

Guidelines for Protection of Children with Disabilities from Exploitation, Violence and Abuse

21st August 2013

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Acronym

CCPD: Chief Commissioner for Persons with Disabilities

CWC: Child Welfare Committee

DCPU: District Child Protection Unit

JJ Act: Juvenile Justice (Care and Protection of Children) Act 2000

JJB: Juvenile Justice Board

LLC: Local Level Committee

NCPCR: National Commission for the Protection of Child Rights

POCSO Act: Protection of Children from Sexual Offenses

PwD Act: Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995

SCPCR: State Commission for the Protection of Child Rights

SCPD: State Commissioner for Persons with Disabilities

SJPU: State Juvenile Protection Unit

UNCRC: United Nations Convention on the Rights of the Child

UNCRPD: United Nations Convention on the Rights of Persons with Disabilities (CRPD)

Chapter I

Introduction

Infants, children and adolescents with disabilities in institutions around the world are vulnerable to violence and abuse. For children with disabilities interface with various kinds of institutional settings begins from infancy and continues till death. It is an acknowledged fact that children in institutions do far worse socially, educationally, medically and psychologically than children raised in families/supportive community settings. While institutionalization (both governmental and non-governmental) itself can have serious physical and psychological effects on children, violence against children with disabilities in institutions is of grave concern, which requires systemic and strategic response.

The Constitution of India has, in several provisions under Article 15 (3), Article 21, Article 39 (e) and (f), Article 45 and Article 47, imposed on the State a primary responsibility of ensuring that all the needs of children, which includes children with disabilities, are met and that their basic human rights are fully protected.

Additionally, India has signed and ratified the UN Convention on the Rights of the Child (CRC) and the UN Convention on the Rights of Persons with Disabilities (CRPD) on the 11th of December, 1992 and 1st of October 2007 respectively. India is obligated to bring all its laws, policies and programmes in consonance with these conventions so as to empower and protect children with disabilities from all forms of exploitation, abuse and violence.

Some issues of children and disabilities are covered under the following domestic laws: the Mental Health Act, 1987; the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999; Juvenile Justice (Care and Protection of Children) Act, 2000 and the Protection of Children from Sexual Offences Act, 2012. Rule 31 of the Juvenile Justice (Care and Protection of Children) Act, 2000 Rules 2007 requires the central and state government to frame guidelines for prevention of sexual abuse. India has also adopted the National Policy for Persons with Disabilities and National Policy for Children, 2013 which recognizes that children with disabilities are the most vulnerable group and need special attention. However, there is an urgent need to look at the issues of children with disabilities in a holistic, age appropriate, gender specific and disability sensitive manner.

Despite these various laws and instruments, children with disabilities continue to face barriers and violations of their human rights, which can get aggravated on the basis of race, colour, sex, gender, language, religion, ethnic, indigenous or social origin or other status. It is essential to understand that children with disabilities are a heterogeneous group. Disability results from the interaction between children with disabilities and attitudinal & environmental barriers that hinder their full and effective participation in society on an equal basis with others. The principles of choice, empowerment and reasonable accommodation are fundamental for the realization of their rights. These principles become even more essential while working with children with disabilities in

particular those who require more intensive support and those trapped in situations such as migration, armed conflicts and natural disasters.

Situations of exploitation, abuse and violence with children with disabilities can occur at any level including organizational level where oppression must be challenged through strategic and structural change. In case of professional level misconduct, neglect and maltreatment in service provision must be acknowledged, reduced and dealt with in a stringent manner. Whereas, at the personal level prejudice against children with disabilities who have been subjected to abuse, must be confronted.

Hence, the Ministry of Social Justice & Empowerment, Government of India is notifying the Guidelines. These guidelines shall always be read and interpreted in age appropriate, gender sensitive and disability specific paradigm.

Chapter II

Fundamental Principles

Principles to be followed in the administration of these guidelines

(1) All concerned institutions, authorities, bodies, personnel or any agency dealing with children shall abide and be guided by the principles specified in sub-rule (2).

(2) The following principles shall, inter alia, be fundamental to the application, interpretation and implementation of these guidelines:

1. **Simplicity:** All spaces should be able to absorb and implement these guidelines easily and within a short span of time.
2. **Best Interest of Children with Disabilities:** In all actions, processes and decisions taken to prevent Child Abuse, the best interest of the child with disability shall be the primary consideration.
3. **Safety:** For ensuring safety of children with disabilities, restrictive and coercive measures and processes shall not be resorted to in the name of care and protection.
4. **Non-stigmatizing Processes, Decisions and Actions:** All processes, decisions and actions, taken in the best interest of the children with disabilities, shall ensure that no stigma or taboo is attributed to the child at any stage. The language and environment used should be child friendly and inclusive. Language, expression and communication in the processes pertaining to the children with disabilities shall not be adversarial, inappropriate or accusatory. And in furtherance to this, children with disabilities shall be actively involved as equal partners in this process.
5. **Empowering Children:** Children with disabilities shall be supported by all possible means by fully mobilizing all maximum available resources including accessibility, reasonable accommodation and full participation to ensure their empowerment. Children with disabilities should be educated about their rights and duties including age/stage appropriate sexuality education and share it with a trusted adult. Children's participation in peer-to-peer sharing and learning with both children with disabilities and non-disabled children shall be promoted in all settings. Any disability and /or severity of disability should not be a ground for exclusion. All communication shall be tailored to the needs of the individual child and not use sentence structures and vocabulary, which are beyond the child's level of understanding.
6. **Family Responsibility:** Recognizing that the family is the primary unit responsible for safety, care and protection of children with disabilities. All steps shall be taken

by the families, communities and the state to ensure that the family environment is safe, comfortable, peaceful and free from abuse.

