Shardul Amarchand Mangaldas

CENTURY of EXCELLENCE

FICCI

Model Self-Financed Independent Schools Recognition and Fee Regulation Code



FICCI Arise

STUDENT FIRST

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Foreword

With 472 million population below the age of 18, performance of education sector indeed plays a key role in realizing the potential of the future workforce in India. By 2030 the number of school going children in the age bracket of 4-17 years is estimated to be 300 million.

In last few years role of private schools in India has substantially gained importance. Over last 15 years the enrolment percentage in such schools has jumped from 18% to 43%. This rapid growth of enrolment in independent schools has ensured increase in supply and access. While the independent schools have gained recognition and credibility over the years it is true that a young demography and an increased demand has also attracted certain fly-by-night operators who indulge in mal practices. Such schools malign the entire independent school segment and create an atmosphere of mistrust. In the past few years this has led to rise in parental and society activism and the governments are being pushed to come up with stringent regulations.

It is a time tested phenomenon that autonomy drives innovation and quality in educational institutions. This autonomy should be coupled with accountability and complete transparency. Educational institutions thrive only when there is an atmosphere of complete trust and collaboration between all stakeholders, parents, students, community, regulators, media and the schools. Over-regulation kills creativity as it diverts educator's focus from classroom to mundane administrative compliances and defeats the very objective of 'Minimum Government Maximum Governance.

I am pleased that FICCI ARISE has taken the initiative to develop Model Self-Financed Independent Schools (Establishment and Regulation) Code. The process adopted for development of this code is indeed commendable as it involved retaining of an eminent law firm who studied various existing legislations and court rulings and holding of several consultative workshops with active participation of all stakeholders from various states. The Code prescribes a balanced regulatory framework that mandates complete transparency and provides adequate autonomy to self-financed independent schools to excel while retaining adequate powers with the state to regulate them. The code also provides a pragmatic and balanced formula for regulating fee hike.

I am also pleased to learn that a few states are already in the process of adopting the frameworks emanating from this model code. This framework, once adopted by states shall clear the regulatory maze and attract long term visionary investors to enter the sector. Increased supply shall in turn increase competition that shall boost quality, transparency and affordability.

Anil Swarup

(Anil Swarup)

New Delhi
28th June, 2018

Foreword FICCI Arise

Education is covered under the Seventh Schedule of the Constitution of India that makes it a concurrent subject. The Constitution of India requires the State to make effective provisions for securing the right to education. Over the years the central and state governments have thus established a massive network of schools. Various acts, legislations and GO's have been framed around school education, which were primarily enacted to govern state owned schools. With the advent of independent schools that are set up by private investment, the enactments were expanded to cover these kind of schools too.

Self-financed independent school sector has grown manifold over the years. While in terms of physical spaces, self-financed independent schools constitute about 25% of total schools in the country, they cater to over 43% of school going students. Several such schools have been instrumental in introducing new age pedagogy and classroom practices that are in tune with the present times and equip todays' students with the right skillset and acumen to take on the challenges of this new and rapidly changing world. Given the demographic state of our country, it is important to further encourage long term and visionary 'Edupreneurs' to enter the sector and upgrade/build high quality 21st century ready schools.

Present regulations deal with state as well as self-financed schools. This leaves enough room for overlaps and ambiguity that leads to inspector raj, misguided activism and litigation. Several courts including the apex court have pronounced a number of judgments from time to time and number of cases are still pending. Educators have to unfortunately deal with this regulatory maze almost on a daily basis. Quality becomes the victim as educators time gets diverted from classroom teaching to fixing avoidable regulatory issues.

FICCI Alliance for Re-Imagining School Education (FICCI ARISE) in collaboration with Shardul Amarchand Mangaldas & Co has prepared Model Code for Self-Financed Independent Schools for states for regulating the establishment and operation of new schools and recognition of existing schools as self-financed independent schools. The Model Code lays down the framework for independent schools to practice utmost levels of transparency and governance through self-regulation and accountability. Equity, Quality, Excellence and Partnerships are the core four pillars of this code. The Code prescribes a balanced framework that provides adequate autonomy to self-financed independent schools to excel and renders adequate powers to the state to regulate them. Parents shall be the winners who would then have a vast variety of high quality schools of different genres to choose from for their wards.



Mr Prabhat Jain
Chairman, FICCI ARISE



Mr Naga Prasad Tummala
Co-Chair, FICCI ARISE



Mr Manit Jain
Co-Chair, FICCI ARISE

Foreword



India has one of the world's youngest population which can be tapped by empowering them with skills and knowledge to aid the country's future development plans. The recent draft New Education Policy, 2016 published by the Ministry of Human Resource and Development (**"Policy"**) recognises this capacity and recommends the Government to facilitate and encourage the educational institutions to improve their curricula.

The Policy recognises that poor quality of learning at the schooling stage leads to poor learning outcomes at the higher education stage. One of the key challenges in achieving universal good quality education is to ensure access to early childhood education along with ensuring upward transition/mobility of students from one education level to another.

In order for the Government to discharge its constitutional obligation of providing access to good quality education to all, it is necessary for the Government to embrace and encourage the participation of private players/foundations.

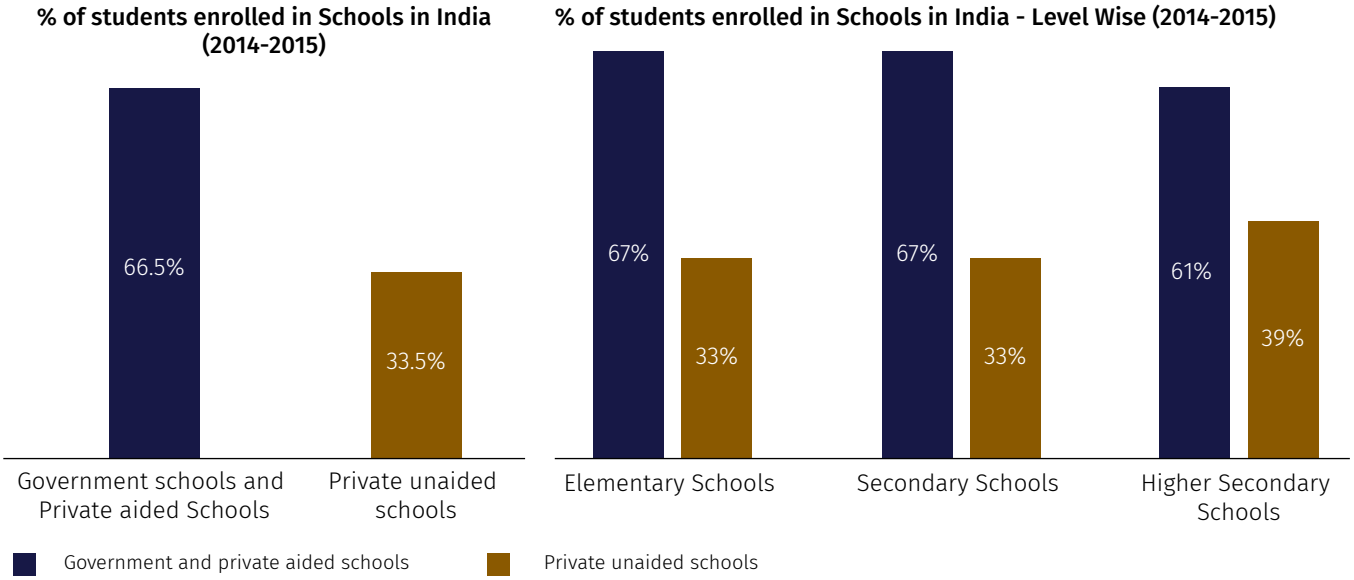
Over the last decade, the country has seen a spurt in the growth of the education sector kindled by the increasing demand for good quality schools. The Policy recognises the need for investment in education by private providers through philanthropy and corporate sector responsibility, to supplement the Government's efforts while also proposing to incentivize private sector investment in education through tax benefits. However, incentivization is not the only factor that will attract private sector investments. It is equally important that considerable autonomy is given to private schools so that they can achieve their optimal potential. A good governance model with an appropriate framework of autonomy with accountability is necessary to enable the school system to respond to the changing circumstances.

