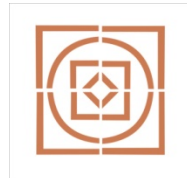


Model Rules under the Right of Children to Free and Compulsory Education Act 2009: CCS Legislative Analysis 4



The Right to Education (RTE) Act 2009 is a legislative attempt at ensuring the achievement of the fundamental right of universal, free and compulsory elementary education as per the 86th Constitutional Amendment. Some salient features include:

- Every child of the age of 6 to 14 years has a right to free and compulsory education in a neighborhood school till completion of elementary education.
- Private schools are required to admit at least 25 per cent of government sponsored children from weaker sections and disadvantaged groups.
- All schools except private unaided schools are to be managed by School Management Committees with 75 per cent parents and guardians as members.
- All schools except government schools are required to be recognized by meeting specified norms and standards within 3 years to avoid closure.

The RTE Model Rules finalized in February 2010 provide guidelines to be followed by the states to implement the RTE Act. Some of these rules, however, need to be reassessed in order to maximize the chances for success in their implementation. The School Choice Campaign of CCS proposes the following five specific changes as pointers for a serious discussion on this critical issue:

1. Implementation of 25 % reservation: The Model Rules hardly provide any details on the implementation of the 25 per cent reservation in private schools. Several important questions need to be answered systematically and comprehensively for this critical idea of the RTE Act to work well:

- How are weaker and disadvantaged sections defined and verified?
- How will the government select these students for entry level class?
- Would the admission lottery be conducted by neighbourhood or by entire village/town/city?
How would the supply-demand gaps in each neighbourhood be addressed?
- What will be the mechanism for reimbursement to private schools?
- How will the government monitor the whole process? What type of external vigilance/social audit would be allowed/encouraged on the process?
- What would happen if some of these students need to change school in higher classes?

The reimbursement to private unaided schools for the 25 per cent quota should be calculated not only on the basis of the recurring expenditure in government schools but should also include the fixed or capital expenditures with due allowance for depreciation of assets and interest costs including other costs related to elementary education at all levels of the State Government. Like with other infrastructure PPPs, the government can specify the life cycle of the capital.

Existing Clause	Reworded Clause/ Comments
<p>8 (1) The total annual recurring expenditure incurred by the State Government, whether from its own funds, or funds provided by the Central Government or by any other authority, on elementary education in respect of all schools established, owned or controlled by it or by the local authority, divided by the total number of children enrolled in all such schools, shall be the per child expenditure incurred by the State Government.</p>	<p>8 (1) The total annual recurring <i>and capital</i> expenditure <i>on elementary education at all levels</i> incurred by the State <i>and Local</i> Governments, whether from its own funds, or funds provided by the Central Government or by any other authority, on elementary education in respect of all schools established, owned or controlled by it or by the local authority, divided by the total number of children enrolled in all such schools, shall be the per-child expenditure incurred by the State Government.</p>

2. Recognition criteria for schools: In order for a school to get recognized, the Model Rules require the school to be registered either as a Society or Trust and run on a not-for-profit basis. Both of these provisions go against the spirit of the Act which despite many attempts did not require schools to be non-profit. Any individual or association that is allowed by general laws should be able to run a school, but all schools including Government Schools must be required to meet quality, accountability and transparency norms.

Recognition of schools for the purposes of Section 18 of RTE ACT	<i>Replace the existing S.11(a) and (b) with:</i>
<p>“11 (1) Every school, other than a school established, owned or controlled by the State Government or Local Authority, established before the commencement of this Act shall make a self declaration within a period of three months of the commencement of the Act, in Form No. 1 to the concerned District Education Officer regarding its compliance or otherwise with the norms and standards prescribed in the Schedule and the following conditions:</p> <p>11 (1) (a) the school is run by a society registered under the Societies Registration Act, 1860 (21 of 1860), or a public trust constituted under any law for the time being in force;</p> <p>(b) the school is not run for profit to any individual, group or association of individuals or any other persons;</p>	<p>“11 (1) Every school, <i>including</i> a school established, owned or controlled by the State Government or Local Authority, established before the commencement of this Act shall make a self declaration within a period of three months of the commencement of the Act, in Form No. 1 to the concerned District Education Officer regarding its compliance or otherwise with the norms and standards prescribed in the Schedule and the following conditions:</p> <p>11(1)(a) the school is registered as a public institution, which would come under the purview of the Right to Information Act 2005;</p> <p>(b) the school shall make its annual audited accounts accessible to the public as well as in its office;“</p>

