

Uttar Pradesh Self - Financed Independent Schools (Regulation of Fees) Bill, 2017

Arrangement of Sections

**CHAPTER I
PRELIMINARY**

1.	Short Title, Extent, Application and Commencement	1
2.	Definitions	1

**CHAPTER II
ADMISSION TO SCHOOLS AND FEES**

3.	School Fund/Revenue	5
4.	Fee and Fund	5
5.	Permitted Fee Increase	6
6.	Zonal Fee Regulatory Committee	7
7.	State Appellate Authority	9
8.	Disclosures to be made by Recognized Schools at the time of admission.	9

**CHAPTER III
MISCELLANEOUS**

9.	Maintenance of Accounts	10
10.	Powers of the Eligible Educational Entity	10
11.	Delegation of Powers	10
12.	Jurisdiction of Civil Courts Barred	10
13.	Protection of Action Taken in Good Faith	11
14.	Power to Amend	11
15.	Act shall be supersession of any existing laws	11
16.	Power to make rules	11
17.	Exemption	11
18.	Power to remove difficulties	12

Uttar Pradesh Self - Financed Independent Schools (Regulation of Fees) Bill, 2017

An Act to make provisions for regulation of fees of institutions in the State of Uttar Pradesh and the matters connected therewith or incidental thereto.

It is hereby enacted in the Sixty-Eight Year of the Republic of India as follows-

CHAPTER I

PRELIMINARY

1. Short title, extent, application and commencement

- (1) This Act may be called the Uttar Pradesh Self - Financed Independent Schools (Regulation of Fees) Act, 2017.
- (2) It extends to the whole of the State of Uttar Pradesh.
- (3) It applies to all Self Financed Independent Schools of primary, upper primary, high school and intermediate colleges, except pre-primary schools, granted recognition/affiliation by U.P. Secondary Education/Central Board of Secondary Education/Indian Council of Secondary Education/International Board, in which total composite annual School fee of the student is more than rupees twenty thousands.
- (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 Act, and any reference to the commencement of this Act 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 Act, 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/or XII. as well as those preparing students according to prescribed courses for the Board's examinations;
- b) "**Self Financed Independent School**" means an institution imparting education wherein major 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.
- c) "**Appropriate authority**" means the authority designated by the Government for a particular purpose, including, *inter alia*, for regulation of fees and adjudication of contraventions of the provisions of the Act or rules prescribed;
- d) "**Board**" means Uttar Pradesh High School and Intermediate Education Board of Uttar Pradesh, the Central Board of Secondary Education, Council of the Indian School Certification Examinations.

- e) **"District Inspector of Schools"** 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 secondary education.
- f) **"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;
- g) **"Zonal Fee Regulatory Committee"** means the committee constituted under Section 7 of the Act;
- h) **"P.W.D."** means Public Works Department of the Government of the State of U.P..
- i) **"Regional Joint Director of Education"** means regional level officer of Secondary Education Department of the State of U.P.
- j) **"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 any other entity permitted by any of the Board which operates, manages and maintains recognized schools in the State;
- k) **"Government"** means the Government of the State of Uttar Pradesh.,
- l) **"Head of the school"** means the principal or as may be called by any other name of a recognised school designated by the eligible educational entity to manage the administration and academic affairs of the recognised school, as the case may be;
- m) **"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;
- n) **"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 Act comes into force or any other date, as the case may be, under the scheme of management under Section 3, with the management of the non-academic affairs of that recognised school;
- o) **"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;
- p) **"Permitted fee increase"** means the increase in fee permitted under Section 5;
- q) **"Proposed fee increase"** means the fee proposed by the managing committee of a recognised school under sub-section (8) of Section 6.

- r) **"Prescribed"** means prescribed by rules made under this Act;
- s) **"Prescribed authority"** means the appellate authority, as may be prescribed for a particular purpose including, *inter alia*, for regulation of fees and adjudication of contraventions of the provisions of the Act or rules prescribed;
- t) **"recognised school"** means a school recognised by the relevant authority for operation in the State;
- u) **"Recognition"** means formal certification granted by the relevant authority for operation in the State to a school that it conforms to the standards and conditions laid down by the State to operate a school;
- v) **"School"** includes:
 - (i) pre-primary school imparting education below the primary stage such as nursery and kindergarten;
 - (ii) primary school imparting education from classes I to V (both inclusive);
 - (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 such 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 Act;

- w) **"School property"** means all movable and immovable property, tangible or intangible, belonging to, or in the possession of, the recognised school or the 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;
- x) **"School"** 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 State Government or any local authority; or

- y) **"State"** means the State of Uttar Pradesh: and
- z) **"State Appellate Authority of Self Financed Independent Schools"** means State Self Financed Independent Schools Authority constituted under section-7 of the Act.

