

**GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DIRECTORATE OF EDUCATION
(PRIVATE SCHOOL BRANCH)
OLD SECRETARIAT, DELHI-110054**

No. F.DE.15 (14)/PSB/2019/1443-1447

Dated: 7/2/2019

Order

WHEREAS, this Directorate vide its order No. DE.15 (318)/PSB/2016/19786 dated 17.10.2017 issued 'Guidelines for implementation of 7th Central Pay Commission's recommendations in private unaided recognized schools in Delhi' and directed that the private unaided schools, which are running on land allotted by DDA/other govt. agencies with the condition in their allotment letter to seek prior approval of Director (Education) before any fee increase, needs to submit their online fee increase proposal for the academic session 2017-18. Accordingly, vide circular no. 19849-19857 dated 23.10.2017, the fee increase proposals were invited from all aforesaid schools till 30.11.2017 and this date was further extended to 14.12.2017 vide Directorate's order No. DE.15 (318)/PSB/2016/20535 dated 20.11.2017 in compliance of directions of Hon'ble High Court of Delhi vide its order dated 14.11.2017 in CM No. 40939/2017 in WPC 10023/2017.

AND WHEREAS, attention is also invited towards order of Hon'ble High Court of Delhi dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus GNCTD and others wherein it has been directed by the Hon'ble Delhi High Court that the Director of Education will ensure the compliance of conditions, if any, in the letter of allotment regarding prior approval of Director of education for the increase of fee by all the recognized unaided schools which are allotted land by DDA.

AND WHEREAS, the Hon'ble High Court of Delhi while issuing the aforesaid direction has observed that the issue regarding the liability of private unaided schools situated on the land allotted by DDA at concessional rates has been conclusively decided by the Hon'ble Supreme Court in the judgment dated 27.04.2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School V. Union of India and others wherein Hon'ble Supreme Court in Para 27 and 28 has held as under:-

"27.....

(c) It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the schools have been complied with...

28. We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the schools.....

.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."

AND WHEREAS, the Hon'ble Supreme Court in the above said Judgment also held that under section 17(3), 18(4) of Delhi School Education Act, 1973 read with rule 172, 173, 175 and 177 of Delhi School Education Rules 1973, Directorate of Education

has the authority to regulate the fee and other charges to prevent commercialization of education.

AND WHEREAS, in pursuance to order dated 23.10.2017 of this Directorate, **Delhi International Public School, Sector-9, Rohini, Delhi - 110085 (School Id: 1413277)** had submitted the proposal for increase in fee for the academic session 2017-18 including the impact on account of implementation of recommendations of 7th CPC with effect from 01.01.2016.

AND WHEREAS, in order to ensure that the proposals submitted by the schools for fee increase are justified or not, this Directorate has deployed teams of expert Chartered Accountants at HQ level who have evaluated the fee proposals of the school very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by this Directorate for fee regulation.

AND WHEREAS, necessary records and explanations were also called from the school vide email dated March 26, 2018. Further, school was also provided opportunity of being heard on July 17, 2018 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussions, school was further asked to submit necessary documents and clarifications on various issues noted.

AND WHEREAS, the reply of the school, documents uploaded on the web portal for fee increase and subsequent documents submitted by the school were evaluated thoroughly by the team of Chartered Accountants. The key findings noted are as under:

Financial Irregularities

- I. In respect of earmarked levies, school is required to comply with:
 - Clause 22 of order dated 11.02.2009, which specifies that earmarked levies shall be charged from user students on 'no profit no loss' basis;
 - Rule 176 of DSER, 1973, which provides that 'income derived from collections for specific purpose shall be spent only for such purpose';
 - Judgement of Hon'ble Supreme Court of India in the case of Modern School Vs Union of India and Others, which specifies that schools, being run as non-profit organizations, are supposed to follow fund-based accounting.

However, during FY 2014-15, 2015-16 and 2016-17, the school has charged earmarked levy in the form of Transport Fee, Activity Fee and Smart class and digital communication Charges but these charges were not charged on 'no profit no loss' basis. The school has earned surplus from Smart class and digital communication Charges and incurred deficit from transport fees and activity fees. Further, the school is not following fund based accounting in respect of these earmarked levies. Therefore, the school is directed to make adjustment to General Reserve for the surplus/ deficit incurred on earmark levies.