3. Usage of school building: The rules stipulate that schools can only be used for purposes of education and skill development. However many schools are used as community centres, as polling booths, as shelter during natural calamities. Moreover, several governments have encouraged use of school buildings after regular school hours for computer, life-skills classes, as training centres, often with a charge to add to the resources of the school. It seems unwise to take away other options as long as concerned authorities (including School Management Committees) agree that the other use does not hinder the raison d’être of the school.

Existing Clause	Reworded Clause/ Comments
11 (1)(d) the school buildings or other structures or the grounds are used only for the purposes of education and skill development;	11 (1)(d) the school buildings or other structures or the grounds are used for the purposes of education and skill development; <i>Provided that the school buildings or other structures or the grounds can be used for any other legal purpose after approval by the School Management Committee, as long as it does not hinder the provision of education and skill development.</i>

4. Teachers: The RTE Act defines the ‘child,’ ‘school,’ and various ‘authorities’ but unfortunately not the ‘teacher.’ A “permanent cadre” suggests feudal employer-employee relationships. Section 18 in the Model Rules applies to teachers hired by the State or local authority.

Existing Clause	Reworded Clause/ Comments
18 (1) The State Government or the local authority, as the case may be, shall notify terms and conditions of service and salary and allowances of teachers in order to create a professional and permanent cadre of teachers.	18 (1) The State Government or the local authority, as the case may be, shall notify terms and conditions of service and salary and allowances of teachers <i>hired by it</i> in order to create a professional /... / cadre of teachers.

The provisions on evaluation and assessment of teacher performance and student achievement can be tweaked to enable greater accountability and responsiveness.

Existing Clause	Reworded Clause/ Comments
13 (6) (d) Ensure the enrolment and continued attendance of all the children from the neighbourhood in the school;	13 (6) (d) Ensure the enrolment and continued attendance, <i>and assessment of learning</i> of all the children from the neighbourhood in the school;
22 (2) (c) prepare guidelines for putting into practice continuous and comprehensive evaluation	22 (2) (c) prepare guidelines for putting into practice continuous and comprehensive evaluation of <i>teacher competencies and student learnings</i>

5. School Management Committee: The Model Rules give School Management Committees (SMCs) the responsibility to monitor that teachers perform their duties but does not give them any authority to ensure that they indeed do. If we expect SMCs to carry out their tasks effectively then they must have necessary attendant powers. Therefore, the terms and conditions of services of teachers should clearly specify that that the SMCs can take disciplinary action against teachers as intended by the Act in Section 24(2)

Existing Clause	Reworded Clause/ Comments
18(2) In particular and without prejudice to sub rule (1), the terms and conditions of service shall take into account the following, namely - (a) Accountability of teachers to the School	18(2) In particular and without prejudice to sub rule (1), the terms and conditions of service shall take into account the following, namely - (a) Accountability of teachers <i>including the</i>

Management Committee constituted under Section 21.	<i>authority to take disciplinary action to the School Management Committee, constituted under Section 21.</i>
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In order to fulfill its function to engage parents for all sections of society and to be held accountable, the School Management Committee members cannot only work on a voluntary basis, but must be rewarded accordingly.

Existing Clause	Reworded Clause/ Comments
13 (1) A School Management Committee shall be constituted in every school, other than an unaided school, within its jurisdiction, within six months of the appointed date, and reconstituted every two years.	13 (1) A School Management Committee shall be constituted in every school, other than an unaided school, within its jurisdiction, within six months of the appointed date, and reconstituted every two years. <i>The members should be reimbursed for traveling and daily allowances as in accordance with the orders issued by the Local Authority.</i>

Model Rules under the Right of Children to Free and Compulsory Education act, 2009 is available at

http://education.nic.in/Elementary/RTI_Model_Rules.pdf

