interfering with the minority character of the minority institution, approve the annual report and evolve procedure for recruitment and condition of work of teaching and non-teaching staff. (Andhra Pradesh¹⁰⁶²) 	Not covered
Parent-teacher association	
<ul style="list-style-type: none"> There will be a PTA in every educational institution. (Andhra Pradesh¹⁰⁶³) 	Not covered

<ul style="list-style-type: none"> The composition and foundation of the PTA shall be in accordance with such rules as may be prescribed. (Andhra Pradesh¹⁰⁶⁴) 	
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5. WHAT IS THE PROCESS FOR THE MAINTENANCE OF RECORDS?

Existing state laws	FICCI framework
Maintenance of records	
<ul style="list-style-type: none"> A process of maintaining records, conducting annual audits, and filing returns are prescribed (Arunachal Pradesh¹⁰⁶⁵ and Karnataka¹⁰⁶⁶). Each school is expected to maintain the following registers: cash book, continent register, acquittance roll of teachers, fee register, pay bill to register, a roll of scholarship holders, CP Fund register, admission fee register, register for local funds, register for subscriptions, donations and other sources of income and any other registers that may be prescribed (Jammu & Kashmir¹⁰⁶⁷). Every self-financing school is expected to keep accounts of expenditure and transitions such as revenues received and payments made, the certificates related to TDS for the salary of staff and expenditure incurred towards the related trust or affiliated/holding/subsidiary company; financial records including bills and vouchers should be kept for seven years. (Gujarat¹⁰⁶⁸) Every educational institution receiving grant or grant-in-aid from State funds or other sources shall maintain accounts in such manner and in such form as directed by authorities. The accounts are to be audited at the end of every academic year and the statement of accounts shall be submitted to the Director (Sikkim¹⁰⁶⁹). Access to the books, accounts, documents, securities, cash, or other properties belonging to or in the custody of the Governing Council of a school should be provided to the concerned officials. Every educational institution would also need to furnish necessary returns, statistics and other information which may be required. (Arunachal Pradesh¹⁰⁷⁰, Himachal Pradesh¹⁰⁷¹ and Karnataka¹⁰⁷²). The school is expected to operate only one bank account for the individual registered school into which payments are to be made. (Gujarat¹⁰⁷³) Every private school shall keep separate accounts for different kinds of transactions namely, fees collected, grants received, financial assistance received, payments of salary to staff, purchase of machinery and equipment, laboratory articles, library books, stationery and other expenditure incurred. (Puducherry¹⁰⁷⁴) The salary and allowances shall be truly reflected in the expenditure statement towards salary and other allowances of the staff submitted by such school to the Fee Determination Committee constituted under the Tamil Nadu Schools (Regulation of Collection of Fee) Act, 2009 (TN¹⁰⁷⁵). Receipt shall be issued for all fees and charges taken from children (Haryana¹⁰⁷⁶). 	<p>1) All recognised schools shall maintain proper books of accounts. 2) All recognised schools shall maintain their accounts by relevant accounting standards and generally accepted accounting principles as notified by the Institute of Chartered Accountants of India.</p>
Listing of assets	
<ul style="list-style-type: none"> Non-government educational institution shall maintain a list of the properties both movable and immovable owned or possessed by it and furnish the same to the Director at such time or in such manner as may be prescribed (Assam¹⁰⁷⁷). The management of every aided school is expected to furnish the government with a list of school property. (Delhi¹⁰⁷⁸ and Haryana¹⁰⁷⁹) 	Not covered

Recommendation

- A process of maintaining records, conducting annual audits, and filing returns should be maintained. A list of movable and immovable assets of private schools needs to be maintained.

- The school would need to provide access to records of financial transactions and physical assets to concerned public officials in the event of suspicion of financial wrongdoing. Financial records including bills and vouchers should be kept for seven years.
- The school is expected to operate only one bank account for the individual registered school into which payments are to be made.
- Special requirements would need to maintain the records for any grant in aid allotted to aided schools.
- Private schools need to be covered under the RTI Act in line with the provisions in place in Uttar Pradesh.¹⁰⁸⁰

6. WHAT IS THE PROCESS FOR THE MAINTENANCE OF ACCOUNTS AND ASSETS?

Existing state laws	FICCI framework
Creation of a school fund	
<ul style="list-style-type: none"> • Every aided school is expected to establish a school fund which includes any aid granted by the government, income accrued to the school by way of fees, charges or other payments and other contributions, endowments and the like made to the school. (Meghalaya¹⁰⁸¹ and Haryana¹⁰⁸²). Goa provides for two Funds- the "School Fund" and the "School Staff Account Fund" (Goa¹⁰⁸³). • For unaided schools, the equivalent fund is a "Recognized Unaided School Fund (Meghalaya¹⁰⁸⁴, Haryana¹⁰⁸⁵, Goa¹⁰⁸⁶ and Telangana¹⁰⁸⁷) or the Unaided Educational Institution Development Fund (Punjab¹⁰⁸⁸). 	Not covered
Transfer to a development fund¹⁰⁸⁹	
<ul style="list-style-type: none"> • Not more than fifteen per cent of the total income of the school during the financial year may be transferred by an Eligible Educational Entity as a development fund. This is to be utilised by an eligible educational entity for the operation of the school or educational development of the school or other schools under that entity; it shall not be utilised for any commercial activity. (Uttar Pradesh¹⁰⁹⁰) • The following will be credited to the fund: Fee, Charge, funds, other charges or sum and contributions, endowments or gifts received by UA Educational Institution. The Fund shall be utilized for the betterment of the institution/activities beneficial to the students and shall not be used for any personal gains or business or enterprise by the Institution. (Punjab¹⁰⁹¹) 	Not covered
Endowment Fund	
4. (1) Any registered trust or a registered society or a local authority desirous of establishing a new school or up-grading the existing school shall have to deposit the amount as specified in Schedule C, by way of a National Saving Certificate or Fixed Deposit in any Nationalized Bank as security deposit towards creating an endowment fund; and pledge, such certificate or Fixed Deposit Receipt obtained in the name of the management, with the concerned District Education Officer. (2) The endowment fund may, with the prior permission of the State Government and subject to the provisions of section 5, be utilized for meeting the liability in the form of legal dues, if any, of the management. (Maharashtra ¹⁰⁹²)	
<p>The school shall deposit the Endowment Fund by National Saving Certificate or Fixed Deposit in any Nationalized Bank as a security deposit towards creating an endowment fund; and pledge such certificate with the concerned District Education Officer. The endowment fund may, with the prior permission of the State Government and subject to the provisions, be utilized for meeting the liability in the form of legal dues, if any, of the management. (Maharashtra¹⁰⁹³).</p> <p>The endowment shall be deposited in the Joint Account of the District Educational Officer and the correspondent/ Secretary/ Manager of the School in any Nationalized Bank. (Andhra Pradesh¹⁰⁹⁴)</p>	Any eligible educational entity desirous of establishing a new school or upgrading the existing school shall have to deposit an amount as may be prescribed, by way of a National Saving Certificate or Fixed Deposit or Bank Guarantee in any Nationalized Bank or Scheduled Bank, as a