In view of the above, Shardul Amarchand Mangaldas & Co, in association with FICCI Alliance for Re-Imagining School Education (**"FICCI ARISE"**), has drafted a Model Self-Financed Independent Schools (Recognition and Fee Regulation) Code, 2017. Our objective is to impress upon the need to have an independent code for recognition and regulation of schools established as self-financed independent institutions. It is imperative that these schools are encouraged to operate based on principles of self-regulation through good governance and optimal disclosures. We hope that the Model Self-Financed Independent Schools Code will serve as a useful model draft for the various State Governments to adopt in order to encourage participation of private players/foundations along with addressing the concerns of all the stakeholders.

Shardul S. Shroff
Executive Chairman
Shardul Amarchand Mangaldas & Co

Introduction

The Indian education sector has evolved considerably over the last decade and garnered a lot of interest from all the stakeholders. One primary reason being the growing thrust and demand for quality education which has paved way for participation of private players/foundations in the establishment and operation of educational institutions.



Source : Report of the Committee for Evolution of the New Education Policy headed by T.S.R. Subramanian (2016)

As per the Report of the Committee for Evolution of the New Education Policy, headed by T.S.R. Subramanian (2016) ("**Committee**"), private unaided and aided schools account for nearly 42% of the enrolment in the school sector. Also, further the enrolment in private unaided elementary and secondary schools is around 33% each. The Committee has observed that the increase in the number of private schools is primarily due to the perceived failure of the schools in the government system to provide education of good quality.

Presently, in most States, both government schools and private self-financed schools are being regulated by the same enactment. This has led to some gnawing concerns as, unlike the government schools where a closer monitoring of the Government is a necessity, private schools require more autonomy in their operations.

The Model Self-Financed Independent Schools (Recognition and Fee Regulation) Code, 2017 ("**Model Self-Financed Independent Schools Code**" or "**the Code**") has been drafted to regulate self-financed independent schools on the principles of autonomy, self-regulation and good governance. The Code has also been aligned with the landmark decisions of the apex Court on the aspects of operation and management of private unaided educational institutions.

The Code aims at regulating schools which are self-financed institutions, receiving no aid or grant from the Government or any local authority. All expenses of such schools are met by the management of such institution itself.

The Code mandates these schools to be recognized by the State Government subject to the fulfilment of a prescribed eligibility criteria. The Code encourages experienced education providers by providing a fast track approval process. Further, consistent with the digital India drive, the Code provides for online application and approval process.

The Code puts considerable impetus on the quality of teaching faculty and requires schools to undertake regular teacher training/ motivation programmes in order to update and upgrade the skill sets of their teaching faculty.

Principles of good governance is another focal point of this Code. The Code introduces the principle of self-regulation in schools based on the tenets of self-disclosure to ensure that an informed decision is taken by the students and parents while seeking admission. These disclosures are typically with respect to admission policy, fee structure, student to space ratio etc., and are required to be displayed on the school's notice board throughout the academic year.

On the issue of fee determination, the Code provides a mechanism which addresses the concern of the parents with respect to profiteering and capitation fees without putting undue fetters on the autonomy of the institution. In line with the rulings of the apex Court, the Code enables the schools to determine its fee structure while at the same time also providing parameters which shall guide schools in their fee determination process. The Code further provides for the establishment of a Zonal Fee Regulatory Committee and a Revision Committee to approve the fee structure of schools in case the same is being increased beyond the limits prescribed by the State Government.

The Model Self-Financed Independent Schools Code has been drafted with the objective of introducing the concepts of self-regulation and good governance in the education system wherein the Government plays only a facilitative role and reprimands only the ones that are non-compliant.



Model Self-Financed Independent Schools (Recognition and Fee Regulation) Code, 2017

Arrangement of Sections

CHAPTER I : PRELIMINARY 9

1. Short title, extent, application and commencement 9
2. Definitions 9

CHAPTER II: ESTABLISHMENT AND RECOGNITION OF SCHOOLS 12

3. Creation of an endowment fund 12
4. Recognition of schools 12
5. Permission for establishment of a new school or upgradation 12
6. Procedure for recognition of a new school or upgradation or recognition of an existing school 12
7. Affiliations 13

CHAPTER III: MANAGEMENT OF THE RECOGNISED SCHOOL 14

8. Scheme of management 15
9. Parent-teacher association 15

CHAPTER IV : ADMISSION TO SCHOOLS AND FEES 16

10. Admission to recognised schools 16
11. Code of Conduct for students 16
12. Fee and fund 16
13. Permitted fee increase 17
14. Zonal Fee Committee 18
15. State Independent Schools Authority 19
16. Bar on Jurisdiction of civil courts on issues of regulation of fees 20
17. School fund/revenue 20
18. Limitation on entitlement of cost of capital to the eligible educational entity 20
19. Disclosures to be made by recognised schools at the time of admission 20
20. Striking off the name from the rolls 21
21. Disclosure to be made by recognised schools for census or State conducted surveys 21

CHAPTER V: TEACHING AND NON-TEACHING STAFF 22

22. Power to prescribe minimum qualifications for recruitment 22
23. Code of Conduct for teaching and non-teaching staff 22
24. Contract of service 22
25. Teacher training and motivation programmes 22

CHAPTER VI: MISCELLANEOUS 24

26. Maintenance of accounts 24
27. Contravention of the provisions of this Code or any rules prescribed 24
28. Withdrawal of recognition 25
29. No recognised school under this Code to be closed down 25
30. Powers of the eligible educational entity 25
31. Delegation of Powers 25
32. Jurisdiction of civil courts barred 26
33. Protection of action taken in good faith 26
34. Power to amend 26
35. Code shall be in supersession of any existing laws 26
36. Power to make rules 26
37. Exemption 27
38. Power to remove difficulties 27

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Model Self-Financed Independent Schools (Recognition and Fee Regulation) Code, 2017

A Code to make provisions to establish new schools, including provisions for upgradation and recognition of existing schools, as self-financed independent institutions with operational autonomy and due accountability, to make suitable provisions with regard to their operation and management and to provide for matters connected therewith or incidental thereto.

Chapter I : Preliminary

1. Short title, extent, application and commencement

1) This Code may be called the Model Self-Financed Independent Schools (Recognition and Fee Regulation) Code, 2017.

2) It extends to the whole of the State of [*name of the State to which this Code shall be made applicable*].

3) It applies to all existing and new schools which are self-financed independent institutions and are operating within the State.

