

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

- (i) This Act may be called the Uttar Pradesh Self - Financed Independent Schools (Regulation of Fees) Bill, 2017.
- (ii) It extends to the whole of the State of Uttar Pradesh.
- (iii) It applies to all Self-Financed Independent Schools of Pre Primary, Primary, Upper Primary, High School and Intermediate Colleges granted recognition/affiliation by boards as defined under section 2(d) by Uttar Pradesh Basic Shiksha Parishad, Uttar Pradesh Board of Secondary Education, Central Board of Secondary Education (CBSE), Indian Council of Secondary Education (ICSE), International Baccalaureate (IB) and International General Certificate of Secondary Education (IGCSE), or any other Boards defined by the Government from time to time in which total payable Possible fee of any student plus development charge (as define in section-3) is more than Rupees Twenty Thousands per annum. It shall also be applicable to Minority Institutions recognised/affiliated by the board defined by above mentioned boards. It shall not be applicable to independent Pre-Primary Schools.
- (iv) 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 Bill, 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 upto classes V, VIII, X and/or XII.
- 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 Zonal fee regulatory committee as prescribed under Section-8;
- d) **"Board"** means Uttar Pradesh Basic Shiksha Parishad, Uttar Pradesh Board of Secondary Education, Central Board of Secondary Education (CBSE), Indian Council of Secondary Education (ICSE), International Baccalaureate (IB) and International General Certificate of Secondary Education (IGCSE) or any other Board defined by the Government time to time.
- 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/addition of school infrastructure/courses/ content, patents, research and development activities, teacher training programmes, staff development programmes, up-gradation of technology, vocational training, co-curricular activities and sports related infrastructure and equipment;
- g) **"Zonal Fee Regulatory Committee"** means the committee constituted under Section 8 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 commissionerate level officer of Secondary Education Department of the State of U.P posted in concerned division.
- 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 Companies registered under section 25 of the Companies Act of the 1956, 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 notified by concerned Nagar Panchayat, Nagar Palika, Nagar Nigam, or Zila Parishad having jurisdiction over such local area;
- n) **"Management Committee"** Means management committee by whatever name called, of a school to which the affairs of the school are entrusted and, a person, by whatever name or designation called, where such affairs are entrusted to such

person and shall also include trust or company associated with the school in any manner whatsoever;

- 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 for old students under Section 4(i);
- q) **"Permitted fee fixation"** means the fixation for fee permitted for new students under Section 4(ii);
- r) **"Proposed fee"** means the fee proposed by the managing committee of a recognised school under Section-5;
- s) **"Recognised school"** means a school recognised by the relevant authority for operation in the State;
- t) **"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;
- u) **"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 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
 - (ii) is giving, providing or imparting only religious instructions.
- 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 Board defined under Section-2 (d) 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 within the school campus and/or related to the concerned recognised school 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) "State" means the State of Uttar Pradesh; and
- y) "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. Fee and fund

- (i) School shall on its own determine its fee structure commensurate to, *inter alia*, meeting its operational expenses, infrastructure and facilities for providing facilities to the students, to generate reasonable surplus to be utilised for development of educational purposes including establishment of a new branch or a new school under the management of the same eligible educational entity.
- (ii) The procedure for collecting fees in a school shall be open, transparent and accountable.
- (iii) 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) Examination fee shall be payable relating to conduct of examinations.
 - (d) Tuition Fee: Single head annual recurring fee payable each year.
 - B. **Optional Fee Components:** Various fee payable for optional activities shall be payable by only those students who voluntarily opt for the concerned facilities provided by the school, including, but not limited to the followings;

- (s) Transport;
- (b) Boarding;
- (c) Mess or dining;
- (d) Excursions;
- (e) Any other similar activity.

C. **Development fund Charge** it can be charged upto the maximum limit of 15% of the total fee charged from fee component as per clause 3A&3B. This development fund shall be charged as cost of capital to be utilized for development of educational purposes including establishment of a new branch or a new school under the management of the same eligible educational entity.

D. **Refundable Charge**-Security money/caution money which shall be returned back to the students on clearing all applicable dues at the time of leaving the school by the student.

- (iv) The head of school 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.

- (v) Such 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.
- (vi) While publishing the statement of fees, the school shall also specify whether the payment is to be made in monthly or quarterly or half-yearly instalments. Provided that no school shall solely provide that the fee be paid on an annual basis.
- (vii) No 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).
- (viii) Every recognised school shall ensure that no capitation fee is charged.
- (ix) Receipt shall be issued for every fee or charge levied on the children.
- (x) No Student shall be compelled to purchase books, shoes, socks, books etc from a particular shop.

