

U.P. Self-Financed Independent Schools (Fee Regulation) Act, 2018

(U.P. Act 40 of 2018)

Last Updated 8th December, 2020 [up900]

LEGISLATIVE HISTORY ▼

Received the assent of the Governor on 12.9.2018 and published in the U.P. Gazette, Extraordinary, Part I, Section (Ka), dated 12.9.2018, pp. 10-19.

An Act to provide for regulation of fees in self-financed independent schools in the State of Uttar Pradesh and the matters connected therewith or incidental thereto It is hereby enacted in the sixty ninth year of the Republic of India as follows:-

CHAPTER I

Preliminary

1. Short title, extent, application and commencement. - This Act may be called the Uttar Pradesh Self-Financed Independent Schools (Fee Regulation) Act, 2018.

(2) It extends to the whole of the State of Uttar Pradesh;

(3) It applies to all Self-financed Independent Schools of Pre-Primary, Primary, Upper Primary, High School and Intermediate Colleges granted recognition/affiliation by boards defined under clause (c) of Section 2 by Uttar Pradesh Basic Shiksha Parishad, Board of High School and Intermediate Education Uttar Pradesh, 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 notified by the Government from time to time in which total payable possible fee of any student is more than Rupees Twenty Thousand per annum;

It shall also be applicable to Minority Institutions recognised/affiliated by any of the said boards;

It shall not be applicable to independent Pre-Primary Schools.

(4) It shall be deemed to have come into force on April 9, 2018.

Object & Reasons ▼

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 the prescribed/approved courses of studies upto Classes V, VIII, X and/or XII as well as those preparing students according to prescribed courses for the Boards' examinations;

(b) "Academic Year" means commencement and end of academic session specified by the respective boards;

(c) "Appropriate authority" means the District Fee Regulatory Committee constituted under Section 8;

- (d) **"Board"** means Uttar Pradesh Basic Shiksha Parishad, Board of High School and Intermediate Education Uttar Pradesh, Central Board of Secondary Education (CBSE), Indian Council of Secondary Education (ICSE), International Baccalaureate (IB), International General Certificate of Secondary Education (IGCSE) or any other Board notified by the Government from time to time;
- (e) **"District Inspector of Schools"** means an officer appointed in each district of the State in such manner as may be prescribed or any other officer authorised by the Government to exercise the powers and perform the functions of District Inspector of Schools of Secondary Education;
- (f) **"District Fee Regulatory Committee"** means the District Fee Regulatory Committee constituted under Section 8;
- [(ff) **"Divisional Appellate authority of Self-Financed Independent Schools"** means Divisional Self-Financed Independent Schools Authority constituted under Section 9;]
- (g) **"Educational purposes"** means any educational activity undertaken by a recognised school, *inter alia*, including, creation of courses/curriculum, 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 and establishment of a new branch or a new school;
- (h) **"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 the Companies Act, 2013 or any other entity permitted by any of the Boards which operates, manages and maintains recognised schools in the State;
- (i) **"Government"** means the Government of the State of Uttar Pradesh;
- (j) **"Guardian"** means a parent or a person whose name is registered in school as guardian by the parent of a student;
- (k) **"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;
- (l) **"Joint Director of Education"** means divisional level officer of Education Department of the Government;
- (m) **"Local authority"** means a local area notified by a Nagar Panchayat, Nagar Palika, Nagar Nigam or a Zila Panchayat having jurisdiction over that local area;
- (n) **"Management Committee"** means the body of persons of a recognised school authorised by competent body/authority to manage the functioning of that 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) "**Parent Association**" means an Association of Parents of a recognised school to be constituted in such manner as may be prescribed;
- (q) "**Parent-Teachers Association**" means Parent-Teachers Association framed under Parent-Teachers Association Regulations, 1986 for the schools recognised by Board of Secondary Education, Uttar Pradesh and for the other boards Parent-Teachers Association as constituted by the school with parent and teachers of the school;
- (r) "**Permitted fee increase**" means the increase in fee permitted under Section 4;
- (s) "**P.W.D.**" means Public Works Department of the Government.
- (t) "**Recognised school**" means a school recognised by a Board for operation in the State;
- (u) "**Recognition**" means formal certification granted by a Board for operation in the State to a school that it conforms to the standards and conditions laid down by the Government to operate a school;
- (v) "**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;
- (w) "**School**" includes;
- (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) Upper primary imparting education from Classes VI to VIII (both inclusive); or
 - (iv) High school imparting education to Classes IX and X; or
 - (v) Intermediate college imparting education to Classes XI and XII;