	security deposit towards creating an endowment fund; and pledge, such certificate or fixed deposit receipt obtained in the name of the school, with the concerned District Education Officer.
Audits	
<ul style="list-style-type: none"> The annual audit must be undertaken by a Chartered Accountant (Bihar¹⁰⁹⁵) or by such authority, officer or person as may be prescribed (TN¹⁰⁹⁶). Audit report is to be sent directly to the concerned authority for forwarding to the government agency (Karnataka¹⁰⁹⁷). A copy of the report on the audit of the accounts is to be sent to the competent authority which shall forward the same to the school committee of the private school. This shall take such action as may be specified by the competent authority to rectify the defects, if any, disclosed consequent on the audit or inspection and submit a report together with its comments to the competent authority within such time as may be specified. For unaided private schools, accounts should be audited at least a year by qualified auditors. Audited reports must be furnished at the time of making an application for the renewal of recognition. (TN¹⁰⁹⁸) The institution must furnish the Director with an audited statement of accounts at the closing of the financial year mentioning the receipts and expenditures during the preceding financial year. (Assam¹⁰⁹⁹) Specific public officials have been notified as being responsible for undertaking audits for private schools. The educational agency shall within one month from the date of receipt of the audit report submit the same with its comments to the District Education Officer, which will be reviewed by the District Education Officer. (Mizoram¹¹⁰⁰) 	Not covered
Listing of assets	
<ul style="list-style-type: none"> Access to records of financial transactions and physical assets in the event of suspicion of financial wrongdoing. No land or building that has been transferred to the school to run an educational institution can be transferred without the permission of the state government. (Arunachal Pradesh¹¹⁰¹, Karnataka¹¹⁰², Delhi¹¹⁰³, and Haryana¹¹⁰⁴) No land or building shall be attached, sold, or made subject to a charge by a court in the execution of a legal decree. (Arunachal Pradesh¹¹⁰⁵ and Karnataka¹¹⁰⁶) Similarly, no transfer, mortgage, or lease of any movable immovable property of an aided school, except with previous permission of the appropriate authority. (Delhi¹¹⁰⁷ and Haryana¹¹⁰⁸) Where the appropriate authority omits or fails to dispose of the application for such permission within sixty days from the date of receipt of the application on this behalf, the permission shall, on the expiry of the said period of sixty days, be deemed to have been granted. (Delhi¹¹⁰⁹) Any person aggrieved by the grant or refusal of permission can appeal. (Delhi¹¹¹⁰ and Haryana¹¹¹¹) 	Not covered

Recommendations

- Every aided school is expected to establish a school fund which includes any aid granted by the government, income accrued to the school by way of fees, charges or other payments and other contributions, endowments and the like made to the school.

- Any eligible educational entity desirous of establishing a new school or upgrading the existing school must show adequate resources. An endowment amount should be sufficient for taking care of the expenditure of the school for at least 6 months. It may need to deposit an amount as may be prescribed, by way of a National Saving Certificate or Fixed Deposit or Bank Guarantee in any Nationalized Bank or Scheduled Bank, as a security deposit towards creating an endowment fund; and pledge, such certificate or fixed deposit receipt obtained in the name of the school, with the concerned District Education Officer.
- A process of maintaining records, conducting annual audits, and filing returns should be maintained. A list of movable and immovable assets needs to be maintained. Special requirements would need to maintain the records for any grant in aid allotted to aided schools.
- There should be a prohibition on the transfer of assets without due process.
- The annual audit must be undertaken by a Chartered Accountant. The school must furnish the Director with an audited statement of accounts at the closing of the financial year mentioning the receipts and expenditures during the preceding financial year.
- The educational agency shall within one month from the date of receipt of the audit report submit the same with its comments to the District Education Officer, which will be reviewed by the District Education Officer.

7. WHAT ARE THE PROVISIONS REGARDING TAX EXEMPTIONS AND OTHER INCENTIVES TO EDUCATIONAL INSTITUTIONS AND INDIVIDUALS SENDING CHILDREN TO PRIVATE SCHOOLS?