CHAPTER II

ADMISSION TO SCHOOLS AND FEES

3. School fund/revenue

- (1) In every recognised school, the school fund/revenue shall include the fees, any charge and payment which may be collected by the recognised school, from the student for the facilities provided by the recognised school. It also includes income from commercial activity, organised within the premise of the school, but that income will be deposited to the account of the school, and not to the account of society/trust.
- (2) Upto fifteen percent of fees levied from student can be utilized for developmental activity of the educational entity.
- (3) Save as otherwise provided in this Act, this school fund/revenue shall be utilised for educational purposes.
- (4) There shall be proper and reasonable adjustment between income and expenditure of the school.

4. Fee and fund

- (1) Every recognised school shall on its own determine its fee structure commensurate to, inter alia, meeting its operational expenses, cost of capital, infrastructure and facilities provided to the students, generate reasonable surplus to be utilised for educational purposes, 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 fees to be charged shall be classified as:
 - A. Possible Fee Components:** The school can fix any combination of or all of the following fee components;
 - (a) Prospectus and Registration fee: It shall be payable only at the time of admission by the student;
 - (b) Admission fee:-
 - (i) At the first time of new admission to the school;
 - (ii) At the time of promotion from class-5 to class-6;
 - (iii) At the time of promotion from class-8 to class-9;
 - (iv) At the time of promotion from class-10 to class-11;

- (c) Refundable security money/caution money
- (d) Composite Annual Tuition Fee: Single head annual recurring fee payable each year.
- (e) Examination fee shall be payable for examinations.

B. Optional Fee Components: Various fee payable for optional activities and facilities provided by the school including] but not limited to the followings:

(Optional Fee Components are to be limited fee)



- (a) Transport facilities;
 - (b) Boarding facilities;
 - (c) Mess or dining facilities;
 - (d) Excursions;
 - (e) Field Trips;
 - (f) Any other similar facility/activity.
- (4) Subject to Sections 6, 7 and 8, the manager of every recognised school shall, before the commencement of each academic year, file with the appropriate authority, 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 which may be commensurate to and required towards providing certain optional facilities or events at particular times in the academic year.

- (5) Such recognised school shall upload the statement of fee on its website till 31 December of the ensuing session of the year and also publish on school's notice-board.
- (6) While publishing the statement of fees, the recognised school shall also specify whether the payment is to be made in monthly or quarterly or half-yearly instalments.

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

- (7) 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 sub-section (4).
- (8) *Every recognised school shall ensure that no capitation fee is charged.*

- (9) Receipt shall be issued for every fee or charge levied on the children.

5. Permitted fee increase

- (1) A recognised school may revise its fee annually for its existing students for each grade/class subject to average annual increase of emoluments of a teacher, but such annual percentage increase permitted, i.e. latest yearly published consumer price index, plus seven percent, shall not exceed the average per capita increase percentage in monthly salary of the teaching staff. However, the recognized 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.



(to be deleted)

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 Government may 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 percentage 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 7 and 8.
- (3) Income from commercial activity in the premise of the school, if any, shall be considered income and shall be deposited to the account of the school and not to the account of the eligible educational entity.
- (4) No Student shall be compelled to purchase books, shoes, socks, books etc from a particular shop.

6. Zonal Fee Regulatory Committee:

- (i) The Zonal Fee Regulatory Committee shall consist of the following members, namely:

- | | |
|--|--------------|
| (a) Regional Commissioner | -Chairperson |
| (b) A chartered accountant nominated by the Regional Commissioner | -Member |
| (c) P. W .D. engineer, not below the rank of superintendent engineer, nominated by the Regional Commissioner | -Member |
| (d) A person of eminence and repute, as may be nominated by the Regional Commissioner. | -Member |