7. **Zero Tolerance:** There shall be zero tolerance to exploitation, violence and sexual abuse of children with disabilities by all concerned.

8. **Positive & Preventive Measures:**

All concerned shall take positive measures aiming at:

- i. facilitating the development of identity of the child and provide them with an inclusive and enabling environment.
- ii. reducing possibilities of crime, exploitation, violence and abuse against children with disabilities and reducing the need of prolonged engagement of children with disabilities in legal process.
- iii. providing counseling, rehabilitation and reintegration of children with disabilities who have been subjected to exploitation, violence and/or abuse.

9. **Access:** All institutions should provide for accessibility in the physical environment including all services & facilities and information & communication systems.

10. **Non-Discrimination and Full Participation:**

No discrimination on the basis of disability or on any ground shall be permitted and children with disabilities shall be guaranteed effective legal protection against such discrimination. Denial of reasonable accommodation shall amount to discrimination.

11. **Accountability:**

All persons and institutions that are responsible for the care and protection of children with disabilities shall be accountable. All cases of lapses, illegal acts and omissions shall be penalized proportionate to the act committed.

Chapter III

Preliminary

1. Short Title & Commencement

(1) These guidelines shall be called the Guidelines for Protection of Children with Disabilities from Exploitation, Violence and Abuse, 2013.

(2) These extend to the whole of India excluding the State of Jammu and Kashmir.

2. Definitions

In these guidelines, unless the context otherwise requires:

(a) "**best interest of the child**" means a decision taken to ensure the physical, emotional, intellectual, social and moral development of a child;

(b) "**disabilities**" as defined in the Section 2(i) of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; the National Trust (for the welfare of persons with Autism, Cerebral Palsy, Mental retardation and Multiple Disabilities) Act, 1999 and the Mental Health Act, 1987;

(c) "**children with disabilities**" means any child with a disability who is under the biological age of 18 years;

(d) "**family**" constitutes any biological, social, economic and/or legal unit wherein the child with disability resides, whether physically or not, and for the purposes of these guidelines would be regarded as an institution;

(e) "**institution**" means all formal, non-formal, registered or unregistered organizations or homes founded for a religious, charitable, educational, professional, medical, commercial, social purpose or any institution or infrastructure which is established and maintained for the reception, care including health care, rehabilitation, protection, education and/or development of children;

(f) "**child protection**" describes philosophies, policies, standards, guidelines and procedures to protect children from both intentional and unintentional harm. It applies particularly to the duty of institutions and individuals associated with those institutions towards children in their care;

(g) "**child abuse**" means any form of maltreatment inflicted on a child either by an adult or by peer(s) including physical, sexual, emotional and financial abuse, corporal punishment, negligent treatment, commercial and any kind of exploitation, which would result in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power. It includes any process, practices and policies at the institutional level including misuse of psychotropic drugs, inappropriate or unnecessary use of rehabilitative or therapeutic measures;

(h) "**child sexual abuse**" means and includes all offences defined in The Protection of Children from Sexual Offences (POCSO) Act, 2012 as amended from time to time;

(i) "**emotional abuse**" means and includes acts or omissions by person(s) in a position of responsibility, authority, and trust over a child that has caused or could cause distress, serious behavioral, cognitive, emotional, or mental trauma to the child. A pattern of behavior that attacks a child's emotional development and sense of self-worth, i.e. name-calling, ridiculing, terrorization, isolation, humiliation, rejection, corruption, ignoring, etc. can cause emotional abuse;

(j) "**physical abuse**" means use of force and/or inflicting of physical injury upon a child and includes burning, hitting, punching, shaking, kicking, beating, unreasonable, severe or unjustifiable punishment or otherwise harming a child by depriving him of adequate food and fluid, medicine or any other thing essential for sustaining life. While any of these injuries can occur accidentally when a child is at play, physical abuse should be suspected if the explanations do not fit the injury or if a pattern of frequency is apparent;

(k) "**financial abuse**" means withholding of necessary resource allocation for the child with disability including any excess allocation required by way of reasonable accommodation;

(l) "**exploitation**" means the use of children for someone else's advantage, gratification or profit whether resulting in unjust, cruel and harmful treatment of the child;

(m) "**violence**" is any act of commission or omission whether individually, collectively or by state sanction, whether the sanction is tacit or explicit, which impacts the physical, emotional, psychological well being of the child with disability as well as their dignity;

(n) "**neglect**" is the failure to provide needed sensitive care for the child's basic needs and denying the child opportunities for all round physical, intellectual and emotional development. Neglect includes physical or emotional and includes deprivation of shelter, food and fluid, clothing, life skills, education, supervision, medical care, habilitation and rehabilitation services and other necessities;

(o) "**institutional neglect**" is the failure to provide appropriate supervision and services, negligence in administering treatments, failure to isolate potential abuse victims from known or suspected perpetrators in a child's environment and failure to notify the parents or placing agency when a child's continued residence is detrimental to the individual child with disability;

Explanation:

(i) An example of institutional neglect would be to allow sexually active older students at an institution to sleep unsupervised in the same room with younger children.

(ii) The example in explanation (i) is inclusive but not exhaustive.

(p) "**wrongful abrogation of rights**" means the tampering with mail and correspondence; restriction of visitation of outside contacts; denial of appropriate access to a telephone; denial of alternate systems of communication and information; denial of reasonable accommodation; absence of accessible mechanisms of complaints; failure to investigate and respond to complaints of abuse by a child;

(q) "**maltreatment**" means any act or omission that defiles the dignity of a child;

(r) "**expert**" means a person trained in mental health, medicine, child development or other related discipline, who may be required to facilitate communication with a child whose ability to communicate has been affected by trauma, disability or any other vulnerability;

(s) "**interpreter**" means a qualified/part-qualified persons being used to assist communication for children with communication disabilities;

(t) "**facilitator**" means an unqualified person being used to assist communication for children using other forms of alternate augmentative communication (AAC) systems";

Explanation:

(i) It will include a parent or family member of a child or a member of his shared household or any person in whom the child reposes trust and confidence, who is familiar with that child's unique manner of communication and whose presence may be required for or be conducive to more effective communication with the child;

(ii) The example in explanation (i) is inclusive but not exhaustive.