- There are tax incentives that support parents sending children to private schools. These are applicable centrally under the provisions of the Income Tax Act, 1961. The deductions towards the tuition fees paid for up to two children and deductions of the interest payment on any education loans taken for seven years from the year in which the interest payment on the loan begins. These incentives support access to private schools among tax-paying households.
- Similarly, tax incentives are provided to educational institutions. The Income Tax Act does not restrict how the monies collected from fees should be used, but there is a ceiling that 85% of the total receipts including income from property should be used within the same fiscal year for the provision of charitable activities and services and only 15% can be accumulated in specified instruments. More than 15% of the receipts can be accumulated if there is a specified purpose for a maximum of ten years. The education funds can receive funds without the liability of income tax.
- Educational services are also exempt from service tax.
- The Foreign Direct Investment (FDI) regime allows 100% investment through the automated route (without needing approval) and 100% investment for construction development activities in the education sector. However, trusts and societies cannot receive FDI while establishing schools since the law prohibits profit.¹¹¹²

8. What obligations do private schools have concerning the running of the larger national education system?

The various frameworks
Conducting Board Examinations
<ul style="list-style-type: none"> • Every private school is expected to depute its teachers on duty for the conduct of any board examinations and valuation of answer sheets on specific requisition by the authorities concerned. (Tamil Nadu¹¹¹³) • Educational agency shall not refuse to cooperate with the departmental authorities in constituting the institutions as centres for conducting the common public examinations like VII, X classes and other departmental examinations and will extend all the facilities for the smooth conduct of examinations. (Andhra Pradesh)¹¹¹⁴.
Disclosure to be made by recognized schools for Census or other State conducted surveys
Every private school is also expected to furnish any information sought by any person or authority as authorised by the Government, particularly during the conduct of census or election or any survey including the National Achievement Survey or the State Level Learning Survey. (FICCI and TN ¹¹¹⁵)
The State during the conduct of census or any surveys, including, inter alia, the national achievement survey and the state-level learning survey, may, through written communication by the appropriate authority, seek

specific information from the recognised school about the same. 2) Upon receipt of any such request for information, the recognised school shall provide the information within the prescribed time. (FICCI)

The school shall submit the DISE format every year on the 30th of September to the District Education Officer through Block Education Officer. (Uttarakhand¹¹¹⁶)

Recommendations

- The responsibilities of teachers and other educational personnel to take part in national or state processes about education must be recognized. This includes support for undertaking Board examinations, participation in national surveys (including educational surveys like the NAS/SAS) and submission of statistics to national databases like U-DISE.
- The government may be expected to develop modules for the training on social exclusion, gender, inequality, and parent orientation of PTAs and ensure that teachers in private schools are trained on the same.

8. WHAT ARE THE PROVISIONS FOR THE RECOGNITION AND FUNCTIONING OF MINORITY INSTITUTIONS SEPARATE FROM THE ONES LISTED ABOVE?

Existing laws
<p>Criteria for Minority Status</p> <ul style="list-style-type: none"> • Any educational agency belonging to religious or linguistic minorities shall have the right to establish and administer a private school of its choice primarily for the benefit of such minorities. Every such educational agency claiming minority status for a private school shall apply to the Government in such form along with such documents as may be prescribed. (TN¹¹¹⁷) • The National Commission for Minority Educational Institutions has enacted guidelines for the eligibility of a minority institution to claim minority status and processes to be followed for the same¹¹¹⁸. Religious and linguistic minorities. • Where the management of any minority school is suspended the competent authority shall appoint a person belonging to that minority as the Special Officer who has been administering the said minority school, immediately preceding such suspension. (TN¹¹¹⁹) • The minority status of a private school shall be retained only where the management of such private school has been transferred to another educational agency of the same minority with the prior approval of the Government (TN¹¹²⁰)
<p>Other provisions related to Minority Institutions</p> <ul style="list-style-type: none"> • Minority Institutions are exempt from the RTE Act and can charge fees as long as no profiteering is being done through the same and impart education in their languages/choose the medium of instruction.¹¹²¹ The government is also expected to not discriminate in granting grant-in-aid to minority institutions.¹¹²² The NCPCR has recently proposed bringing all minority-run schools, including madrasas, under the purview of the RTE Act.¹¹²³
<p>Regulations pertaining to Minority Institutions in State Laws</p> <ul style="list-style-type: none"> • The Government shall have the power to exempt minority schools from such provisions of this Act or the rules or orders issued thereunder which may impinge upon the minority character of such minority schools. (TN¹¹²⁴) • The government may make rules regulating minimum qualifications for teachers of unaided minority schools. (Meghalaya¹¹²⁵) • Every employee of an Unaided minority school shall be governed by the Code of Conduct as prescribed; the Code of Conduct shall not infringe upon the distinctive character or interfere with the management of unaided minority schools. Every contract of service shall be forwarded by the managing committee of the concerned unaided minority school to the Director for record in such manner as may be prescribed, provide for the following matters <ul style="list-style-type: none"> ○ the terms and conditions of service of the employee including the scale of pay and other allowances. ○ the leave of absence, age of retirements pension and gratuity, or contributory provident fund in lieu of pension and gratuity, and medical and other benefits to which the employee shall be entitled. ○ the penalties which may be imposed on the employee for the violation of any code of conduct.

- how disciplinary proceedings in relation to the employees shall be conducted.
- It shall be lawful for any minority educational institution to admit students belonging to the concerned minority whether based on religion or language, based on the marks obtained by them in the qualifying examination or as the case may be, based on the ranking assigned to them in the entrance test conducted in the prescribed manner. (Telangana¹¹²⁶)
- In West Bengal¹¹²⁷ a set of standards have been separately laid down for the recognition of Madrasahs. Inspection of madrasah that has applied for recognition will be undertaken by the District Inspection Team which should consist of the District Inspector of Schools (Secondary Education) or District Minority Officer of the concerned district, convener; (b) a nominee of the West Bengal Board of Madrasah Education; member (c) a nominee of the Director, member. The inspection report shall be forwarded to the government which will then send it to the recognition committee. The recognition committee will take the decision of recognition based on the recommendations made in the report.