4) It shall come into force on such date, as the Government may, by notification in the Official Gazette appoint, and different dates may be appointed for different provisions of this Code, and any reference to the commencement of this Code in relation to any provision thereof shall be construed as a reference to the date on which that provision comes into force.

2. Definitions

In this Code, unless the context otherwise requires:

a) "affiliation" means enrolment of a recognised school among the list of approved schools of a Board for following prescribed/approved courses of studies up to classes X and XII, as well as those preparing students according to prescribed courses for the Board's examinations;

b) "aid" means any aid, in cash or kind, granted to a recognised school by the Government, a local authority or any other authority designated by the Government, appropriate authority or a local authority;

c) "appropriate authority" means the authority designated by the Government for a particular purpose, including, *inter alia*, to grant permission for establishment, upgradation and recognition, regulation of fees and adjudication of contraventions of the provisions of the Code or rules prescribed;

d) "Board" means the [*name of the Board of School Education of the State to which this Code shall be made applicable*], the Central Board of Secondary Education, Council of the Indian School Certification Examinations, any other Indian or International/Foreign board of examinations or any other board which the Government may, from time to time, specify;

e) "capital employed" means the sum total of all assets of a school reduced by the current liabilities of a school as per the balance sheet of the immediately preceding financial year certified by the auditors of the school;

f) "District Education Officer" means an officer appointed in each district of the State, as may be prescribed, or any other officer authorised by the Government to exercise the powers and perform the functions of a District Education Officer;

g) "educational zone" means an educational zone notified as such by the Government, through notification in the Official Gazette;

h) "educational purposes" means any educational activity undertaken by a recognised school, *inter alia*, including, creation of courses/content, patents, research and development activities, teacher training programmes, staff development programmes, upgradation of technology, vocational training, co-curricular activities and sports related infrastructure and equipment;

i) "eligible educational entity" means any society registered under the Societies Registration Act, 1860, or public trusts or trusts created under the Indian Trusts Act, 1882, or company registered under the Indian Companies Act, 2013, or a body corporate engaged in establishment, management and maintenance of schools;

j) "existing school" means a school which is in existence and is recognised under any previous law enacted by the State, prior to the date of commencement of this Code;

k) "Government" means the Government of the State;

l) "gross revenue" means the sum total of all receipts of revenue nature of a school as per the income and expenditure statement or profit and loss account, as the case may be, of the immediately preceding financial year certified by the auditors of the school;

m) "head of the school" means the principal or as may be called by any other name, of a recognised school, designated by the managing committee to manage the administration and academic affairs of the recognised school;

n) "local authority" means in relation to the local area comprised within the jurisdiction of a municipal corporation, the concerned municipal corporation and in relation to any other local area in the State, the concerned municipal council, zilla parishad, mandala praja parishad, gram panchayat or township having jurisdiction over such local area;

o) "manager" in relation to a recognised school, means the person appointed by the eligible educational entity, by whatever name called, who is entrusted, either on the date on which this Code comes into force or any other date, as the case may be, under the scheme of management under Section 8, with the management of the non-academic affairs of that recognised school;

p) "managing committee" means the body of individuals entrusted with the management of any recognised school, by the eligible educational entity under the scheme of management under Section 8 and which shall work under the control and supervision of the eligible educational entity;

q) "minority educational institution" means an institution established and administered by a minority, whether based on religion or language, having the right to do so under Clause (1) of Article 30 of the Constitution of India;

r) "Nationalized Bank" means a bank constituted under Section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;

s) "permitted fee increase" means the increase in fee permitted under Section 13;

t) "proposed fee increase" means the fee proposed by the managing committee of a recognised school under sub-section (8) of Section 14.

u) "prescribed" means prescribed by rules made under this Code;

v) "prescribed authority" means any authority, as may be prescribed for a particular purpose, including, *inter alia*, grant permission for establishment, up gradation and recognition, regulation of fees and adjudication of contraventions of the provisions of the Code or rules prescribed;

w) "qualified eligible educational entity" means an eligible educational entity operating at least one school, within or outside the State, for a minimum period of five years, which is recognised by the relevant state authority, and has obtained affiliation, if required;

x) "recognised school" means a school recognised by the appropriate authority under this Code;

y) "recognition" means formal certification granted by an appropriate authority to a school that it conforms to the standards and conditions laid down under this Code;

z) "Scheduled Bank" means a bank referred to in the Second Schedule to the Reserve Bank of India Act, 1934;

aa) "school" includes the following levels of education:
   i) pre-primary school imparting education below the primary stage such as nursery and kindergarten; or
   ii) primary school imparting education from classes I to V (both inclusive);or
   iii) middle school imparting education from classes VI to VIII (both inclusive);or
   iv) secondary school imparting education to classes IX and X ;or
   v) senior secondary school imparting education to classes XI and XII;

   managed by an eligible educational entity and affiliated to any Board as a self-financed independent institution;

   Provided that where a school operates on a standalone basis as a pre-primary school imparting education below the primary stage, it shall not come under the purview of this Code;

ab) "school property" means all movable and immovable property, tangible or intangible, owned by, or in the possession of, the recognised school or eligible educational entity and all other rights and interests in, or arising out of, such property, and includes land, building and its appurtenances, play grounds, hostels, furniture, books, apparatus, maps, intellectual property, equipment, utensils, cash, reserve funds, investments and bank balances;

ac) "self - financed independent institution" means an institution imparting education wherein all expenses of the institution, for any purpose whatsoever, are to be met by the management of such institution itself and/or out of the school funds/revenue or through contributions, loans, borrowings including loans obtained by creation of any encumbrances on school property and does not include an institution which:

i) is established and administered or maintained by the Central Government or Government or any local authority; or