(u) "**SJPU (Special Juvenile Police Unit)**" means a unit of the police force of a State designated for handling of juveniles or children as provided under Section 63 of the Juvenile Justice (Care & Protection of Children) Act, 2000;

(v) "**National Commission for Protection of Child Rights**" means the State Commission for Protection of Child Rights constituted under Section 3 of the Commission for Protection of Child Rights Act, 2005;

(w) "**State Commission for Protection of Child Rights**" means the State Commission for Protection of Child Rights constituted under Section 17 of the Commission for Protection of Child Rights Act, 2005;

(x) "**Chief Commissioner for Persons with Disabilities**" appointed under Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995;

(y) "**State Commissioner for Persons with Disabilities**" appointed under Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

Chapter IV

Registration of Institutions

All institutions restricted to children with disabilities shall obtain registration under the JJ Act, the PwD Act and the National Trust Act (where the last is applicable) and mainstream institutions, which have children with disabilities, shall obtain registration under the JJ Act.

- i. All institutions, governmental or non-governmental who have or are currently providing services and facilities to children with disabilities shall abide by these guidelines.
- ii. All monitoring bodies or competent authorities designated under any/ or all of the above said Acts having the duty to register, recognize, monitor, review or control license of all institutions.
- iii. All monitoring bodies and competent authorities as referred to in clause (ii) of Section 1, shall work in close co-ordination with each other to ensure strict compliance of these guidelines.

Registrations where more than one Act is applicable to an institution shall be mandatory in all Acts applicable. In the event an institution is not registered under all Acts applicable, the said institution shall comply with this provision within three (3) months from the date of notification of these guidelines failing which any competent authority may take appropriate action.

Chapter V

Human Resource

1. Recruitment Process

- i. All professionals including counselors/special educators for children with disabilities should be professionals registered with the Rehabilitation Council of India and/or with relevant qualifications from a recognized institution/university.
- ii. During the selection or appointment process, all candidates must also be tested on attitude towards children with disabilities and child protection.
- iii. No candidate with a criminal record of exploitation, abuse, sexual and/or physical violence will be recruited or appointed for any position within an institution. All personnel in the employment of an institution at the time of coming into force of these guidelines and those joining afresh shall sign an undertaking to the institution that they have not been accused of offences under POCSO, the JJ Act and any other Act for the time being in force.
- iv. Two references (including a character certificate) shall be provided by the person seeking employment.
- v. A thorough investigation shall be conducted by the institution into the prior employment and engagement of the person. All references shall be obtained in writing and maintained as part of the records of the institution.
- vi. All candidates, along with the appointment letter will be presented with a copy of the institution's child protection undertaking document and will be required to sign it.
- vii. All institutions providing services and facilities for children shall designate a person to work on disability issues at a strategic level.
- viii. Performance appraisal of all appointed staff shall be conducted by the institution head on a yearly basis.
- ix. Employment of person below the age of eighteen years shall be strictly prohibited.
- x. Every institution awarding qualifications shall create a data base on their website for purposes of verification comprising photograph, name, last known address, nature of qualification and academic years in institution and qualification grade. The NCPCR and SCPCRs to ensure that the concerned nodal agency creates an interactive website where each and every institution that is net enabled shall post all relevant information along with photograph of their employees. Those institutions, which are not net enabled, shall provide the relevant data to the concerned agency for onward transmission to the website.

2. Staffing in Institutions

- (i) The caregiver: children ratio should be 1:4. All other staff: children ratio should be as per norms.
- (ii) Recognising the need for specialized services and care for children with disabilities higher pay scales and service benefits shall be provided to all staff working with children with disabilities.

3. Capacity Building

- i. A uniform and disability specific training module as well as uniform and standard training module on child protection shall be developed by the National Trust in consultation with all concerned and adopted by the institutions.
- ii. Training all staff and volunteers in human rights, child protection and disability equality. Training shall also comprise of awareness, communication & etiquettes, alternative systems of communication, and advocacy. These trainings should be divided into basic and advanced level trainings with emphasis on practical training.
- iii. A full day orientation on disability and protection issues for all new recruits [staff, teachers, trainees and volunteers, etc.] shall be mandatorily held within one (1) month of joining.
- iv. All institutions must adhere to these training modules and ensure trainings at frequent intervals. A record of the trainings shall be maintained by the institutions.
- v. All stakeholders should be given response time evaluation and training to ensure that all crises are identified and handled immediately and efficiently and where ever necessary further training should be provided in order to improve response time.
- vi. These courses must be refreshed each academic year and a refresher course will be conducted annually to remind the management, staff and teachers of procedures and updates on new developments.
- vii. Training materials should be simple, easy to understand and given to all personnel who hold a position of authority and influence over the children with disabilities.
- viii. At least one training session shall include a group session along with parents or guardians, local police and school/institution personnel, etc.
- ix. The module and material should also exist electronically (CDs, in a separate folder in the institutions computers) so that it is easy to access.
- x. The local police and SJPU shall also undergo specially customised trainings on disability and protection issues in order to upgrade their knowledge of laws as well as to sensitize them towards child friendly and disability friendly behaviors.

Chapter VI

Child Protection Safe Guards

It shall be the responsibility of the institution to ensure that any person coming into contact with the child/CWD shall sign standard and uniform undertaking. The undertaking is appended (I) to and forms part of these guidelines.