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

- (x) "**School property**" means all movable and immovable property, tangible or intangible, owned by, 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;

(y) "**State**" means the State of Uttar Pradesh;

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CHAPTER II

Admission to Schools and Fees

3. Fee and fund. - (1) A recognised School shall determine its fee structure under subsections (1) and (2) of Section 4 for different classes/grades/school levels commensurate to, *inter alia*, meeting its operational expenses, providing for augmentation of facilities and expansion of infrastructure and 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;

(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 may fix any combination of one or all of the following fee components:-

(i) Prospectus and Registration fee-It shall be payable only at the time of registration by the student;

(ii) Admission fee-At the first time of new admission to the school;

(iii) Examination fee-Shall be payable for examinations;

(iv) Composite Annual Fee-Single head annual recurring fee payable each year;

Provided that, upon commencement of this Act, any recognised school charging recurring fee under different heads, shall, from the ensuing academic year, be required to club all such heads into a single head recurring fee as provided.

(b) Optional Fee Components-Various fee payable for optional activities and facilities provided by the school, including:-

(i) transport;

(ii) boarding;

(iii) mess or dining;

(iv) excursions;

(v) any other similar activity;

(c) Refundable Charge-Security money/caution money shall be returned to the students on clearing all applicable dues at the time of leaving the school by the student, provided that the amount of such Security/Caution Money shall not be more than fifty per cent of composite annual fee. Security money/caution money will be refunded with interest for the duration of the deposit with the school, at prevalent rate of State Bank of India saving account. Security money/caution money shall be refunded by

the school within thirty days from the issuing date of transfer certificate through e-payment.

(4) Head of the 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;

(5) Such school shall upload the statement of fee on its website sixty days prior to commencement of each academic year, and also publish on notice board. However in the present year it shall be within thirty days of coming into force of this Act;

(6) 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 annual basis;

(7) 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);

(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 student;

(10) No student shall be compelled to purchase books, shoes, socks and uniform, etc. from a particular shop;

(11) School dress shall not be changed by school within live consecutive academic years. If change is required, it can be changed with proper justification with prior approval of District Fee Regulatory Committee.

4. Fixation of fee. - (1) Permitted fee increase for existing students-A recognised school may revise its fee annually for its existing students by itself for each grade/class/level of school equivalent to average per centage per capita increase of monthly salary of teaching staff of previous year, but the fee increase shall not exceed latest available yearly per centage increase in consumer price index + five per cent of the fee realised from the student;

Explanation. - At the time of admission, irrespective of the grade/class in which a student is entering the school, the school shall provide to the guardian, the complete fee structure for all grade/class upto grade/Class XII applicable to new students for that particular year. This fee structure shall become the base for calculating subsequent annual permitted fee increase on compounding basis for each grade/class to determine the fee applicable to the students for future grade/class:

Provided that, in case of implementation of the pay commission recommendation in any School, in that year the term "but the fee increase shall not exceed latest available yearly per centage increase in consumer price index+five per cent of the fee realised from the students" shall not apply. When pay commission recommendation has been implemented in the school, that year, school may revise its fee annually for its existing students by itself for each grade/ class/level of school equivalent to average per centage per capita increase of monthly salary of teaching staff of previous year. This shall be applied from Year 2018-2019;

In case of the implementation of levy of any new cess, it may be charged with proper justification with prior approval of District Fee Regulatory Committee upto the level of impact of that cess;

For the previously admitted students, computation of Permitted Fee Increase for the first Year 2018-2019 in accordance with sub-section (1) shall be calculated taking fee structure of 2015-2016 as the base year, i.e., taking the fee structure for the Year 2015-2016 the fee structure for the Year 2018-19 shall be computed as per the provision of sub-section (1). The fee to be fixed for Year 2018-19 shall be the lower of the fee computed taking base

Year 2015-16 and computations of fee based on taking 2017-18 as base year and calculated as per provision of sub-section (1);

(2) Permitted fee fixation for new student-The school shall be free to determine its fee for the new students for any class/grade/level seeking fresh admissions, in a particular academic year subject to guidelines, if any, notified by the Government. Increase in fee for subsequent years for these students shall be in accordance with sub-section (1).