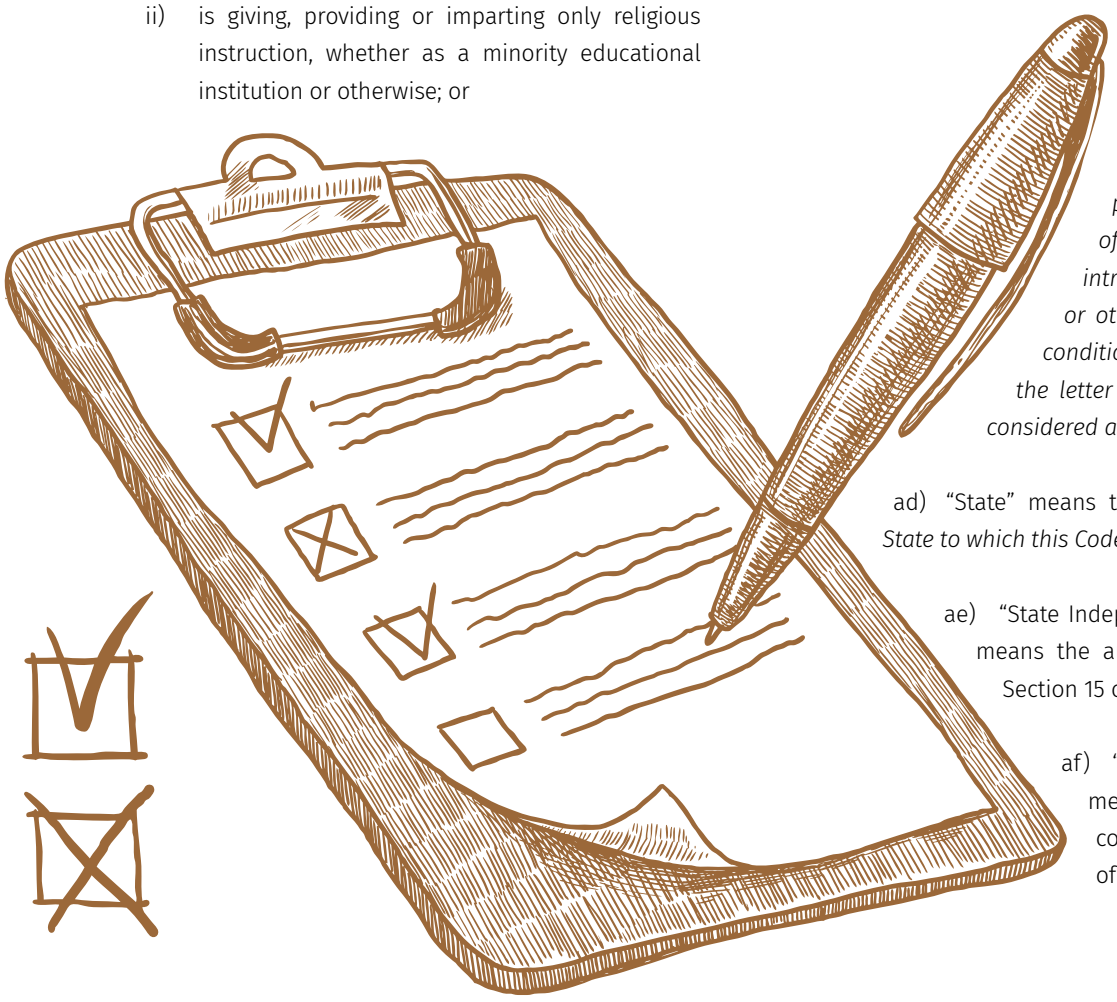
ii) is giving, providing or imparting only religious instruction, whether as a minority educational institution or otherwise; or

iii) is receiving any aid or financial assistance from the Central Government or Government or from a local authority;

Provided that reimbursement received under the provisions of sub-section (2) of section 12 of the Right of Children to Free and Compulsory Education Act, 2009, (35 of 2009) or any other statutory reimbursements as may be notified from time to time, shall be not be considered as aid.

Provided further that, in the event a recognised school is required to participate in any educational initiatives of the Central Government or Government/local authority, any funds received by the recognised school from the Central Government or Government/local authority, in cash (including salary of teaching/non-teaching staff) or kind, towards implementation/performance of such initiatives, shall not be considered aid.

Provided further that, for the purposes of this Code, allotment of land to an eligible educational entity by the State for establishing and operating a school in pursuance of any policy of the State, as may be introduced from time to time, or otherwise, on the terms and conditions of such policy and/or the letter of allotment, shall not be considered as aid.



ad) "State" means the State of [*name of the State to which this Code shall be made applicable*];

ae) "State Independent Schools Authority" means the authority constituted under Section 15 of the Code; and

af) "Zonal Fee Committee" means the committee constituted under Section 14 of the Code;

Chapter II: Establishment and Recognition of Schools

3. Creation of an endowment fund

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 National Saving Certificate or Fixed Deposit or Bank Guarantee in any Nationalized Bank or Scheduled Bank, as 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.

4. Recognition of schools

1) No eligible educational entity shall be permitted to establish or manage a school under this Code, unless it conforms to the minimum norms and conditions prescribed with respect to:
   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 under Section 8 of this Code;
   f) provisions for enabling affiliation to any Board;
   g) conformity with the National Curriculum Framework and/or the State's educational objectives, as amended from time to time;
   h) facilities for physical education, library service, laboratory works, workshop practice, canteen and co-curricular activities;
   i) information and communications technology enabled education; and
   j) any other matter which it may deem necessary from time to time.

2) It shall be incumbent upon the eligible educational entity which has been granted recognition, to comply with the terms and conditions laid down by the appropriate authority while granting recognition, within such time period as may be specified.

5. Permission for establishment of a new school or upgradation

1) Any eligible educational entity desirous of establishing a new school or upgrading a recognised school, shall make an application to the appropriate authority in such format, along with such documents and fees as may be prescribed.

2) On receipt of 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. If no decision is taken within the specified period, permission shall be deemed to have been granted.

3) In case of refusal of permission, the appropriate authority shall give reasons in writing.

4) The permission shall be valid for a period of 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.

6. Procedure for recognition of a new school or upgradation or recognition of an existing school

1) Any eligible educational entity desirous of obtaining recognition for a new school or upgrading a recognised school, as the case may be, shall make an application within the time period prescribed under Section 5, in such format, along with such documents and fees as may be prescribed.

2) Every application made under sub-section (1) shall be considered by the appropriate authority and the decision thereon shall be communicated to the applicant within a period of three months from the date of receipt of the application and where such

recognition is not granted, the reasons for not granting such recognition shall be communicated to the applicant within the said period.

Provided that any application received, from a qualified eligible educational entity, with a duly filled application form along with all the prescribed documents, shall be eligible for a fast track process, wherein the application shall be considered by the appropriate authority and the decision thereon shall be communicated to the applicant within a period of one month from the date of receipt of the application.

3) Every eligible educational entity operating an existing school shall, no later than one year from the commencement of this Code, make an application to the appropriate authority for seeking recognition under this Code, in such format, along with such documents and fees as may be prescribed.

4) Every application received under sub-section (3) shall be considered by the appropriate authority and the decision thereon shall be communicated to the applicant within a period of one month from the date of receipt of the application and where such recognition is not granted, the reasons for not granting such recognition shall be communicated to the applicant within the said period.

5) Where recognition is refused or there has been no response within the specified period under sub section (2) and (4), the eligible educational entity aggrieved by such refusal or inaction may, within thirty days from the date of communication of such refusal or expiry of the specified period, appeal against such refusal or inaction, in the prescribed manner, to the prescribed authority, and the decision of the prescribed authority thereon shall be final.

Provided that the prescribed authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of thirty days, extend further, the said period by a period of thirty days, for reasons to be recorded by it in writing.

6) On hearing an appeal preferred under sub-section (5), the prescribed authority may, after giving the appellant a reasonable opportunity of being heard, confirm, modify or reverse an order appealed against.

7. Affiliations

Any eligible educational entity intending to establish or manage a school which it proposes to have affiliated to 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.



Chapter III: Management of the Recognised School



8. Scheme of management

1) Each recognised school shall prepare, in conformity with the guidelines prescribed, a scheme of management for its operation and management, which, *inter alia,* may include:
   a) composition and term of office of the managing committee;
   b) functions of the managing committee;
   c) duties, powers and responsibilities of the head of the school as well as the manager; and
   d) any other matter which it may deem necessary from time to time.

2) The composition of the managing committee referred to in sub-clause (a) of sub-section (1) to be provided in the scheme of management, shall consist of a minimum of nine members and a maximum of eleven members. The managing committee shall include the following members:
   a) a representative of the eligible educational entity;
   b) the head of the school as an *ex-officio* member with the right to vote;
   c) the manager of the recognized school;
   d) one parent, who is a member of the parent-teacher association of the recognised school, constituted in accordance with Section 9;
   e) one teacher from upto primary school and one teacher from post primary school, nominated by the management each year by rotation;
   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
   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.

3) 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.