Recommendations:

- Minorities have the right to run educational institutions. This includes both religious and linguistic minorities.
- Minority educational institutions must be expected to adhere to minimum standards of quality that are in the best interest of the child including the right to be taught by a qualified teacher, in a safe learning environment and experience non-discrimination on grounds like gender and disability. In accordance with this, a minimum code of conduct must apply to the staff employed by these institutions, especially aided minority institutions.
- Minority institutions must adhere to guidelines issued by the National Commission for Minority Educational Institutions.

9. WHAT ARE THE PROVISIONS FOR AIDED INSTITUTIONS?

Existing laws
Provision of Grants-in-aid
<ul style="list-style-type: none"> • The government may, at its discretion, give grants-in-aid to private schools. The number in which the grant-in-aid is to be given and the conditions to be fulfilled by the schools for receipt of such grant-in-aid shall be prescribed by the Government. (Jammu and Kashmir,¹¹²⁸ Madhya Pradesh,¹¹²⁹ Meghalaya¹¹³⁰, Mizoram,¹¹³¹ Odisha,¹¹³² Puducherry¹¹³³ and Rajasthan¹¹³⁴). A detailed list of conditions has been prescribed in Jharkhand.¹¹³⁵
Eligibility for Grants-in-aid
<ul style="list-style-type: none"> • No grant shall be made concerning a school the income of which from fees and endowments is sufficient to maintain it (Himachal Pradesh¹¹³⁶). • No school shall be eligible for Grant-in-Aid if its income is more than the expenditure during any year. (iii) Grants may be paid subject to the availability of funds; due consideration is to be given to the requirements of each institution. No school will be eligible for Grant-in-Aid during the first three years of starting. (Karnataka¹¹³⁷)
Granting of Permission
<ul style="list-style-type: none"> • Applications for maintenance grants shall be submitted by the schools concerned to the District Inspector. He/she shall inspect the school as per norms and make necessary enquiries and forward the application to the department with their recommendations. The decision by the Department regarding the admission or otherwise of the school to the grant-in-aid list shall be communicated to the District Inspector of Schools for communication to the school authority. No grant shall be made concerning a school the income of which from fees and endowments is sufficient to maintain it. (Himachal Pradesh¹¹³⁸) • The committee constituted by the appropriate authority recommends the institutions eligible for grants in aid (Telangana¹¹³⁹). • All grants paid from State funds are sanctioned either by the Government on the recommendation of the Director of Public Instruction or by the Director himself or by any other subordinate authority duly empowered on this behalf. (Karnataka¹¹⁴⁰)
Use grant-in-aid is to be put to
<ul style="list-style-type: none"> • No payment, out of the aid given for salary, allowances, and provident fund of the employees of the school, shall be made for any other purpose (Meghalaya¹¹⁴¹).

<ul style="list-style-type: none"> No aided Educational Institution shall be allowed to spend any portion of its income on any purpose other than educational purposes (Puducherry¹¹⁴², Rajasthan¹¹⁴³ and Uttarakhand¹¹⁴⁴). In every aided school, there shall be a fund, to be called the "School fund" and there shall be credited thereto— (a) any aid granted by the Government; (b) income accruing to the school by way of fees, charges, or other payments; and (c) any other contributions, endowments and the like made to the school. (Meghalaya¹¹⁴⁵). The School Fund and all other funds, established with the approval of the Director, shall be accounted for, and operated in accordance with the rules as may be prescribed. (Meghalaya¹¹⁴⁶) The following are the different types of grants payable to the institutions (a) Maintenance Grant; (b) Building Grant. (Karnataka and Mizoram¹¹⁴⁷)
Regulation related to Functioning
<ul style="list-style-type: none"> Selection of staff to be made by the Selection Committee formed by the Managing Committee of the school. (Mizoram¹¹⁴⁸) The Managing Committee will introduce such scales of pay and allowances for the staff as are approved by the Govt, for the corresponding staff in the Government schools. (Puducherry¹¹⁴⁹) Restriction on alienation of property- no sale, mortgage, lease, pledge, charge, or transfer of property of an aided school except with the permission of the competent authority. (Odisha¹¹⁵⁰) Service of teachers in an aided school cannot be terminated without obtaining prior approval from the competent authority. (Odisha¹¹⁵¹) Accounts to be maintained in the prescribed manner (Meghalaya¹¹⁵², Mizoram¹¹⁵³, Odisha¹¹⁵⁴ and Rajasthan¹¹⁵⁵). Governments reserve to themselves the right to forbid or to prescribe the use of any book or books in aided schools. (Puducherry¹¹⁵⁶) Where any retrenchment of any teacher or other person employed in any private school is rendered necessary consequent on any order of the Government relating to education or course of instruction or any other matter or consequent on the reduction in strength of the pupil studying in any such private school, it shall be competent for the Government or the school committee of any private school, to appoint such teacher or another person in any school or institution maintained by the Government or in such private school, as the case may be. (TN¹¹⁵⁷)
Withdrawal of grant-in-aid
<ul style="list-style-type: none"> Notwithstanding anything contained in the Code, the Government reserves to itself the right to withdraw or reduce a grant at its discretion and to alter, modify or revise the rules of recognition and Grant-in-Aid without assigning any reason thereof. (Karnataka¹¹⁵⁸) Order passed by the State Government refusing sanction of the grant shall be final and shall not be questioned in any court of law. (Mizoram¹¹⁵⁹) The prescribed authority may withdraw the grant-in-aid of private school if (Mizoram¹¹⁶⁰). <ul style="list-style-type: none"> (i) The recognition of the institution has been suspended or withdrawn. (ii) The percentage of students passing the examinations conducted by the board falls short of half of the percentage of the entire Board for three consecutive years. (iii) The Managing Committee or the secretary is found to be mis utilising the funds of the school concerned or utilising it for any purpose other than meeting the legitimate cost of running the school, development of the school or employees of that school. (iv) There has been persistent default in maintaining a correct account of the receipts and expenditure of the school default in submitting an audited statement of its accounts within the specified period. (v) The school fails to conduct the examination of the Board or any other examining bodies fairly and properly or if the managing committee or any of its employees assists or abets malpractice in such examinations or fails to prevent the adoption of malpractices. (vi) Unless otherwise permitted, the school is found to be admitting students or any criteria other than merit. (vii) Private schools are not paid to such teacher or other person by the provisions of this Act, or the rules made thereunder. (Tamil Nadu¹¹⁶¹) Before withdrawing the grant, the Managing Committee shall be given a notice of the action proposed to be taken and required to show cause within thirty days. (Mizoram¹¹⁶² and Odisha¹¹⁶³)