[(3) Notwithstanding anything contained in this Act, in extraordinary conditions or emergent circumstances like, but not limited to acts of God. Epidemics, Natural Calamities, Wars or Revolutions, Civil commotions, Floods, etc. the State Government may by order, regulate the fees to be charged by the recognised schools, from existing students and newly admitted students for each academic year till such time the aforesaid eventualities exist or till such time as seems expedient in public interest to do so.]

5. Income. - (1) All the fee charged from the students;

(2) 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.

6. Development Fund. - (1) Not more than fifteen per cent of total income of school during the financial year may be transferred to Eligible Educational Entity as development fund, however, for the year when school enhances the fees more than fees permitted under sub-section (1) of Section 4 with permission of District Fee Regulatory Committee during that year such, transfer shall not be admissible.

(2) The development fund referred to in sub-section (1) shall be utilised by an eligible educational entity for operation of school or educational development of school or other schools under that entity. Development fund shall not be utilised for any commercial activity.

7. Disclosures to be made by recognised schools at the time of admission. - (1) A School shall, sixty days prior to commencement of admissions in each academic year, publish on its notice board/website, if any, and the following details and a prospectus shall be provided to a student along with the admission 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 extracurricular activities;
- (e) details of student to space ratio and student to teacher ratio;
- (f) details of the salaries of teachers in Academic Year 2015-2016, 2016-2017 and 2017-2018;
- (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;

(2) Unless otherwise specified under this Act or the rules made thereunder and the information disclosed in sub-section (1) shall remain in the public domain for the entire academic year;

8. District Fee Regulatory Committee, its constitution, functions and power. - (1)

There shall be constituted in every District of the State a District Fee Regulatory Committee consisting of:-

- (a) the District Magistrate - Chairperson
- (b) a chartered accountant to be nominated by the District Magistrate - Member
- (c) an engineer, not below the rank of Executive Engineer of P.W.D., nominated by the District Magistrate - Member (ex officio)
- (d) a senior officer of State Finance and Accounts Service nominated by the District Magistrate - Member (ex officio)
- (e) a parent of Parent Teachers Association of a School situated in the district nominated by the District Magistrate - Member
- (f) an eminent principal/manager/administrator of a self-financed school, nominated by the District Magistrate - Member
- (g) the District Inspector of School. - Member Secretary (ex officio)

(2) The jurisdiction of the District Fee Regulatory Committee shall be at the level of educational entity, situated in respective district.

(3) The term of office of members mentioned in clauses (b), (e) and (f) of sub-section (1) of the District Fee Regulatory Committee shall be two years from the date of their nomination. In case of vacancy of a member arising earlier for any reason, such vacancy shall be filled for the remaining period of the term of such member. The removal of the nominated member shall be in such manner as may be prescribed;

(4) The District Fee Regulatory Committee shall have power to:-

- (a) take decisions on proposals received from the management committee regarding the proposed fee increase beyond the permitted fee increase under sub-section (1) of Section 4;
- (b) hear complaint of a student or guardian or parent teacher association of such School whose complaint remains unheard by the Head of the School within fifteen working days under this Act:-
 - (i) made for fee being charged in excess of the fee intimated to the appropriate authority under Section 4;
 - (ii) made for capitation fee being charged;
 - (iii) made for revision of fee during ensuing academic year; and
 - (iv) made for increase in fee more than the permitted fee increase without obtaining approval of the appropriate authority;
 - (v) made for compulsion to purchase books, shoes, socks and uniform, etc., from a particular shop;
 - (vi) change of school dress within five years, without prior approval of District Fee Regulatory Committee;
 - (vii) made for not making disclosure as provided under Section 7;

(viii) made for non-refunding of security money/caution money after violation of provision made in clause (c) of sub-section-3 of Section 3;

(ix) made for violation of Section 6.