4) No person shall, after the commencement of this Code, be a member of more than ten managing committees at the same time.

9. Parent-teacher association

1) There shall be a parent-teacher association for every recognised school.

2) The composition of the parent-teacher association shall be in accordance with such rules as may be prescribed.

3) The parent-teacher association constituted in terms of this Section shall have the following functions:
   a) facilitating interaction/channel of communication between parents and teachers; and
   b) making suggestions to the school and rendering advice in the interests of the students.

Chapter IV : Admission to Schools and Fees

10. Admission to recognised schools

1) A child can be admitted to a pre-primary school only upon completion of three years of age.

2) 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.

3) The recognised school may form its own admission policy.

11. Code of Conduct for students

All students of a recognised school shall be governed by such code of conduct as may be prescribed by the managing committee.

12. Fee and fund

1) Every recognised school shall, on its own determine its fee structure for different levels, commensurate to, *inter alia*, meeting its operational expenses, providing for cost of capital, expansion, development and addition of infrastructure and facilities provided to the students, generate reasonable surplus to be utilised for, *inter alia*, augmentation of facilities and expansion, including establishment of a new branch or a new school under the management of the same eligible educational entity.

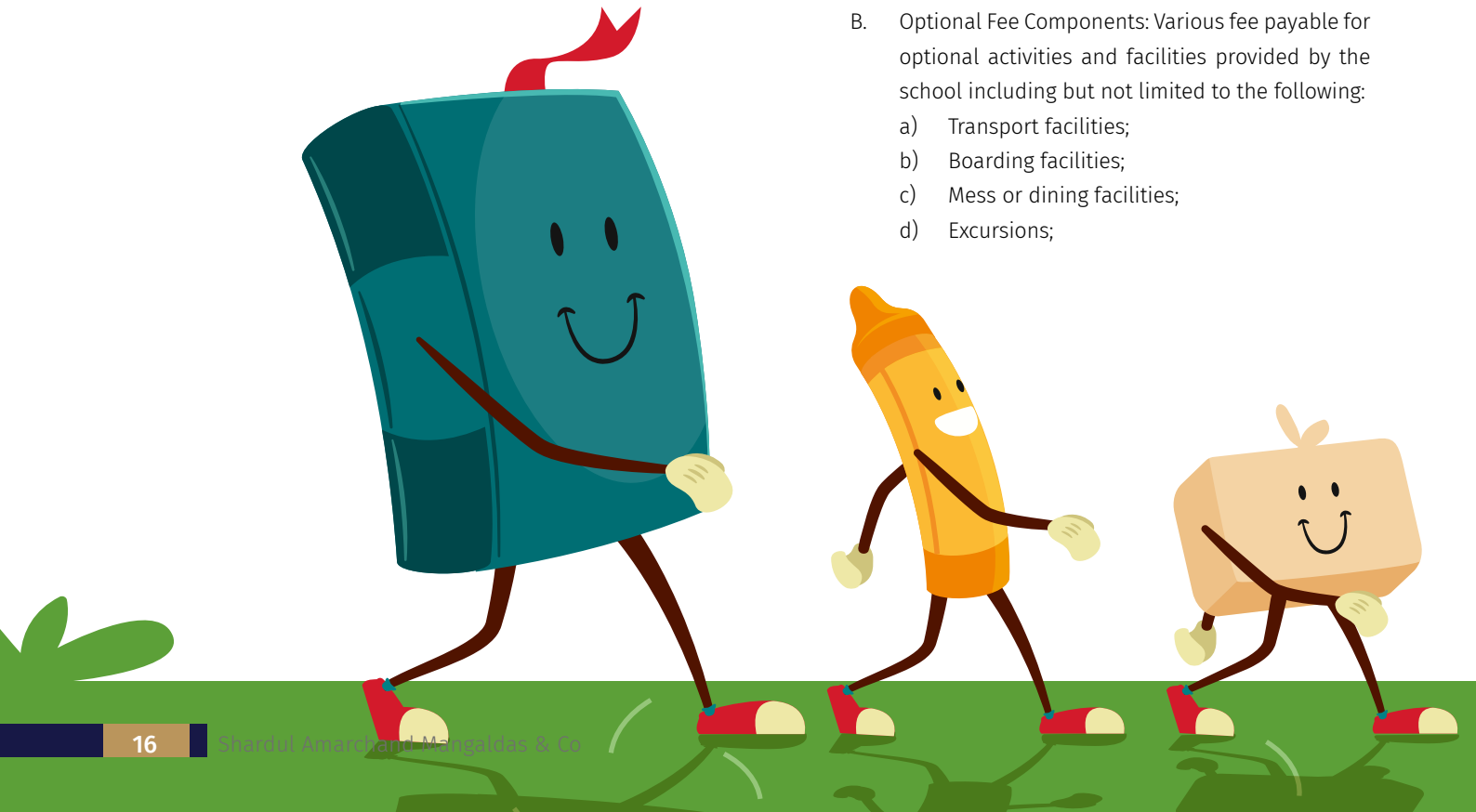
2) The procedure for collecting fees in a school shall be open, transparent and accountable.

3) The recognised school shall ensure that no capitation fee is charged.

4) The fees to be charged shall be classified as:

   A. Mandatory Fee Component
      a) Prospectus, Admission and Registration fee: It shall be payable only at the time of admission by the student;
      b) Composite Annual School Fee: Single head annual recurring fee payable each year.

   B. Optional Fee Components: Various fee payable for optional activities and facilities provided by the school including but not limited to the following:
      a) Transport facilities;
      b) Boarding facilities;
      c) Mess or dining facilities;
      d) Excursions;



e) Field Trips; and

f) Any other similar facilities/activities etc.

5) In addition to the fee stated under sub-section (4), a recognized school may collect an amount as a refundable security deposit or caution money.

6) Subject to Sections 13, 14 and 15, the manager of every recognised school shall, at the time of admission, provide the parents or duly appointed legal guardians of students, a full statement of the fees to be levied by such school during the ensuing academic year.

Provided the school may be permitted to levy such reasonable charges that may be commensurate to and required towards providing certain optional facilities or events at particular times in the academic year.

7) Such recognised school shall upload the statement of fees on its website atleast sixty days prior to the commencement of the ensuing academic year and also publish the same on the school's notice board.

8) The composite annual school fee shall be payable in advance each year on a monthly or quarterly or half-yearly or annual basis, as may be specified by the recognized school while publishing the statement of fees.

Provided that no recognized school shall solely provide that the composite annual school fee be paid on an annual basis.

9) No recognised school shall, except with the prior approval of the appropriate authority, charge, during the academic year, any fee in excess of the fee intimated to the appropriate authority under Section 19.

10) Receipt shall be issued for every fee, fund or charges levied on the children.

13. Permitted fee increase

1) A recognised school may revise its fee annually for its existing students for each grade/class subject to an annual increase equivalent to, the latest yearly published consumer price index plus seven per cent, of the fee as applicable to a student for that grade/class in the previous year. However, the recognised school shall be free to determine its fee for the new students seeking fresh admissions, provided any fee increase in subsequent years for such students shall be subject to the permissible fee increase percentage as provided under this clause.

Provided that such annual percentage increase permitted, i.e. 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.

Provided further that, in case of 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., the State Independent Schools Authority may suo moto or upon a representation made by the recognised school, issue, through a notification, guidance on revision of the fee, commensurate to factoring the impact of the additional financial burden on the recognised school attributable to such governmental policy, over and above the permissible fee increase as provided under this clause.