1. Child Protection

- i. The undertaking will be signed by all personnel, professionals, outside instructors, visitors, volunteers and anyone who is put in a position of responsibility and authority over children with disabilities.
- ii. Every institution shall maintain a proper online database for children with disabilities in the institution and place it both on their own website and the website of concerned administrative agency. This database should specifically state the gender, type and percentage/ degree of disability.
- iii. The institution shall strive for the prevention of ragging within its premises and take special measures to ensure that children with disabilities do not become soft targets on ground of their disability.
- iv. In situations where adolescent must lift or take off skirts or trousers, professionals/ staff should anticipate potential emotional difficulties and afford the child/ adolescent both respect and as much privacy as is possible and judged necessary for that particular adolescent.
- v. In particular, avoid leaving them unclothed when that is not necessary, especially when other people may be wandering in and out.
- vi. These guidelines shall become a part of the human resource policies of the institution and should be displayed at a prominent place.
- vii. In case of an employee or other person providing services to children with disabilities being accused of an offence under POCSO and/or the JJ Act, the person so accused shall be suspended with immediate effect or his/ her contractual services shall be temporarily terminated pending inquiry and action shall be taken as per the due process established by law.
- viii. In cases of suspected abuse, the child victim shall immediately be segregated from contact and proximity with the suspected abuser/s.
- ix. Children with disabilities and their representatives should be informed of the outcomes or resolutions of their complaints and should get the information they

seek from time to time. The information regarding the complaints must be given in accessible formats and in a language understood by the child with disability.

- x. All decisions taken by the management should be in the best interest of the child with disability and explained to the complaining child and to her/his representative.
- xi. Offer children the necessary protection in terms of privacy, safety and security as per the safeguard norms.
- xii. All institutions must have a clearly laid out evacuation plan for all children including specific measures for protection and safety of children with disabilities in situations of risk, including but not limited to situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

2. Monitoring Visitors Carefully

- i. Institutions should be assertive in screening visitors, and require them to register both at the time of entering and exiting the building or campus and by employing security personnel.
- ii. No visitors shall be allowed to stay overnight in the institution for any reason. All institutions must have clearly specified and displayed hours during which visitor are permitted in the institution.
- iii. The visitor shall be accompanied by a staff of institution during the entire period of visit. No visitor shall be left alone within the precincts of the institution.
- iv. All institutions shall follow a strict confidentiality policy and shall not under any circumstances divulge to any visitor any personal details of residents. All enquiries related to personal information of residents shall be routed through proper channels.
- v. Due care should be taken that the visitors should not be allowed to maneuver, transfer or handle children with disabilities, unless trained to do so and have permissions for same.
- vi. All gates should be duly manned by security personnel. Registered visitors can be given a pass or badge to display prominently to let staff and resident know that they have been acknowledged by the administration.
- vii. Staff and resident should be instructed to report people without proper identification to an administrator.

- viii. Institutions should ask parents or guardian to give the names of adults who are allowed to pick up a child with disability, and require those individuals to show identification to school/institution personnel when signing a student/child out.

3. Rules for Use of Institutions Premises by Outsiders

- i. Any arrangements for use of institutions premises by outsiders or by the institutions staff, should be after proper scrutiny of the antecedents of the organization/persons using institution premises and the purpose for which it is to be used as per clearly laid out policy norms in writing.
- ii. All such arrangements should be formalized and proper documentation should be maintained.

4. Participatory Management of Institutions

- i. The institutions and the family/parents/guardian/care giver have to work as a team to ensure a foolproof protective environment necessary for the healthy and secure growth of the child.
- ii. All decisions, which may affect the physical or mental well-being of the children of the institutions, should be taken in consultation with the parents or guardian or competent authority.
- iii. A prior written informed consent of the parents or guardian must be taken in matters involving their child's safety and security. For example, fieldtrips, camps, excursions, medical check-ups, therapy sessions, assessments, etc.

Chapter VII

Equity and Inclusion

- i. No institution offering facilities and services of any nature whatsoever can refuse or deny the said facilities to any child on the grounds of disability.
- ii. All institutions shall mandatorily admit children with disabilities.
- iii. All institutions shall mandatorily require their staff to sign an undertaking not to discriminate between children with disabilities and mainstream children. For the purposes of this section, it is clarified, that treating a non- disabled child identically with a child with disability, without providing reasonable accommodation to the child with disability, shall be termed as discriminatory for the purpose of these guidelines.
- iv. All mainstream institutions shall be upgraded to create the requisite environment for children with disabilities.
- v. All staff members must be given disability sensitization training in order to remove attitudinal barriers encompassing the twin perspective of practicing non-discrimination by one self and ensuring that the mainstream component of the beneficiaries of institution does not discriminate against the disabled component of the beneficiaries.
- vi. The upgradation shall be in at least the following areas:
 - Physical or built environment
 - Manpower recruitment and training
 - Curriculum infrastructure

Chapter VIII

Quality standards for Care Giving

- 1) **Quality standards for care** must be followed as mandated under The Persons with Disabilities Act, the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 and JJ Act, whichever is higher in any given situation.
- 2) **De-institutionalisation:** every institution shall ensure that children with disabilities should remain in their families and use the services and facilities of institutional for the sole purpose of their physical and psychological development.
- 3) **Family reintegration:** every institution which receives abandoned or destitute children with disabilities shall take all measures to reintegrate the child with their families. It shall be the responsibility of the institution along with the concerned agency that the process of reintegration is preceded by addressing and resolving the issues which led to abandonment and counselling the family so as to ensure that the family environment is made conducive for the child with disability. Wherein the reintegration with biological family is not possible, the institution along with competent authorities shall take all appropriate measures for their adoption, foster care and sponsorship.