Uttar Pradesh Self Finance Independent Schools (Regulation of Fees) Act, 2017

- (e) An eminent principal/manager/administrator of a self-financed institution, as may be nominated by the Regional Commissioner. -Member
- (f) Regional Joint Director of Education. -Member
-Secretary
- (ii) The jurisdiction of the Zonal Fee Regulatory Committee shall be at the level of educational entity, situated in concerned division.
- (iii) The Zonal Fee Regulatory Committee shall be empowered to:
- (a) take decisions on proposals received from the managing committee regarding the proposed fee increase beyond the permitted fee increase under Section-4, and
- (b) hear any complaints against a recognised school from the students enrolled in such school at the time of filing of the complaint or their parents or appointed guardians in relation to:
- (i) fee being charged in excess of the fee intimated to the appropriate authority under sub-section-4 of section-3;
- (ii) capitation fee being charged;
- (iii) revision of fee during ensuing academic year; and
- (iv) increase in fee more than the permitted threshold under automatic route without obtaining approval from the authorities as specified herein.
- (4) The term of office of the nominated members of the Zonal Fee Regulator)' Committee shall be for a period of two years from the date of their nomination.
- (5) The procedure to be followed by the Zonal Fee Regulatory Committee shall be such as may be prescribed.
- (6) For the purpose of making any inquiry under this Act , the Zonal Fee Regulatory 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:
- (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 Regulatory 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 Regulatory Committee unless there is a quorum.

Uttar Pradesh Self Finance Independent Schools (Regulation of Fees) Act, 2017

- (8) Every recognised school, which proposes to increase, its fee beyond the permitted fee increase shall, at least three 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 Regulatory Committee.
- (9) On receipt of complaint, if any, from students or their parents/guardians or parents' association, zonal fee regulatory committee, after making due inquiry and after being satisfied, may dispose of the complaint followingly.
- (i) In case of contravention of the provisions of the Act for **first time**, may impose financial punishment upto Rs. One Lac, with refunding of excess fee levied, from the student unproportionately to the notified fee.
- (ii) Contravention of the provisions of the Act for **second time**, may impose financial punishment of Rs. Five Lac, with refunding of excess fee levied.
- (iii) Contravention of the provisions of the Act for **third time**, may recommend for withdrawal of recognition/affiliation to concerned board, in addition to withdrawal of permission of fifteen percent of fee levied from student for developmental activities of the institution.
- (10) The Zonal Fee Regulatory 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 4. Such order shall be in writing and be given to the managing committee within a period of ninety days of receipt of the proposal. The order passed by the Zonal Fee Regulatory Committee shall be binding on the recognised school for the academic year for which such proposed fee increase is sought.
- (11) Where the managing committee or any person is aggrieved by the decision of the Zonal Fee Regulatory Committee, it may, within thirty days from the date of receipt of such decision, prefer an appeal, in the prescribed manner to the State Self Finance 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, for reasons to be recorded by it in writing, the said period.*

7. State Appellate Authority

An Appellate Authority, provided in section -11 of THE UTTAR PRADESH PRIVATE PROFESSIONAL EDUCATIONAL INSTITUTES (REGULATION OF ADMISSION AND FIXATION OF FEE) Act, 2006, shall function as State self financed school authority for the purpose of this Act or a Separate Authority Constituted by the Government by notification in the Official Gazette with the composition similar to this mentioned Authority in this clause.

Any school aggrieved with decision passed by zonal fee regulatory committee, may appeal to the above state appellate authority within 30 days of receipt of the same.

Decision by state appellate authority will be last and final.

8. 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) details of the qualifications of the teachers;
 - (g) complete information of title, cost and sources for purchase of textbooks and uniforms;
 - (h) calendar of major events being organised by the recognised school throughout the academic year for students; and
 - (i) 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 Act 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.

CHAPTER III MISCELLANEOUS

9. 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.

10. Powers of the eligible educational entity

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

11. Delegation of Powers

- (1) The Government may delegate all or any of its powers, duties and functions under this Act 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 Act and not by way of delegation.

12. Jurisdiction of civil courts barred

No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter, which by or under this Act required to be settled, decided or determined by the Zonal fee regulatory committee or the State Self Financed Independent Schools Authority or appropriate authority or any other officer or authority appointed or specified by or under this Act, 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 Act.

13. 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 Act or any rule prescribed hereunder.

14. 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 Act or the rules prescribed and may, for that purpose, suitably amend this Act or the rules prescribed, by the said notification, and thereupon the provision in this Act 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.

15. Act shall be in supersession of any existing laws

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

16. 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 Act.
- (2) Every rule made under this Act 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.

17. 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 Act or the rules prescribed hereunder, subject to such conditions as they may deem fit to impose and may likewise vary or cancel such exemption.

18. Power to remove difficulties

- (1) If any difficulty arises in giving effect to any of the provisions of this Act, the Government may, as occasion arises, by an order published in the Official Gazette, do anything, not inconsistent with the provisions of this Act, 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 Act.

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