2) No recognised school shall be permitted to raise its fee beyond the permitted fee increase under sub-section (1) without following the procedure under Sections 14 and 15.

3) No student shall be compelled to purchase books, shoes, socks, stationery etc. from the school or a particular shop.



14. Zonal Fee Committee

1) The Government shall, by notification in the Official Gazette, constitute a Zonal Fee Committee, for each educational zone.

2) 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 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 automatic route without obtaining approval from the authorities, as specified herein.

3) The Zonal Fee Committee shall consist of the following members, namely[1]:

a)	a retired High Court Judge of the State, nominated by the serving Chief Justice of the High Court of the State.	Chairperson
b)	a chartered accountant having practicing experience of not less than 15 years, nominated by the Institute of Chartered Accountants of India.	Member
c)	a civil engineer having practicing experience of not less than 15 years, nominated by the Institute of Civil Engineers.	Member
d)	two persons of eminence and repute, as may be nominated by the Government.	Members
e)	an eminent retired head/ administrator of a self-financed independent institution, as may be nominated by the Government.	Member
f)	representative of the Department of Education not below the rank of District Education Officer.	Member

4) The term of office of the members of the Zonal Fee Committee shall be for a period of three years from the date of their nomination and in case of a vacancy arising earlier, for any reason, such vacancy shall be filled for the remainder period of the term.

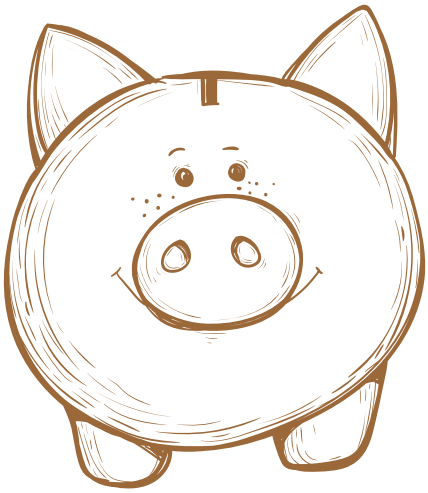
5) The procedures to be followed by the Zonal Fee Committee shall be such as may be prescribed.

6) For the purpose of making any inquiry under this Code, the Zonal Fee Committee shall have all powers of a civil court and appellate court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, in respect of the following matters, namely :

1 ***Note***: The composition of the Zonal Fee Committee is indicative. A State adopting this Code may appropriately modify the same.







a) the summoning and enforcing the attendance of any witness and examining him on oath;
b) the discovery and production of any document;
c) receiving of evidence on affidavits; and
d) the issue of commission for the examination of the witness.

7) The meeting of the Zonal Fee Committee shall be conducted only if at least fifty percent of the members of its total strength and the Chairman are present. No order shall be passed by the Zonal Fee Committee unless there is a quorum.

8) Every recognised school, which proposes to increase its fee beyond the permitted fee increase shall, at least six months before the commencement of the academic session, submit a proposal containing the details of the proposed fee with appropriate documents, justifying the need for such increase to the Zonal Fee Committee.

9) 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.

10) The differential fee, collected in terms of sub-section (9) above, shall be deposited in a designated account by the recognised school.

Explanation: For the removal of doubts it is hereby clarified that the expression "differential fee" means the differential amount between the proposed fee increase and the permitted fee increase.

11) The Zonal Fee Committee shall, upon considering the proposal and the reasons given by the managing committee, accept or reject the proposal or prescribe such percentage increase in fees as it may deem fit, not being less than the permitted fee increase under Section 13. Such order shall be, in writing and be given to the managing committee within a period of sixty days of receipt of the proposal. The order passed by the Zonal Fee Committee shall be binding on the recognised school for the academic year for which such proposed fee increase is sought.

12) Where the managing committee is aggrieved by the decision of the Zonal Fee Committee passed under sub-section (11), it may, within thirty days from the date of receipt of such decision, prefer an appeal, in the prescribed manner to the State Independent Schools Authority.

Provided that the State Independent Schools Authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in the specified period, extend the said period, for reasons to be recorded by it in writing.

13) In case the increase in fee is not permitted and an appeal is not preferred in terms of sub-section (12), the differential fee collected shall be refunded along with interest earned on the amount, if any, by the school.

15. State Independent Schools Authority

1) The State Government shall, by notification in the Official Gazette, constitute an independent authority called the State Independent Schools Authority in the State, which shall consist of the following members, namely[2]:

a)	a retired judge of the Supreme Court of India or retired Chief Justice of the High Court appointed mutually by the Chief Minister of the State in consultation with the serving Chief Justice of the High Court of the State;	Chairperson
b)	Principal Secretary of the Department of Education;	Member
c)	a chartered accountant having practicing experience of not lesser than 20 years, nominated by the Institute of Chartered Accountants of India;	Member
d)	a civil engineer having practicing experience of not lesser than 20 years, nominated by the Institute of Civil Engineers;	Member
e)	an eminent retired head/administrator of a self-financed independent institution, as may be nominated by the Government; and	Member
f)	two persons of eminence and repute, as may be nominated by the Government.	Members.

2) The State Independent Schools Authority has the power to hear appeals against the decisions of the Zonal Fee Committee.

2 ***Note***: The composition of the State Independent Schools Authority is indicative. A State adopting this Code may appropriately modify the same.

3) 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 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.

4) The term of office of the members of the State Independent Schools Authority shall be for a period of five years from the date of their nomination and in case of a vacancy arising earlier for any reason, such vacancy shall be filled for the remainder period of the term.

5) The procedures to be followed by the State Independent Schools Authority for hearing the appeal shall be such as may be prescribed.

6) For the purpose of hearing appeals against the decisions of the Zonal Fee Committee under this Code, the State Independent Schools Authority shall have all powers of a civil court and appellate court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, in respect of the following matters, namely:
   a) the summoning and enforcing the attendance of any witness and examining him on oath;
   b) the discovery and production of any document;
   c) receiving of evidence on affidavits; and
   d) the issue of commission for the examination of the witness.

7) The meeting of the State Independent Schools Authority shall be conducted only if at least fifty percent of the members of its total strength and the Chairman are present. No order shall be passed by the State Independent Schools Authority unless there is a quorum. The State Independent Schools Authority shall have the power to grant stay of the order under challenge.

8) On hearing an appeal preferred under sub-section (12) of Section 14, the State Independent Schools Authority may, after giving the appellant a reasonable opportunity of being heard, confirm, or reverse an order appealed against or prescribe such percentage increase in fees as it may deem fit, not being less than the permitted fee increase under Section 13, in the prescribed manner. The order passed by the State Independent Schools Authority shall be binding on the recognised school for the academic year for which such proposed fee increase is sought.

9) The State Independent Schools Authority shall decide the appeal or reference within a period of forty five days from the date of its filing.

10) In case the increase in fee is not permitted, the differential fee collected shall be refunded along with interest earned on the amount, if any.

16. Bar on Jurisdiction of civil courts on issues of regulation of fees

No civil court shall have the jurisdiction to settle, decide or deal with any question or to determine any matter, which by or under this Code, is required to be settled, decided or determined by the Zonal Fee Committee and the State Independent Schools Authority.

17. School fund/revenue

1) In every recognised school, the school fund/revenue shall include the fees, any charges and payment which may be collected by the recognised school from the students for the facilities provided by the recognised school.