1. Essential standards for Institutions

- i. Developing "intimate care" or personal assistance guide lines (including working with children of the opposite sex) based on a philosophy of dignity and respect.
- ii. Developing manual handling/ restraint policies.
- iii. Education, vocational training, life-skill trainings, recreational activities must be provided to all children with disabilities.
- iv. All institutions shall provide periodic counseling to all children with disabilities.
- v. Any new entrant into the facility who is a child with disability will be provided with counseling in an individual as well as group scenario to facilitate easy adjustment and minimize chances of abuse.
- vi. Any child with disability who has been the victim of any exploitation, violence or abuse shall be provided with specialized counseling as well as psychiatric input in order to mitigate as far as possible the resultant trauma.
- vii. Maintaining robust anti-bullying strategies.

- viii. Auditing data on children with disabilities in the child protection process in all agencies.
- ix. All institutions and its personnel, visitors, interns, etc. must respect the privacy of children with disabilities. The children with disabilities shall not be subjected to arbitrary or unlawful interference with their privacy or correspondence or other types of communication or to unlawful attacks on their dignity and reputation.
- x. Help-line numbers must be displayed in accessible as well as non-print format near telephones/mobiles that children are allowed to use.
- xi. All documents which are a matter of public record shall be available in accessible format.

2. Role and Responsibility of Management

The management of the institutions should periodically and proactively with children with disabilities and with their parents/guardians check that their personal assistance is being provided as they would wish, not waiting for them to complain.

3. Institutional Management of Children with Disabilities

- i. Every professional beginning to work with a child with physical, sensory, intellectual or learning impairments should first develop a relationship of mutual trust and respect.
- ii. Interpreters / facilitators for minority languages, including sign language, should be used whenever necessary.
- iii. Whenever a child with disability has to undergo a medical procedure it must be explained as far as possible, in terms that the child can understand, both of what will happen and why. Agreement to go ahead should be sought.
- iv. In the case of medical photography, the photographers shall be introduced and given time to form some relationship of trust before proceeding. Further, that the same procedure holds true for the viewing of photographs. Thus, adolescent should not have to sit through watching a photograph of themselves naked or nearly naked being passed around a group of people they do not know. On the other hand, they should be given the choice of seeing the photos themselves first, or not seeing them at all if they do not want to.
- v. Staff must respect at all times the value of difference.
- vi. When pubescent girls with disability are wearing equipment that fits close to the urino-genital openings, a nurse should talk to either the girl herself or, if

necessary, the mother or female care giver about the best way to handle menstruation and cleaning of equipment.

- vii. Risk Management Assessment means identifying the potential for an accident or incident to occur and taking steps to reduce the possibility of it occurring.
- viii. All institutions and competent authorities must periodically conduct Accessibility and Safety Audits of their premises to ensure access, quality and safe physical infrastructure for children with disabilities.

Chapter IX

1. Empowering Children with Disabilities

- i. All institutions should educate children with disabilities about their rights in accessible formats, communication and information. Institutions to display posters on rights and responsibilities.
- ii. Children with disabilities must be given a choice and allowed to participate in significant decision making in all aspects of their lives. The institutions must work with them in partnership and involve them in the policy-making process.
- iii. Developing sexuality and sex education packages which use appropriate resources for children with disabilities. Resources should be well advertised and available to all disciplines.
- iv. Giving children with communication impairment the appropriate symbols or signs to allow them to express abuse or to describe body parts appropriately including training in communication in eye pointing. Practice scanning and eye-pointing, learn basic finger spelling.
- v. Giving children with language or learning impairments opportunities to discuss their emotional needs and feelings as part of their every day vocabulary. If this is expected of them for the first time in the context of a child protection investigation, they are unlikely to have the skills to express the abuse using terms such as "anger" or "fear" or "confusion".
- vi. Adapting child abuse prevention packages such as Kidscape to make them relevant and accessible to all children with disabilities (e.g. "No, go, tell" may not be possible for children with particular impairments).
- vii. Attempt to ensure that children with disabilities have access to the widest possible vocabulary (e.g. describing body parts) and *necessary* vocabulary (e.g. describing abuse) as a matter of course, *not* after the initiation of an investigation.
- viii. Find ways of enabling children with disabilities to meet with adults with disabilities as advocates, mentors and role models.
- ix. Enable children with disabilities to discuss disability equality issues in safe group settings, facilitated by an adult with expertise in disability issues and appropriate skills.
- x. Use natural opportunities provided by television or radio programmes, plays, books, music, etc., to discuss issues of disability, race, culture, religion, gender and sexuality with children.

2. All institutions shall bear the responsibilities of empowering children with safety norms such as:

- i. Be aware of surroundings, contextualized to factor in the individual safeguards required by children with disabilities, so as to prevent trouble.
- ii. Educating children with disabilities on coping mechanisms to deal with unsafe surroundings taking into account the individual nature of the child's capacity and capability.
- iii. Create model norms and training guides for use by all stakeholders in different life domains.
- iv. Create mechanisms for information and experience sharing including best practices by all stakeholders.
- v. Create publicity material in order to generate public awareness of the availability of tools.

Chapter X

Positive Discipline

1. Guidelines must be framed for the identification, investigation and monitoring of cases of violence and abuse based on physiological, psychological, emotional and behavioral parameters particularly aberrant behavior such as withdrawal symptoms, undue aggression and the like and unusual physiological symptoms such as weight loss, frequent illness, bed wetting and the like.

2. **Family:** All family members must ensure that the children with disabilities have full and accessible means of active participation in the day to day family life without any discrimination.

3. **Children Committees:** Every institution including schools/ hostels/ residential facilities shall establish committees, which mandatorily include children with disabilities on rotational basis through democratic processes. The selection for inclusion must factor in the capabilities of the children present and available and select appropriate candidates.