Recommendations:

- The detailed structure of the grants in aid scheme including the extra obligations to be imposed on aided schools including, but not limited to, staffing, infrastructure, human resources, pedagogy and curriculum and financial accountability must be spelt out.
- The grounds of eligibility of private schools and the process of application for grant-in-aid must be specified.
- At the same time, the procedures to be followed for deciding on the application and withdrawal of the aid must be laid down. This needs to have mechanisms for filing complaints and be undertaken transparently.
- The uses to which the funds received as grants-in-aid need to be spelt out, along with the processes of maintaining accounts.

10. WHAT ARE THE PROVISIONS ABOUT PRIVATE SCHOOLS RECEIVING OTHER KINDS OF SUPPORT FROM THE GOVERNMENT OR FUNCTIONING IN PPP MODE?

- Private schools built on government land need to have higher accountability and government control.¹¹⁶⁴
- None of the State Education Acts spells out specific obligations of private schools functioning in PPP mode, beyond Government Aided Private Schools and implementation of Section 12-1c of the RTE Act. However, a range of schools run in PPP mode in India at present. It would, accordingly, be desirable to include a clause on the regulation of private schools running in PPP mode. Such a proposal needs to learn from past reviews of PPPs globally and domestically¹¹⁶⁵ by ensuring that the government remains in control over the program's planning, the PPP does not contribute to the exclusion of children from poor and marginalized communities by allowing private schools to screen students and ensures teachers adhere to the government-mandated minimum qualifications of teachers. At the same time, the government's responsibility for regulating the PPP, including enforcing contract compliance. Literature on the issue suggests that the following domains regarding PPPs will require regulation¹¹⁶⁶:
 - Authorization of providers including eligibility conditions to receive public funding.
 - Funding includes public funding to private schools, criteria for distributing public resources and which expenses are covered by these schools, and whether private schools can levy or otherwise collect additional funds over and above the publicly provided resources.
 - School choice and admission including admission processes and how choices are organized
 - School autonomy including curriculum, pedagogical and managerial aspects.
 - Evaluation and accountability including school inspections, evaluations, accountability measures and participation of schools in large-scale assessments.
 - Workforce (teachers) certification and working conditions.

CONCLUSION:

Certain key principles around the administration of schools that emerge from this section are:

- A Managing Committee should be constituted in every individual private school. A term must be specified for the same. This should have representatives of parents and teachers at the school, including representatives of the parent-teacher association.
- The managing committee should develop the scheme of management for the functioning of schools and should be responsible for ensuring that the school abides by the rules set by the government and provides financial oversight of the school.
- It could appoint a manager to look after the day-to-day functioning of the school.
- If the management is found to be responsible for lapses or irregularities of the institution, the management should be allowed to make a representation before penalties are imposed. If they are found guilty after investigation, penalties may be imposed on the school management/manager. The government should have the right to take over a private school if it is found to be in the public interest to do so.
- The school must maintain records, conduct annual audits, and file returns and a list of movable and immovable assets.

- The school needs to be inspected at regular intervals to assess the extent of compliance with the norms and standards of private schools. Government capacities need to be enhanced to enable them to finish inspections in the stipulated period. A process for challenging inspection reports needs to be prescribed and reports of the inspection need to be available in the public domain.
- Every private school is also expected to furnish any information sought by any person or authority as authorized by the Government, particularly during the conduct of census or election or any survey including the UDISE system, National Achievement Survey, or the State Level Learning Survey.

UNPACKING THE REGULATORY ECOSYSTEM

Over the preceding decades, the role of the State has shifted to increasingly include the function of regulation of an array of non-state actors. This encompasses a range of functions including standard setting, monitoring, and sanctioning which the state exercises over the private sector. Functioning of regulatory agencies varies in terms of the extent of powers that agencies possess, the managerial autonomy they enjoy (the extent to which agencies have autonomy in their staffing, organisational structure, financial and budgetary matters), and the extent of political independence and accountability¹¹⁶⁷. The growth of regulatory structures is governed by a mix of legal and administrative frameworks (the legal provisions and the practices of implementation). In the case of the private sector in education in India, it has been shown as also rooted in what has been described as a shadow institutional framework, a codified and informal set of norms and procedures that (often in contradiction to official regulatory and policy frameworks) govern the private schooling sector in India¹¹⁶⁸.