4. **Annual fee fixation**

- (i) **Permitted fee increase for old student**, a school may revise its fee annually for its existing students by itself equivalent to percentage of average per capita increase percentage of monthly salary of teaching staff during the previous year provided that this fee increase shall not exceed latest yearly published consumer price index plus five percent.
- (ii) **Permitted fee fixation for new student**, the school shall be free to determine its fee for the new students seeking fresh admissions, provided that such fee increase should be such that the total income of school as defined under section-6(a) does not exceed the total of expenditure as defined in clause 6(b) plus the amount collected as development fund defined under section-6(c) during previous year.

5. **Proposed fee by management committee**

School may be permitted to increase or fix its fee beyond the permitted fee increase/fixation under sub-section 4(i) and 4(ii) as above to ensure properly of the school while ensuring the total income of school as defined under section-6(a) does not exceed the total of expenditure as defined in clause 6(b) plus the amount collected as development fund defined under section 6(c) during previous year by submitted the proposal by zonal fee regulatory committee.

6. **Income and Expenditure**

(a) **Income :**

- (i) All the fee charged from the students.
- (ii) Earnings from commercial activities organized in the campus.
- (iii) Grants granted under Government schemes for students and school, donation and any legal financial aids. Excluding financial support from the parent educational entity.
- (iv) 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.

(b) **Expenditure:**

- (i) Payment of the salary to teaching and non-teaching staff including allowances and annual increments.
- (ii) For School administration, services and maintenance of welfare services.

(c) **Development Fund:**

- (i) Maximum 15 percent of total income of school will be permissible to be utilized as development fund.
- (ii) This development fund shall be utilized for development of educational purposes including establishment of a new branch or a new school under the management of the same eligible educational entity.

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

- (i) The 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) 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.
- (ii) 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.

8. Zonal Fee Regulatory Committee:

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

(a) Divisional Commissioner

-Chairperson

- (b) A chartered accountant nominated by the Divisional Commissioner
-Member
 - (c) P. W. D. engineer, not below the rank of Superintendent Engineer,
Nominated by the Divisional Commissioner
-Member
 - (d) Senior officer of State Finance and Accounts Service
Nominated by the Divisional Commissioner
-Member
 - (e) President of any Parents-Teachers' Association of School
situated in the division, as may be nominated by
the Divisional Commissioner.
-Member
 - (f) An eminent principal/manager/administrator
of a self-financed institution, as may be nominated
by the Divisional Commissioner.
-Member
 - (g) 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 term of office of nominated non-official members of the Zonal Fee Regulatory Committee shall be for a period of two years from the date of their nomination. In case of vacancy arising earlier for any reason, such vacancy shall be filled for the remaining period of term. The removal of the nominated member shall be such as prescribed.
- (iv) 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;
 - (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 section-4;
 - (ii) Capitation fee being charged;
 - (iii) Revision of fee during the ensuing academic year; and
 - (iv) Increase in fee more than the permitted fee increase/fixation as per 4(1) and 4(7) under automatic route without obtaining approval from the authorities as specified herein.

- (v) The procedure to be followed by the Zonal Fee Regulatory Committee shall be such as may be prescribed.
- (vi) 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.
- (vii) 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.
- (viii) 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.
- (ix) 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/fixation of 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.
- (x) 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.
- (a) 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.
 - (b) Contravention of the provisions of the Act for **second time**, may impose financial punishment of Rs. Five Lac. with refunding of excess fee levied.
 - (c) 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 collection of admissible development charge for the purpose of development fund from a student for a specified period as may be decided by Zonal Fee Regulatory Committee.

- (xi) 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.

9. 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 till a Separate Authority Constituted by the Government by notification in the Official Gazette with the composition similar to this mentioned Authority in this clause. Decision by state appellate authority will be last and final.

**CHAPTER III
MISCELLANEOUS**

10. Maintenance of accounts

- (i) All recognised schools shall maintain proper books of accounts.
(ii) All recognised schools shall maintain their accounts in accordance with relevant accounting standards and generally accepted accounting principles.

11. 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.

12. Delegation of Powers

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

- (ii) 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.

13. 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.

14. 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.

15. Power to amend

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

16. Power to make rules

- (i) 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.
- (ii) 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

- (i) 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.

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