Explanation:

The committees referred in point 3 shall extend but not be limited to issues of inclusion, games, safety, development, sanitation and cleanliness, etc.

4. **Rule-making:** All rules shall be disability sensitive and all committee business shall be conducted in accessible formats.

5. **Dispute Resolution:** All disputes between non-disabled children and/or persons and child/children with disabilities and/or between children with disabilities inters shall be articulated by factoring in the particular situational context of disability. All dispute resolution committees shall mandatorily include disputes of children with disabilities and all proceedings and communications shall be in a disability friendly format with special emphasis on the particular communication needs of the child/children with disabilities in question.

Chapter XI

Transport, Travel, Recreation, Leisure and Outdoor Activities

For the purposes of this section:

- i. Positive measures shall be taken to ensure inclusion of children with disabilities in all activities such as recreational, sports, outdoor activities and leisure.
- ii. All facilities for recreation, sports, outdoor activities, leisure shall be mandatorily accessible and inclusive and the denial of access to these shall constitute abuse.
- iii. Accessibility shall include accessible transport, enhanced safety and evacuation norms, suitability trained staff, inclusion of sports which are primarily for children with disabilities.

Chapter XII

Family and Community

- i. It is the responsibility of the family of a child with disability to ensure his/her holistic development, care and protection. At no point in time, shall the family abandon the child with disability on the grounds of disability and gender.
- ii. In case a child with disability is identified as being in need of care and protection the Panchayat, CWC and/or the LLCs created under the mandate of the National Trust, as applicable, shall take steps to remove the said child from the abusive situation with immediate effect.
- iii. The Panchayat, Gram Sabha and/or CWC, as applicable, shall investigate the situation of abuse, identify culpability and take necessary legal action.
- iv. In the event a child with disability is identified as having been abused in a situation outside the family, the Panchayat, CWC and/or LLC, as applicable shall locate the family of a child and ensure that the child is reinstated with the family as soon as possible. The concerned authority shall also ensure that trauma related intervention and rehabilitation of the abused child takes place and the family is counseled on matters including sexuality, violence and abuse, prior to the child's restoration with his/ her family.
- v. Panchayat, Gram Sabha and/or CWC, DCPU, LLC, as applicable, shall conduct awareness generation and sensitization programmes/ workshops at regular intervals for the Community gauge teams, community associations, local resident's welfare associations, traders associations, etc. with the aim to prevent, identify, and complain of situations of exploitation, violence and abuse.

Chapter XIII

Monitoring and Supervision

1. Responsibility:

It is in this context, that the onus of responsibility in safeguarding children with disabilities from exploitation, violence and abuse lies with:

- i. The head of the family of the child with disability.
- ii. In the context of the family, panchayats in rural settings, LLCs, where applicable and CWCs shall also be responsible for intervening to monitor situations of abuse and violence at the family level.
- iii. The head of the institution, management and administration at all levels.
- iv. In the context of institutions excluding the family, an equal onus also lies on the external monitoring and competent agencies to ensure that the institutions are abiding by their responsibility.
- v. All stakeholders in the monitoring process shall seek services of at least two experts from every field of disability, who can be called in from time to time on a 'need to' basis.

2. Internal Monitoring

- i. There must be a record of all children with disabilities, which must have the details of the disability (ies) including the type and severity, age, gender and any aids used and/or medication being administered to the child.
- ii. There must be clear and accurate record of the history of the medications, interventions, therapy, counseling and injuries of each child with disability.
- iii. There shall be a clearly established internal complaint and redressal mechanism. Every member of the staff, the children using the facilities of the institution and their family members, guardians and/or care givers must be aware of this system so that they know to whom they should report concerns.

- iv. Every institute shall appoint an officer in-charge before whom all the complaints relating to exploitation, violence and abuse must be notified. In case, a complaint is against the officer in-charge, then it will be made to the Director/CEO/Principal of the said institution.
- v. Upon the receipt of a complaint of any kind of abuse, the officer in-charge shall inform within 12 hours, the Childline, CWC, LLC and SCPCR/NCPCR regarding the complaint before initiating further appropriate action.
- vi. In case of suspected or known sexual abuse as defined under POCSO the individual staff/professional or any other person who has such knowledge shall immediately inform the nearest Police station and CWC.
- vii. Every institution shall also intimate all hospitalization, irrespective of the duration of stay, to the CWC, LLC and SCPCR/NCPCR.
- viii. That in every matter, the agency concerned will act according to the seriousness of the matter.
- ix. Upon receipt of a complaint, the officer in-charge shall take immediate steps to remove the perpetrator from the institution, and if need be place a request for transfer of the victim to another institution or place of safety or fit person.
- x. In the event the perpetrator is another child and the incident carries criminal liability, the institution and relevant authorities shall ensure that the perpetrator is transferred to JJ system.
- xi. The Officer-in-charge of the institution shall also inform the Chairperson of the Management Committee and place a copy of the report of the incident and subsequent action taken before the management committee in its next meeting.
- xii. Every institution must display the names and contact details of the Childline – 1098, Child Welfare Committee/Juvenile Justice Board members and District Child Protection Unit, SCPCR, SCPDs on their notice board, and available in an accessible format. Anyone could get in touch with the authority directly in-case the other mechanisms fail.
- xiii. A record shall be maintained at all times of all reports of suspected and/or known incidences of violence and abuse, made by the child in question, any other peer/child of the institution, family member/guardian/care giver, staff and/or management of the institution.