One of the characteristics of private sector regulation in India is the state's weak regulatory capacity and the absence of incentives to address this¹¹⁶⁹. This is a function of the understaffing of key regulatory capacities with political incentives being higher for the introduction of new programmes rather than hiring of staff for monitoring and regulating existing ones; at the same time, regulators are more involved in licensing industries rather than monitoring compliance¹¹⁷⁰.

The situation is no different in India with the regulation of private schools constrained by weaknesses in India's regulatory system and the disjunction between national provisions and state regulatory capacities.¹¹⁷¹ Between 1991- 2011, while India's population increased from 846 million to 1.2 billion, total public sector employment decreased from 19.1 to 17.9 million. The size of the IAS dropped by 10 per cent; in 2010 the vacancy rate of the IAS and the Indian Police Service was 28 per cent.¹¹⁷² The situation is no different in the education sector. When it came to the implementation of the RTE Act, national and state-level regulatory structures are seriously understaffed, depriving parents of the "important right of grievance redress."¹¹⁷³ It has been recently argued that private schools in India are overregulated,¹¹⁷⁴ unlike government schools. However, evidence points towards a situation of under-reregulated schools in both sectors, with private school parents consistently highlighting the absence of effective regulation of this growing sector. There is a consistent demand from parents for stronger regulation of private schools making state intervention a core part of the demand arising from the end users of the private education market in India.¹¹⁷⁵ As such, it is not enough to only examine what regulatory provisions are desirable, but also examine what structure would be needed to ensure that these provisions are implemented.

Given this evidence, the report recommends investment in augmenting regulatory capacities including the hiring of adequate numbers of staff to undertake monitoring, grievance redress, and other regulatory functions.

In so doing, it is proposed to work with the grain of existing governance frameworks and administrative structures to ensure improved implementation. Accordingly, this report, instead of recommending the establishment of new (and potentially understaffed and under-resourced) regulatory structures, proposes to streamline the existing regulatory infrastructure. It is accordingly proposed to maintain regulatory functions that follow the

traditional layers of schools, panchayats/urban local bodies, blocks, districts, states and nationally. Effective regulation of the private sector will include streamlining processes, eliminating malpractice and corruption, and providing political and financial support for reform processes¹¹⁷⁶. Accordingly, closer attention would need to be paid to processes of everyday functioning of the regulatory functions.

The current framework is being proposed in the context of the new National Education Policy which has argued for the deregulation of the education sector. It highlights the need for the independence of education regulators from the administration. However, independence without adequate resources to enable functioning and frequent overlap between regulators has been problematic and will need to be addressed. Therefore, we propose streamlining regulators and ensuring that private school regulation is seen holistically instead of fragmenting the regulatory function across different domains (e.g., regulation of fees, recognition, staff working conditions and safety being the domain of different structures).

At the same time, the new National Policy recognizes the commercialization of education as an issue and notes that the current regulatory regime has been unsuccessful in protecting parents from exploitation by private schools. However, it also encourages states to create guidelines to further incentivize private/philanthropic activity in education and proposes a 'light but tight regulatory' framework that risks lowering the bar in terms of regulation of a sector already lacking adequate safeguards to protect parents from abuse.¹¹⁷⁷ Stronger mechanisms for monitoring and enforcement of regulatory provisions pertaining to private schools and grievance redress in cases of violations by private providers are urgently needed. Care must be taken to ensure that the involvement of private actors in the provision of education does not create or reinforce discrimination, inequality, and segregation or undermine access to free quality public schools for everyone.

It is particularly important to strengthen provisions and structures related to parental voice and financial transparency which have remained particularly weak to date. Furthermore, many of the sections related to quality and equity date back to the 1980s and 1990s and might need to be updated with a more contemporary and human rights-based understanding.

The range of, at times contradictory, provisions on the books under a multiplicity of state-specific education legislation highlights the need to streamline the legislative provisions at the state level. Undeniably, historic reasons exist for the introduction of each clause, but it is time to align the various provisions and learn from the progressive practices in various states and from global frameworks like the Abidjan Principles.

A STRUCTURE FOR THE REGULATION OF PRIVATE SCHOOLS

Based on the reading of the various legislations, we propose the introduction of the following structures for the effective implementation of policy provisions described earlier. This structure does not include the role of the Courts in the regulation.

School level

Structure	Function
• Management Committee	This is the overall management of the private school including its proprietors, principal, and representatives of the major actors in the

	school setting- viz. teachers, parents, and students. This structure is intended to address all dimensions of the functioning of the school, not only the question of financing and fees. In addition, the management committee should disclose critical information on the school website (in line with the NEP recommendations in this regard) and submit reports of their functioning to the District Committee (potentially through its secretariat) and the Panchayat/Urban Local Body. It will need to ensure cooperation with the School Inspectors and other district structures and support the functioning of the PTA, Student Council, and the Committee against Sexual Harassment (CASH) Committee.
<ul style="list-style-type: none"> School Fees Committee 	This is a sub-committee of the overall Management Committee that lays down the fees and recommends the same to the management. This should include parent representatives.
<ul style="list-style-type: none"> PTA and Student Council 	These are general bodies for parents and students where their issues could be discussed.
<ul style="list-style-type: none"> Committee against Sexual Harassment (CASH) 	These are statutory committees under the Prevention of Sexual Harassment at the Workplace Act that should address any other risks to the safety and security of students. If additional specific committees to undertake specific functions are needed, these may be considered as sub-committees of the Management Committee.

Panchayat/Urban Local Body

Structure	Function
	It is not proposed to introduce a layer for regulation of private schools in the Panchayat. The role of the Urban Local Bodies will depend on the governance arrangements in the Municipality in question. It is, however, envisaged that reports about the functioning of the schools in the Panchayat be shared with the PRI/ULB's Education Committee to ensure that they are aware of the functioning of all educational institutions in their jurisdiction. Doing so will ensure improved synergy with the structures created under the 73 rd and 74 th Constitutional Amendments. Additional powers may also be granted to the Panchayat in PESA (Panchayat Extension to Scheduled Areas) areas.

