

GRIEVANCE REDRESS MECHANISM FOR RTE

Submitted to Ministry of Human Resource
Development & National Advisory Council, 2012

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The 86th Amendment to the Constitution has made Elementary Education a Fundamental Right of every child in the age group 6-14 years. Based on this Amendment the Right to Free and Compulsory Education Act was passed in Parliament in August 2009 and came into effect on April 1, 2010. This is a landmark legislation that seeks to make fundamental changes in the system of delivering education. One of the first and most crucial challenges facing future of the Act is the establishment of an effective Grievance Redress System. Unfortunately at present a well-defined grievance redress mechanism does not exist. The Act has made local authorities the grievance redress agencies and the SCPCRs the appellate bodies at State level, but that does not suffice to establish the modalities through which violations can be dealt with. A well-defined institutional mechanism for grievance redress involves a system of **registering, investigating** and **responding** within a well-appointed time frame. This will have to be done along with the implementation agency, which is charged with the actual redress of the grievance by ensuring that the right under consideration is actually restored.

Listed are some of the issues that need to be addressed in order for a process of Grievance Redress system to be established. These could be framed as Rules for Grievance Redress.

POLICY BRIEF

- The State government shall designate officials at district and sub-district (block) as the **nodal officers** for RTE. These officials, from the Education Department, must be charged with overall responsibility (and subsequently be accountable for) implementation of RTE in their designated areas, i.e., block and district. The DEO [District Education Officer] and BEO [Block Education Officer], or other officials of same seniority, may be considered the designated RTE nodal officers.
- The **set of legal entitlements** guaranteed in the Act shall be clearly listed and this information made widely available and publicly displayed.
- State government shall designate officers responsible for providing each of these legal entitlements. For grievances against these entitlements the supervising officer would then be responsible for redress. This information should also be made publicly available—on school walls or Panchayat walls.
- The State Governments shall notify the local authority having jurisdiction to whom written complaints on grievances relating to the right of a child under the RTE Act can be submitted as per Section 32 (1) of the Act. While specifying the local authority and their jurisdiction under Section 32, the state government shall ensure the principles of natural justice so as to ensure that nobody should be the judge in its own cause.
- The state government shall prescribe the functions and powers of the local authority as per Section 32 of the RTE Act. This could include, but would not be limited to power to conduct inquiry independently.
- A **time schedule** for disposing-off grievances, keeping the nature of the grievance in mind, must be specified, keeping 3 months as the maximum period as specified in Section 32 of the Act. Some grievances such as related to corporal punishment or admission must be disposed of in a shorter time frame.
- Grievances may relate to violation of any of the provisions under the RTE Act and may be against any public office, public servant or private institution or private person or any other agency responsible directly or indirectly for the effective implementation of provisions of the RTE Act.
- The local authority could reject a complaint and the reasons for rejection should be provided in writing after conducting an initial scrutiny.

- At both the district and sub-district levels a system of **registering grievances** should be provided. The designated nodal officer (DEO/BEO) may appoint an individual from the Education department or from the Panchyati Raj Institutions to register grievances and issue receipts, ensuring that this officer is not the person against whom the grievance is being registered.
- **Registration** of grievances should be permitted using different modes such as postal, telephone, internet, in person etc., A prescribed format may be provided, but should not be mandatory. Every complaint, dated and numbered, must be registered in a register maintained by the BEO/ DEO.
- A **receipt** of the grievance, giving the date, the time frame within which the grievance would be dealt with, and the contact details of the person responsible for dealing with the grievance, must form part of the process of registering grievances. The receipt should also contain details of whom to **appeal** in case the grievance is not dealt with in the time frame specified. A prescribed format could be prepared for the receipt as well. All complaints received should be registered and acknowledged within seven days.
- A **copy** of the grievance should be sent to (and recorded at) the **SCPCR** [State Commission for Protection of Child Rights] or REPA [Right to Education Protection Authority]¹ as well and linked to the MIS.
- A **copy** of the grievance and receipt must be sent to the Local Authority, which must maintain a record of complaints and acknowledgements.
- Complaints that fall within the jurisdiction of the **Local Authority** [ex: Panchayats] should be disposed of by the local authority through an on-the-spot inspection/verification and disposal should be completed within 7 working days. In case the complaint relates to a matter to be resolved by any other authority the complaint should be referred to the nodal RTE officer within 7 days.
- Keeping the grievance and schedule in mind an **investigation** should be conducted involving an official senior to the one against whom the complaint is registered.
- The process of investigation must allow the complainant as well as the accused to be heard, and should be conducted as far as possible **publicly**.
- The result of the investigation must be conveyed to the complainant in writing and must recommend redress by the officer charged with providing the entitlement within a specified time frame, in line with the schedule for redress. Failure to dispose of a complaint within the prescribed time frame will be taken up by the supervising level and subsequently by the SCPCR/NCPCR. Appeals in this regard can be made to the supervisory level and then SCPCR/NCPCR.
- Repeated failure (more than twice) to dispose of complaints in the stipulated time shall be reflected in the ACRs of the officers concerned.
- In case of other violations of the Indian Penal Code like violence, including corporal punishment (as defined in the Rules), child abuse (as defined in the Rules) the complainant shall file a First Information Report. The Gram Panchayat or Local Authority shall facilitate the filing of the First Information Report.
- The Action Taken shall be informed to the complainant through the local authority and disclosed in 2 vernacular newspapers in a prescribed format once every quarter.
- Action Taken on the complaints shall be placed before the meetings of the Local Authority for review.
- Any person aggrieved by a decision or direction of the Local Authority or Education Authority, as the case may be, may file an appeal to the State Commission for Protection of Child Rights or the National Commission for the Protection of Child Rights within thirty days from the date of communication of the decision or order of the authority to him. The SCPCR/NCPCR may, if it is satisfied that the appellant was prevented by sufficient cause from the filing the appeal within the said period, allow it to be filed within a further period not exceeding thirty days.

¹ For States, that do not as yet have a State Commission, the RTE Act mandated that they set up a REPA, to undertake the monitoring function, pending the formation of the Commission.

- On receipt of an appeal, the Commission shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible
- The local authorities and SCPCR/ NCPCR can hold social audits and public hearings periodically at district or sub-district level. SMCs, NGOs, Parents' associations and others should be involved in these exercises.
- The office of the local authority, its duties, functions and working should be given publicity at all levels through vernacular media. State should conduct capacity building programmes for various community-based organizations, non-government organizations and civil society organizations about the power and functions of such authorities and also about the ways and means of accessing such authorities.
- The office should display number of complaints received, handled, status, and action taken on a regular basis.
- Notwithstanding all of the above, complaints may be received and processed by the SCPCR and NCPCR, governed by its own rules and procedures.
- The local authority shall not inquire into complaints that are pending before the NCPCR or SCPCR.
- The SCPCRs/ NCPCR can at any time ask for Action Taken Reports from the concerned authorities (school through to State level) and should be provided the same within 15 days.