2) Save as otherwise provided in this Code, this school fund/revenue shall be utilised for educational purposes.

18. Limitation on entitlement of cost of capital to the eligible educational entity

No recognised school shall be permitted to transfer or provide for, on an annual cumulative basis, any sum which exceeds a cap of [*fifteen*] per cent per annum of the gross revenue or capital employed, whichever is higher, as the cost of capital to the eligible educational entity. Such amount shall be utilized by the eligible educational entities for creation of a development fund which shall be used for educational purposes including establishment of a new branch/school under the same management or for such purposes as permitted under the charter documents of the eligible educational entity.

19. Disclosures to be made by recognised schools at the time of admission

1) The recognised school shall, sixty days prior to

commencement of admissions in each academic year, but 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:

a) 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 by the recognised school throughout the academic year for teacher training and staff development programmes.

Provided that the State shall, by notification in the Official Gazette, exempt any recognised school for making disclosure related to the financial information of the school.

2) Unless otherwise specified under this Code or the rules prescribed, information disclosed in sub-section (1) shall remain in the public domain for the entire academic year.

3) The State shall also facilitate the provision of a single digital portal where all information disclosed by the recognised schools shall be available.

20. Striking off the name from the rolls

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.

21. Disclosure to be made by recognised schools for census or State conducted surveys

1) 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 a written communication by the appropriate authority, seek specific information from the recognised school in relation to the same.

2) Upon receipt of any such request for information, the recognised school shall provide the information within the prescribed time.



Chapter V: Teaching and Non-Teaching Staff

22. Power to prescribe minimum qualifications for recruitment

1) The Government may prescribe the minimum qualifications for the teaching staff of a recognised school.

2) Each recognised school shall make policies for recruitment of its teaching and non-teaching staff, subject to such minimum qualifications prescribed.

Provided that no qualification shall be varied to the disadvantage of existing teaching and non-teaching staff of such existing schools.

23. Code of Conduct for teaching and non-teaching staff

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.

24. Contract of service

1) 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 into a written contract of service with its 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).

Provided that, if at the commencement of this Code, there is no written contract of service in relation to any of the existing teaching and non-teaching staff of a recognised school, such recognised school shall enter into such contract within a period of six months from the commencement of this Code.

Provided further that no contract referred to in the foregoing proviso shall be varied by the recognised school to the disadvantage of any existing teaching and non-teaching staff.

25. Teacher training and motivation programmes

1) Every recognised school shall, on a continuous basis, undertake regular teacher training/ motivation programmes in order 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.


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Chapter VI: Miscellaneous

26. Maintenance of accounts

1) All recognised schools shall maintain proper books of accounts.

2) All recognised schools shall maintain their accounts in accordance with relevant accounting standards and generally accepted accounting principles as notified by the Institute of Chartered Accountants of India.

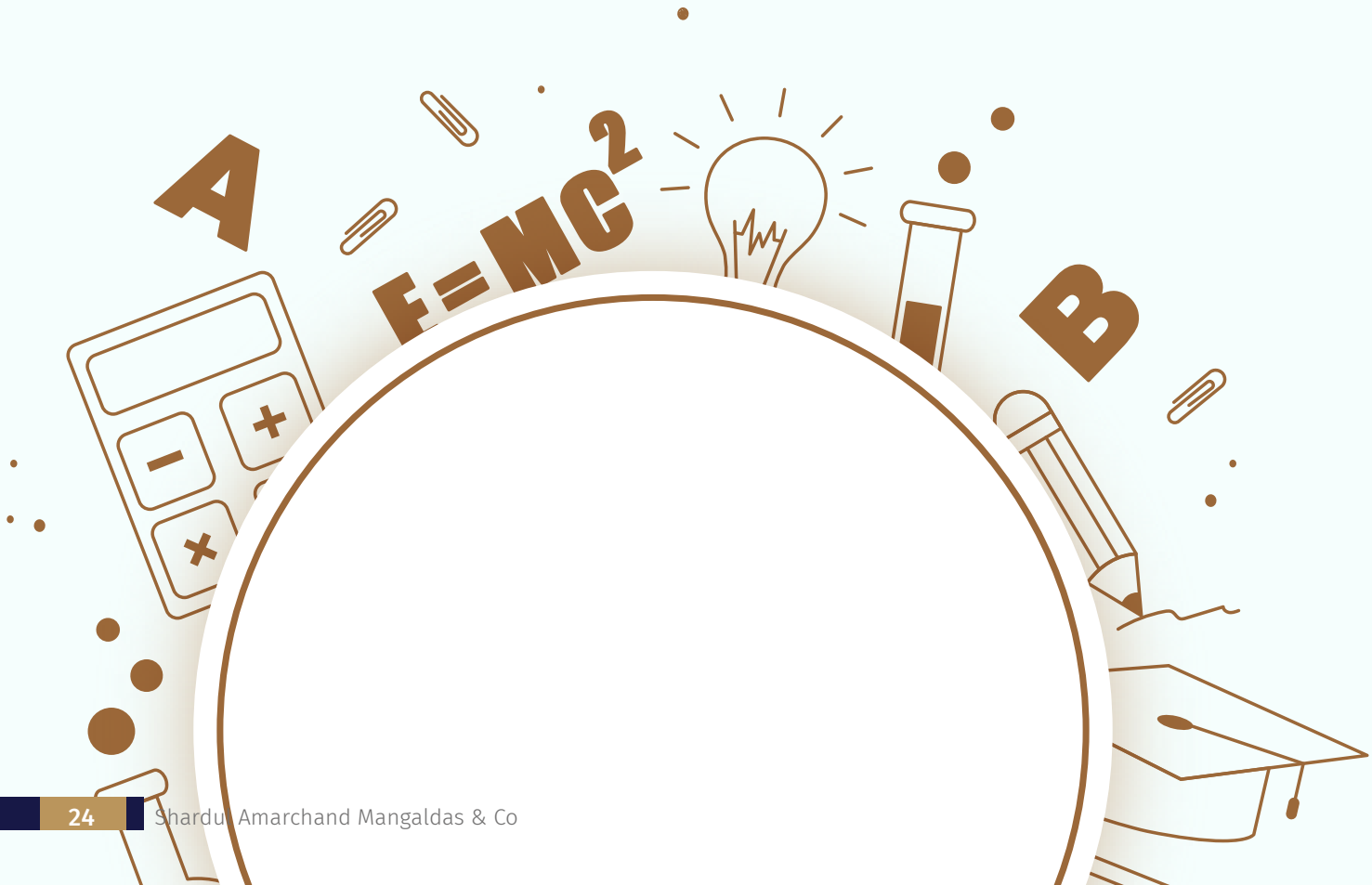
27. Contravention of the provisions of this Code or any rules prescribed

1) If any complaint is received with respect to any violation of any of the provisions of this Code or rules prescribed hereunder or failure to comply with any directions issued under this Code or the norms or standards or terms and conditions, if any, stipulated by the Government, from time to time, the appropriate authority, shall be allowed to issue directions in terms of the rules prescribed hereunder to the recognised school.

2) If the recognised school is found to be in contravention of the provisions of this Code, the appropriate authority, may provide an opportunity to the recognised school for rectifying such defects or deficiencies in terms of the rules prescribed hereunder.