- xiv. There must be a clear and accurate record of all actions taken into sanctions issued, if any, by the institution to address the concerns of all reports of exploitation, violence and abuse brought before it through its various redressal mechanisms.
- xv. Suggestion/Complaint box - Rule 55 of the Juvenile Justice (Care and protection of children) Rule 2007 states the establishment of Suggestion Box with specific duties. Children's Suggestion/ Complaint Box along with audio recording system shall be installed in every institution at several places which are easily accessible to children with disabilities.
- xvi. The Children's Suggestion Box/ Complaint Box along with audio recording system shall be checked daily by one junior staff member and Children Committee. All complaints written/ audio shall be preserved for at least one year.
- xvii. The Management Committee shall call for an emergency meeting to take necessary action, whenever appropriate. The emergency meeting shall mandatorily include a CWC representative, members of Children's Committees, one expert in the disability of the victim and the complaint in cases where the victim and the complainant are not the same.
- xviii. In the event of a serious allegation or complaint against the Officer-in-Charge of the institution, s/he shall not be part of the emergency meeting and another available member of the Management Committee shall be included in her/his place.
- xix. In the event there are any charges of infraction against any staff member/ or member of the administration, s/he shall immediately proceed on long leave, pending investigation and further action including suspension.

3. External Mechanism

In the event, the collective documentation of the complaints reveals a systemic pattern of violence and or abuse, the same shall be investigated even if the individual incidents, seems to be of petty in nature.

- i. In the family context, if exploitation, violence or abuse is continuing unaddressed, than any member of the family, household employee, friend, neighbor, teacher or any other person who can prove some association, including the child with disability, who is being victimized, can make a complain to the panchayat, LLC, SCPCR, CWC, whichever, is available.
- ii. Openness and transparency: Promote interdisciplinary co-operation amongst all the different entities involved in the detection process including information sharing and

action taking amongst all monitoring agencies with a due to avoid duplication. Every agency independently shall send the synopsisized version of all complaints to the SCPCR.

- iii. All hospitals, public or private and/or medical facilities including polyclinics and medical practitioners shall mandatorily report any treatment of a child with disability that is outside the routine. Explanation: Routine shall mean and encompass any vaccination and/or a treatment not resulting out of an injury or trauma.
- iv. The Rule 60 of the Juvenile Justice (Care and protection of children) Rule 2007 states on the several actions that should be taken in case of abuse and exploitation of the child with disability the following action shall be taken:
 - a. Wherever necessary, the Child Welfare Committee or any other authority shall direct the local Police Station or Special Juvenile Police Unit to register a case, take due cognizance of such occurrences and conduct necessary investigations in conjunction with relevant disability expert;
 - b. All authorities shall forward complete inquiries either to CWC and/or SCPCR for legal aid as well as counselling, wherever necessary. In cases where in CWC/SCPCR/NCPCR are conducting the inquiry themselves, they shall take necessary steps to ensure legal aid as well as counselling to the child with disability;
 - c. CWC may consult Children's Committee set up in each institution to enquire into the fact of abuse and exploitation as well as seek assistance from relevant voluntary organizations, child rights experts, mental health experts or crisis intervention centres in dealing with matters of abuse and exploitation of children with disabilities in an institution.

4. Child Welfare Committee

- i. All Homes should have access to dedicated, specialized rehabilitative resources and facilities for children with disabilities including mandatory access to de-addiction centers.
- ii. Regular visits to institutions (at least twice a month)
- iii. Interaction with children must be ensured during the visits.
- iv. Ensuring that all children are receiving basic requirements without any discrimination and neglect.
- v. Check the Complaints and Suggestions box and take appropriate action

5. Inspection Committee

- i. Inspection Committees established under Rule 63 of the Juvenile Justice (Care and protection of children) Rule 2007 shall visit and oversee the conditions in the institutions and appropriateness of the processes for safety, well being and permanence, review the standards of care and protection being followed by the institutions, look out for any incidence of violation of child rights, look into the functioning of the Management Committee and Children's Committee set up under rules 55 and 56 of these rules and give appropriate directions.
- ii. The team shall also make suggestions for improvement and development in consultation with experts from all fields of disability to which the institution caters.
- iii. The team shall consist of a minimum of five members comprising at least one cross-disability expert, with representation from the State Government, or Child Welfare Committee, SCPCR, medical and other experts, voluntary organizations and reputed social workers.
- iv. In case five members are not available for the inspection visit twice in a row then the inspection shall be carried out by not less than three members.
- v. The inspection shall be carried out at least once in every three months.
- vi. The team may visit the institutions either by prior intimation but must make at least four surprise visits in a year.
- vii. The follow up action on the findings and suggestion of the children with disabilities shall be taken by all concerned authorities.
- viii. The action taken report, findings and suggestions from the Inspection Committee shall be sent to the State and District Child Protection Unit and the State Government.
- ix. The first statement made by the child to any authority will be videographed and the same shall be circulated to all the other concerned authorities.

Chapter XIV

Media Reporting on Children

- i. All institutions shall follow the standards for reporting cases of child abuse to the media, as laid down under POCSO and JJ Act.
- ii. The media shall proactively report on protective and preventive mechanisms, codes and guidelines for protection of children with disabilities from exploitation, violence and abuse for the creation of general awareness.
- iii. Involvement of children with disabilities in news/programs/documentaries, etc. must evidently be editorially justified including child rights and disability perspective.
- iv. The use of children with disabilities in TV Serials, Reality Shows and Advertisements shall be governed by the guidelines issued on this behalf by National Commission for the Protection of Child Rights (NCPCR).

Chapter XV

Prevention Mechanisms

1. Awareness Building - "Knowing One's Rights"

All children should be informed through **campaign and publicity** drives that they have a right to speak against exploitation, violence and abuse and bring it to the notice of the authorities. They must be given confidence to make complaints and not accept violence as a 'normal' activity in any institution.

- i. It would be strategic to develop and disseminate short films/video clips on the vulnerability of children and the responsibility of adults.
- ii. Developing small handy booklets on Rights of children, mechanisms for reporting, etc.
- iii. Involvement of Child Protection Units and Officers at various levels – Panchayat, Block, District and state under the integrated child protection Scheme to promote positive discipline and the various methods that could be used.