(5) The procedure to be followed by the District Fee Regulatory Committee shall be such as may be prescribed;

(6) For the purpose of making any inquiry under this Act, the District Fee Regulatory Committee shall have powers of a civil court and appellate court under the Code of Civil Procedure, 1908 (Act 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 quorum of a meeting of the District Fee Regulatory Committee shall be fifty per cent of the members of its total strength of members and the Chairman. No order shall be passed by the District Fee Regulatory Committee unless there is a quorum;

(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 District Fee Regulatory Committee;.

(9) The District Fee Regulatory Committee shall, upon considering the proposal and the reasons given by the recognised school, accept or reject the proposal or prescribe such per centage 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 recognised school within a period of ninety days of receipt of the proposal. The order passed by the District Fee Regulatory Committee shall be binding on the recognised school for the academic year for which such proposed fee increase is sought;

(10) On receipt of complaint, if any, from a student or guardians or parents teacher association, the District Fee Regulatory Committee, after making due inquiry and after being satisfied, may impose penalties in the manner as follows:-

(a) in case of contravention of the provisions of this Act for first time, may impose financial punishment upto Rs. i lakh, with refunding of excess fee levied, from a student to the notified fee;

(b) contravention of the provisions of this Act for second time, may impose financial punishment of Rs. 5 Lakh, with refunding of excess fee levied;

(c) contravention of the provisions of this Act for third time, may recommend for withdrawal of recognition/affiliation to concerned Board, in addition to the withdrawal of permission of developmental fund for a certain period as may be decided by it.

[(11) Where the recognised school or any person is aggrieved by the decision of the District Fee Regulatory Committee, it may, within thirty days from the date of such decision, prefer an appeal, in such manner as may be prescribed to the Divisional Self-Financed Independent School Appellate Authority referred to in Section 9.]

9. [Divisional Self-Financed Independent School Appellate Authority]. –

[(1) There will be a Self-Financed Independent School Authority in all the divisions of the State, which will include -

1. Divisional Chairman - Commissioner.
2. Additional Director Treasury - Member.
3. Divisional Joint Director of Education - Member Secretary.

The above Appellate Authority may seek the Assistance of Chartered Accountant as required.

(2) 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 Self-Financed Independent School Appellate Authority for the purpose of this Act unless a Divisional Self-Financed Independent School Appellate Authority is constituted in all Divisions of the State by the Government by notification in the Gazette;

(3) The Appellate Authority shall have powers of civil court as well as appellate court provided under the Code of Civil Procedure, 1908 (Act 5 of 1908) while hearing appeal. The Decision passed by the Divisional Self-Financed Independent School Appellate Authority shall be final.]

CHAPTER III

Miscellaneous

10. Maintenance of accounts. - (1) A recognised school shall maintain proper books of accounts;

(2) A recognised school shall maintain the accounts in accordance with relevant accounting standards and generally accepted accounting principles.

11. 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 District Fee Regulatory Committee or [the Divisional Self-Financed Independent School Appellate 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 done or intended to be done in pursuance of any power conferred by or under this Act.

12. 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 done or intended to be done in good faith in pursuance of this Act or any rule prescribed thereunder.

13. Power to make rules. - The Government may, by notification in the Gazette, make rules for carrying out of the purposes of this Act.

14. Power to remove difficulties. - (1) If any difficulty arises in giving effect to any of the provisions of this Act, the Government may, by order published in the Gazette, make provision not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purposes of removing the difficult:

Provided that no order this sub-section shall be made after two years from the 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.

15. Over riding effects of this Act. - Any law, rules, regulation or notification already made by the Government inconsistent with the provisions of this Act shall be void to the extent of inconsistency.

16. Repeal and saving. - (1) The Uttar Pradesh Self-Financed Independent Schools (Fixation of fees) Ordinance, 2018 (U.P. Ordinance 6 of 2018) is hereby repealed.

(2) Notwithstanding such repeal;

- (a) anything done or any action taken under the provisions of the Ordinance referred to in sub-section (1) shall be deemed to have been done or taken under the provisions of this Act.
- (b) all the matters pending before a Divisional Fee Regulatory Committee constituted under the ordinance referred to in sub-section (1) shall stand transferred to concerned District Fee Regulatory Committee.