Block

Structure	Function
School Inspector	No structure for regulation is proposed at the block level. However, given the need for a reasonable number of schools to be allotted to inspectors/officials overseeing private schools, this position or positions could potentially be located at the Block Level. The number of positions needed would depend on the number of private schools in a locality and the distances involved.
A window for submitting complaints	While regulatory structures are proposed at the district level, it may be advisable to have a physical drop box for complaints related to the functioning of private schools. This could be placed at the Block level to save travel time for complainants.

District

Structure	Function
District Private School Regulatory Committee	A District Committee may be created to oversee all functioning of private schools. It is not advisable to have multiple structures providing oversight of private schools at the district level. It should be the mandate of a single

	structure to undertake fee regulation, recommend recognition, take cognizance of the compliance with norms and standards and address grievances of teachers and parents, and undertake other functions as necessary.
Directorate/ Administration	The District Committee will require administrative support to undertake these duties. A functional secretariat will be required for the District Committee which may be hosted in the Directorate of Education. This would entail the availability of adequate human and financial resources to enable the committee to undertake its function. The Secretariat may also examine the information shared by private schools, identify relevant trends in their districts and share their perspectives with the District and State Committees.
District-level audit committee	While it is recommended to have a single committee to oversee all functioning of schools, a dedicated and more technical group may be required to scrutinize private school audit reports and other financial information. If additional structures are required in the district, these may be considered as sub-committees of the District Committee.
District conclave of parent Management Committee members	No formal structure to bring together parent members of the school-level structures is being proposed. However, some events enabling them to meet and discuss issues of concern would be important to build a common understanding of the issues and coordinate action on common issues.
District Institute of Education and Training	The DIET can provide an overview of the curriculum, textbooks, and other pedagogic dimensions laid down in the law. Support for this may be provided by the Secretariat of the District Committee.

State

Structure	Function
State Private School Regulatory Committee	A State Regulatory Committee will be required to serve as an appellate authority for grievances faced by both parents and private school management. This structure would also look at policy matters, including examining reports coming from the Secretariat of the District Committees. When the SSSA under the NEP is rolled out, this could be subsumed under the same.
State School Standard Authority (SSSA)	Information about the design, resourcing, and mode of functioning of the SSSA under the NEP is currently not available. As such, no clear recommendations can be made about its role at present. The NEP provides a grievance redress function to the SSSA. However, it is being proposed to retain this function with the SCPCR to minimize role confusion given the latter's role concerning grievance redress in school education under the RTE Act.
Cell in State Education Directorate	A functional secretariat will be required for the committee which may be hosted in the education department.
Education Department	The Department of Education provides the overall policy direction for education in the State.
SCPCR	The State Commission for Protection of Child Rights has the role of grievance redress on the right to education and child rights. This role should be maintained enabling parents to submit complaints related to violation of children's rights to the same.
State Board	The State Board governs the syllabus, examination and evaluation pattern, and curriculum of the secondary schools affiliated with them in their state.

Legal Services Authority	The Legal Services Authority has been created to provide free Legal Services to the poor and organize Lok Adalats (peoples' courts) for the settlement of disputes. A stronger linkage with these structures can support parents' struggles in obtaining redress in disputes with private schools ¹¹⁷⁸ .
SCERT	The State Council of Educational Research and Training prescribes curricula and textbooks for schools and teacher training institutions and arranges in-service training of education personnel.