3) No directions may be issued, unless a reasonable opportunity of being heard is given to such eligible educational entity.

4) Any recognised school, aggrieved by an order/ direction issued under sub-section (1) may appeal to the prescribed authority, who shall dispose off the appeal within six months from the date of presentation of the appeal in such manner as may be prescribed.



5) In case the recognised school fails to comply with such directions issued by the appropriate authority or the prescribed authority or the Zonal Fee Committee or State Independent Schools Authority, the relevant authority shall impose penalties in the manner as follows:

a) the recognised school may be let off with only an official warning and a mark on the school's public record, if the relevant authority is convinced that the violation was committed, without malafide intent;

b) in case the recognised school fails to rectify the contravention for which a warning under sub-rule (a) had been issued to a school within [•] days from the issue of the warning, the relevant authority may impose a fine which shall not be less than [*one lakh*] rupees, which may extend to [*five lakh*] rupees on such school;

c) in case the recognised school continues to remain in contravention of the directions for a period of [•] days from the imposition of fine, in addition to the fine imposed in terms of sub-clause (b), the eligible educational entity operating the school shall be barred from drawing the permitted payments towards cost of capital under this Code for one year;

d) in case the recognised school repeatedly contravenes or fails to comply with directions or to pay the penalty under sub-clause (b), the relevant authority may initiate withdrawal of recognition proceedings against a school or take any such action as it may deem fit.

28. Withdrawal of recognition

1) The appropriate authority may by order, withdraw the recognition granted to the recognised school on the following reasons:

a) if the recognised school has obtained such recognition by fraud, misrepresentation or suppression of material particulars; or

b) repeated contravention or the school's failure to comply with directions issued under Section 27.

2) No order may be issued, unless a reasonable opportunity of being heard is given to such recognised school.

3) Every such recognised school, whose recognition is withdrawn, may appeal to the prescribed authority, who shall dispose off the appeal within three months from the date of presentation of the appeal in such manner as may be prescribed, and if the appeal is not disposed off within that period, the order for the withdrawal of recognition shall, on the expiry of the said period of three months, stand withdrawn. The prescribed authority shall have the power to grant stay of the order under challenge until final disposal of the appeal.

29. No recognised school under this Code to be closed down

1) Save as otherwise provided in this Code, no recognised school under this Code shall be closed down or discontinued, unless a notice of not less than six months indicating the intention of the management of the recognised school to do so, has been given by the eligible educational entity, to the concerned appropriate authority and the Government. On receipt of such notice, the appropriate authority may, if in his discretion he so desires, grant the eligible educational entity, an opportunity of being heard in person. Thereafter, if the appropriate authority is of the opinion that the closing down or discontinuation of recognised school is justified, he 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.

2) If the eligible educational entity fails to give notice as required under sub-section (1), it shall be penalised with a fine which shall not be less than [*such amount as may be laid down by the State*] rupees, which may extend to [*such amount may be laid down by the State*] rupees.

30. Powers of the eligible educational entity

In case of any inconsistency between the Code and the constitution documents of the eligible educational entity, the provisions of this Code shall prevail.

31. Delegation of Powers

1) The Government may delegate all or any of its powers, duties and functions under this Code to the appropriate authority or any other officer.

2) Every person to whom any power is delegated under sub-section (1), may exercise that power in the same manner and with such effect as if such power had been conferred on him directly by this Code and not by way of delegation.

32. Jurisdiction of civil courts barred

No civil court shall have jurisdiction in respect of any matter in relation to which the Government or the appropriate authority or any other person authorised by the Government or appropriate authority or any other officer or authority appointed or specified by or under this Code, is empowered by or under this Code or exercise any power, and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Code.

33. Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against the Government, appropriate authority or any other person authorised by the Government or appropriate authority for anything which is in good faith done or intended to be done in pursuance of this Code or any rule prescribed hereunder.

34. Power to amend

1) The Government may, from time to time, by notification in the Official Gazette, modify, add to or delete any provision of this Code or the rules prescribed and may, for that purpose, suitably amend this Code or the rules prescribed, by the said notification, and thereupon the provision in this Code or the rules prescribed shall stand amended accordingly.

2) Every notification issued under sub-section (1) shall be laid, as soon as may be, after it is issued, before the State Legislature.

35. Code shall be in supersession of any existing laws

The provisions of this Code shall supersede, any provisions of any law for the time being in force in relation to, and applicable to, a school.

36. Power to make rules

1) The Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for carrying out all or any of the purposes of this Code.

2) Every rule made under this Code shall be laid, as soon as may be, after it is made, before the State Legislature, while it is in session for a total period of ten days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the State Legislature agrees to make any modification in such rule or State Legislature agrees that such rule should not be made, and notify their decision to that effect in the Official Gazette, the rule shall from the date of publication of such decision in the Official Gazette, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

37. Exemption

The Government may, by notification and for reasons to be specified therein, exempt any recognised school from the operation of all or any of the provisions of this Code or the rules prescribed hereunder, subject to such conditions as they may deem fit to impose and may likewise vary or cancel such exemption.

38. Power to remove difficulties

1) If any difficulty arises in giving effect to any of the provisions of this Code, the Government may, as occasion arises, by an order published in the Official Gazette, do anything, not inconsistent with the provisions of this Code, which appears to it to be necessary or expedient for the purposes of removing the difficulty.

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Code.

2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before the State Legislature.





About FICCI ARISE

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FICCI Alliance for Re-Imagining School Education (FICCI ARISE) is a collegium of members representing various facets of the education ecosystem who have come together to promote the need of quality education for all and the role independent schools can play in achieving this. The primary focus of the alliance is ***defining norms for standards and transparency, augmenting quality for 21st century readiness, policy advocacy and facilitating Capacity Building and access.*** The alliance advocates for a progressive policy environment that brings together public and independent schools to achieve **Universal Quality Education** in India.

FICCI ARISE endeavours to unify the sectors' voice at States and National level.

We have a national footprint through our National Committee and five Regional Committees. Our members and affiliates are education experts and represent leading schools, industry associations, consulting firms, think tanks, and foundations.

Website: www.ficciarise.org

Acknowledgements

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Mr. Shroff has been involved in many complex and high profile transactions, including strategic alliances and takeovers, mergers and acquisitions, divestments, spin-offs, joint ventures, and capital markets. He has advised clients across industries, including DLF, General Electric, ONGC, Avantha, and PVR. Mr. Shroff has been consistently rated as a leading lawyer by several international fora and publications, including Who's Who Legal, AsiaLaw, Chambers Global, Euromoney, IFLR, etc. and has been the recipient of several awards and global commendations for his work.

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Shardul Amarchand Mangaldas, founded on a century of legal achievement, is one of India's leading full service law firms. Our mission is to enable business by providing solutions as trusted advisors through excellence, responsiveness, innovation, and collaboration.

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About FICCI

Established 90 years ago, FICCI is the largest and oldest apex business organization in India. Its history is closely interwoven with India's struggle for independence, its industrialization, and its emergence as one of the most rapidly growing global economies.

A non-government, not-for-profit organization, FICCI is the voice of India's business and industry. From influencing policy to encouraging debate, engaging with policy makers and civil society, FICCI articulates the views and concerns of industry, reaching out to over 2,50,000 companies. FICCI serves its members from large (domestic and global companies) and MSME sectors as well as the public sector, drawing its strength from diverse regional chambers of commerce and industry.

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