Chapter XVI

Redressal Mechanisms

Internal Mechanism

- i. There shall be six monthly internal audit of every institution with a view of self assessment and an action plan of improvement based on specific identified areas of concern.
- ii. After any incident of violence and/or abuse amounting to criminal liability, the institution shall re-evaluate all systems of care and protection in conjunction with a representative from SCPCR, one Child Rights organization and at-least two experts in the field of disability, one physical and one from mental/developmental/intellectual sector.
- iii. That the committee constituted in (ii) above, shall give its report within two months and the institution concerned shall implement the corrective measures outlined in the said report with a further period of three months.
- iv. All institutions shall have a yearly budget allocation for improvement in facilities. This budget shall be utilized for installation/up-gradation of facilities and services deemed by the six monthly audits to amount to violence/abuse by means of neglect/negligence/omission.
- v. All institutions shall have mandatory in-house or access to professional counseling resources with regular individual and group level counseling services provision in Homes to handle emotional, socialization and disciplinary problems.
- vi. Counselors, psychologists and medical staff should ensure that they are alert to signs of violence and abuse including inter-alia corporal punishment and/or emotional trauma as defined in the definitions during check-ups and counseling sessions and refer to the concerned department or agencies.

External Mechanism

Social Audit - Rule 64 of the Juvenile Justice (Care and protection of children) Rule 2007 which reads as follows, 'that the state government will evaluate and annually review matters concerning corporal punishment in terms of any form of abuse or neglect of children under institutional care, functioning of staff of the institutions in relation to violence and abuse. The social audit shall be carried out with support and involvement of organizations working in the field of mental health, child care and protection and autonomous bodies like the National Institute of Public Co-operation and Child Development, Indian Council for Child Welfare, Child Line India Foundation, Central and State level Social Welfare Boards, School of Social Work and School of Law' shall be deemed to be a part of these guidelines provided that apart from the experts enumerated in the Rule above, the social audit shall mandatorily include at-least two disability experts/activists working cross disability.

Chapter XVII

Therapeutic and Rehabilitative Intervention

Children with disabilities who have been victims of abuse shall be provided therapeutic services and rehabilitative intervention appropriate to their requirements within the situational context of disability, rather than trying to “fit” into existing services.

- i. Therapeutic intervention in the form of counseling services must be made available to every child and the availability of such intervention should be made apparent through relevant signage and indicators.
- ii. Institutions shall designate an accessible area/space as a counseling centre.
- iii. Counselors should be adequately trained, well versed in child psychology and sensitized to children with disabilities needs. Their prime responsibility would be to act as an interface between child with disability in care and management. They should be able to voice their concern freely without any fear and coercion in the presence of counselor.
- iv. Confidentiality must be maintained at all times during counseling and any other therapeutic intervention. The institution shall be liable for any breach of confidentiality of the identity of the child with disability or details of the issues brought to the counselor.
- v. If requested by family members, in case of an incident of abuse, the onus shall be on the institution to provide access to counseling services for the family.
- vi. The person accompanying the child with disability and responsible for the child shall ensure that processes of medical intervention after an incident of abuse do not cause further trauma and abuse to the child with disability.

Chapter XVIII

Review, Monitoring and Implementation of the Guidelines

1. Review

- i. All State shall keep necessary budgetary allocation for Implementation, Review and Monitoring.
- ii. Review of the guidelines shall be based on knowledge-based evidence, which implies systematic data collection, as defined above in Chapter VI section 1 (ii).
- iii. There shall be a bi-annual analysis of all synopses sent by various institutions to the SCPCR/State Agency who in turn will send the collated data along with the report to the NCPCR for a comparative analysis and collation.
- iv. Based on the conclusions of the analyses, the guidelines shall be reviewed every three years by a committee of experts which shall mandatorily include at-least three disability experts, two disability activists (working cross disability), two child rights experts and at-least one expert from an NGO working in the field of domestic violence.
- v. The committee, as constituted under clause (iii) shall randomly interview victims and perpetrators both as well as care-givers including family.
- vi. The State Government shall review the implementation and impact of these guidelines from time to time but the gap between two reviews shall not exceed one year.

2. Monitoring of Implementation of the Guidelines

- i. These guidelines shall be implemented by the Ministry of Social Justice & Empowerment in coordination with State governments.
- ii. The NCPCR and SCPCRs shall, in addition to the functions assigned to it under that CPCR Act, also monitor the implementation of the provisions of these guidelines.
- iii. CCPD and SCPD shall also monitor the implementation of these guidelines and take appropriate measures for the effective implementation.
- iv. Any institution that does not have in place existing guidelines for the prevention of child abuse or in the event that such existing guidelines are conflicting with these guidelines, shall adhere to these guidelines and will implement the same within one month of the guidelines being notified.

- v. The implementation of these guidelines shall be checked from time to time by the concerned authority including CWC and DCPU in addition to their existing functions, and this shall be an assessment indicator for punitive action.
- vi. It shall be the responsibility of all concerned Government departments to ensure that institutions under their jurisdiction become aware of the existence of these guidelines.

UNDERTAKING

I have read and understood the guidelines for protection of children with disabilities from exploitation, violence and abuse. I state that I have understood that my responsibility for the implementation of the guidelines is joint and several, personal and vicarious and absolute.

I hereby declare and affirm that I agree to adhere and abide by the said guidelines. In case of any violations of the said guidelines in my direct and indirect interactions with the children with disabilities, the institution may terminate the partnerships/relationship/employment/association or services and/or take suitable disciplinary and legal actions as per the applicable laws and rules.

Signed _____

Name _____

Date _____

Signature of the Head of the Institution & seal _____