National

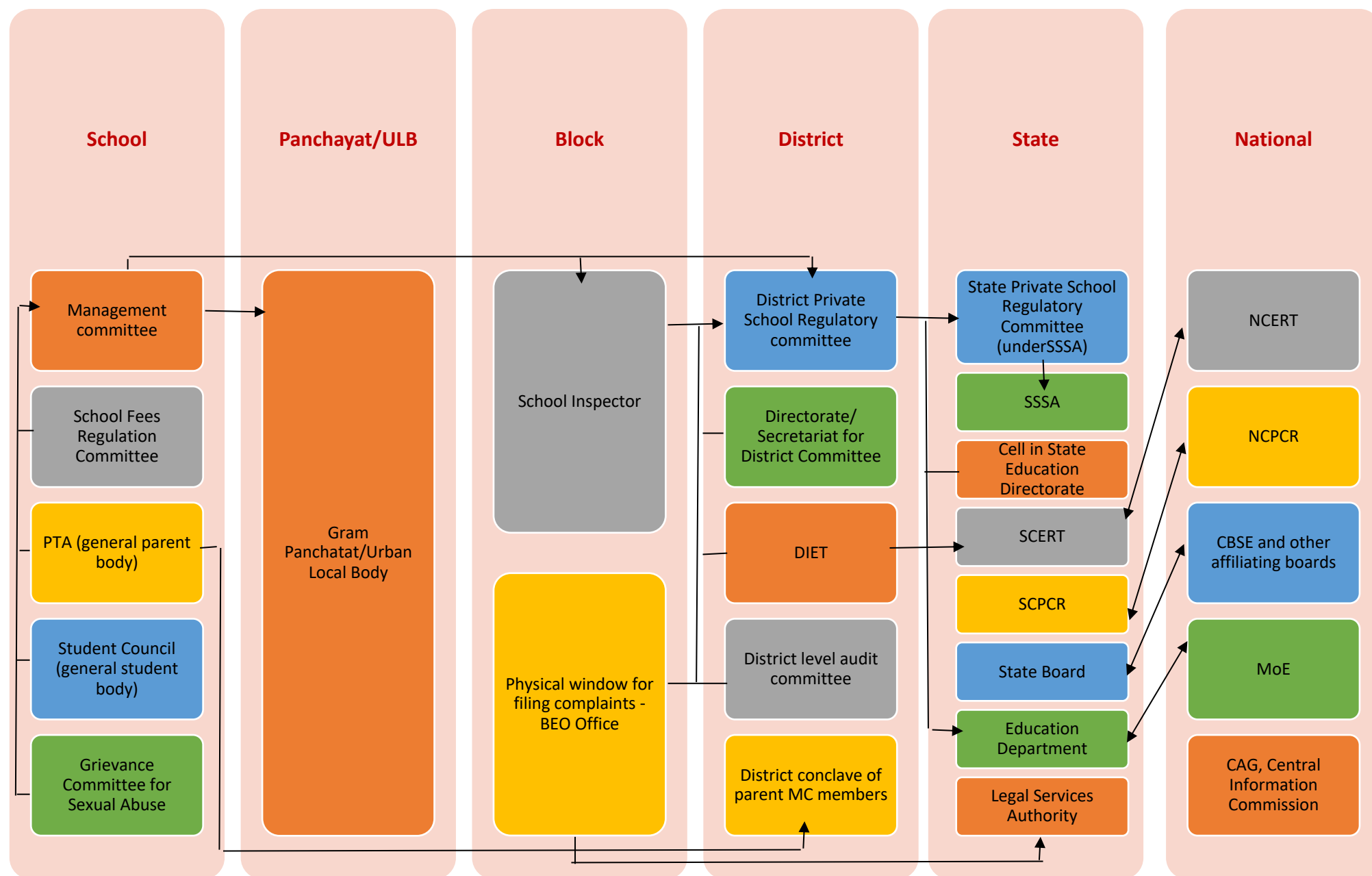
Structure	Function
NCPCR	The NCPCR has the role of grievance redress on the right to education and child rights under the RTE Act. This role should be maintained enabling parents to submit complaints related to violation of children's rights to the same.
NCERT	The National Council of Educational Research and Training assists governments for the improvement of school education including the development of curriculum frameworks, model textbooks, and supplementary materials and serves as a clearing house for ideas and information in relation to school education. Its recommendations and materials will be adopted by private educational institutions.
CBSE and other national affiliating boards	Central Board for Secondary Education (CBSE) and the Council for Indian School Certificate Examinations (ICSE) govern the syllabus, examination and evaluation pattern, and curriculum of the secondary schools affiliated with them.
Department of School Education and Literacy under the Ministry of Education	This is the overall nodal body for the development and implementation of national education policies.
Comptroller and Auditor General of India (CAG) and Central Information Commission (CIC)	The CAG should proactively undertake sample audits of private schools in the states. At the same time, the CIC should support proactive disclosure and the filing of RTI requests related to the functioning of private schools and PPPs with non-state actors in education.

THE BROAD DIRECTION OF TRAVEL

The schematic presenting the various structures proposed has been outlined on the next page. It will be critical to augment human capacities to regulate private schools and clearly delineate the roles played by the various structures to minimize confusion over domains. It would be critical to ensure regulatory independence of regulators, introduce checks and balances to minimize abuse of power and include provisions to enable the regulators to receive feedback from the various stakeholders in the process.

Improved accountability of regulators will also involve improvement in the availability of data about the functioning of schools. It would be important to collect and disclose statistical details about the functioning of the regulatory system of private schools, including those that pertain to the functioning of the regulators. Thus, it would be important to not only gather and disclose systematic information about the functioning of private schools (particularly with respect to equity, financial transparency, and other areas where regulation has been weak)

but also data like the pendency rate of complaints filed at various levels and vacancies in key regulatory positions.



CONCLUSION

India now needs a comprehensive approach to the regulation of private schools. A complex regulatory landscape makes it difficult for parents and other affected parties to understand and claim their rights. At the same time, the sedimentation of various layers of legislation over decades has made regulation a complex exercise for the government and private school management alike. The present exercise is a step in this direction by attempting to tease out some of the strands of the legislation that exist and identify some areas where legislation may be needed.

We hope that this report will be of use to activists working on the issues of regulation of private schools. Some of the uses that we can see that the present analysis can be used are:

- As a base for a new legal framework: This provides a framework for the development of state or national legislation for the holistic regulation of the functioning of private schools. This would need collective input from legal experts who can combine these pieces into a viable legislative framework.
- As a checklist to review new emerging legislation: These blocks can also serve as the basis for comparison of new legislation that many states are in the process of drafting. As such, this can provide an overview of how different states have addressed similar regulatory challenges and can provide inspiration for the drafting of new legislation.
- As a tool for awareness building: This mapping of the provisions provides can form the basis of popular materials for parents on the nature of regulations in place in the country. There are few materials currently in place that can demystify legal provisions related to the regulation of private schools and can guide parents towards avenues for action.
- As a tool for research: Evidence of compliance of private schools with the regulatory frameworks in place has been limited. A mapping of provisions and regulatory challenges may inspire research to better understand the nuances of regulatory challenges in various states.
- As the basis of action: Activist groups can use this document to hold consultations, examine the implementation of provisions, documenting the cases of violations and creating a central pool of cases at the state level that can guide advocacy. This can, in turn, support collective advocacy on the need for regulation of private schools.
- As a basis for legal action: An overview of the provisions may inspire legal interventions for stronger regulation of private schools where individuals' or collective rights of children, teachers or parents are violated.
- As a basis for engagement with government: This analysis can serve as the basis for dialogue with government officials and elected peoples' representatives about the provisions that exist.

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