Further, as per the Duggal Committee report, there are four categories of fee that can be charged by a school. The first category of fee comprise of "registration fee and all One Time Charges" levied at the time of admission such as admission

and caution money. The second category of fee comprise of "Tuition Fee" which is to be fixed to cover the standard cost of the establishment and also to cover expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science and computer fee up to class X and examination fee. The third category of the fee should consist of "Annual Charges" to cover all expenditure not included in the second category and the forth category should consist of all "Earmarked Levies" for the services rendered by the school and to be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc.

Considering the aforesaid recommendation, the earmarked levies should be collected from the user students only availing the services/ facilities and if this service/facilities has been extended to all the students of the school, the separate charges should not be collected because it would get covered either from the tuition fee or from the annual charges. Therefore, the school is directed to stop the collection of separate earmarked levies in the name of Activity Fee and smart class and digital communication charges.

- II. As per clause 2 of the Public Notice dated 4 May 1997 stated "It is the responsibility of the society who has established the school to raise funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society". Accordingly, the costs relating to purchase of land and construction of the building had to be incurred and borne by the society and by the school from the school fund. Further, the Hon'ble High Court of Delhi in its Judgment dated 30 October, 1998 in case of Delhi Abibhavak Mahasangh concluded that "Tuition Fee cannot be fixed to recover capital expenditure to be incurred on the properties of the Society". Also clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982 dated 10 Feb, 2005 issued by this Directorate states "Capital Expenditure cannot constitute a component of financial fee structure". As per Rule 177 of DSER, 1973 income derived by an unaided recognised schools by way of fees shall be utilised in the first instance, for meeting the pay, allowance and other benefits admissible to the employee of the school. Provided that savings, if any from the fees collected by such school may be utilised for meeting capital or contingent expenditure of the school or for one or more the specified education expenses. Accordingly, based on the aforementioned public notice, High Court Judgment and Order of the Directorate, the expenditure relating to construction of Building is to be met by the society and not from the funds of the School. However, during FY 2015-16, school has incurred Rs. 16,72,655 for construction of building in contravention of aforesaid orders. Therefore, the school is directed to recover Rs. 16,72,655 from society for the amount incurred by school on construction of building in FY 2015-16.
- III. As per Rule 177 of DSER, 1973 income derived by an unaided recognised schools by way of fees shall be utilised in the first instance, for meeting the pay, allowance and other benefits admissible to the employee of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting capital or contingent expenditure of the school or for one or more of the specified educational purposes. However, the school has utilised school funds for purchase of bus by taking loan from ICICI bank and Axis bank before providing earmarked investments for gratuity and leave

encashment which is in contravention of Rule 177. During FY 2014-15, 2015-16 and 2016-17, the school has paid Rs. 29,04,318 towards principal repayment and Rs. 3,89,259 towards interest thereon. Therefore, the school is directed to recover the amounts paid as repayment of loan and interest thereon. Further, the school is directed to make adjustment to General reserve for amount of interest paid on the loan. The details of loan repayment and interest paid thereon are as follows:

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16	FY 2016-17	Total
Principal repayment	14,08,800	10,10,349	4,85,169	29,04,318
Interest payment	1,56,984	1,36,644	95,631	3,89,259

IV. As per Section 18(4) of DSEA, 1973, income derived by Unaided Recognised School by way of fees should be utilized only for educational purposes as prescribed. However, during FY 2016-17, the school has purchased Skoda car for Rs. 30,10,509 by taking a loan of Rs. 20,00,000 from HDFC Bank which is contravention of aforesaid section. Therefore, the school is directed to recover the amount of Rs. 10,10,509 (Rs. 30,10,509 - 20,00,000) utilised for purchase of luxury car. Further, the school is directed not to utilise school funds for repayment of loan and interest thereon because the society will have to bear the burden of repayment of loan and interest thereon.

V. As per Clause 14 of Order No. F.DE./15(56)/Act/2009/778 dated 11 Feb 2009 and Clause 7 of Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15 Dec 1999 stated "Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account. However, following points have been observed:

- During FY 2014-15 and 2015-16, development fund has been utilised for meeting revenue expenditure in contravention of clause 14 of the order dated 11.02.2009. Therefore, the school is directed to make adjustment to Development Fund and general reserve for the amount utilised out of development fund for meeting revenue expenditure. The details of revenue expenditures incurred out of development fund are as under:

(Figures in Rs.)

Particulars	FY 2014-15	FY 2015-16
Activity & craft	-	1,70,120
Animation fees & books	-	6,00,000
Repair of Furniture & fixtures	4,05,385	-
Students taekwondo class	1,44,000	1,93,315
Students lawn tennis expenses	1,35,000	2,39,000
Remuneration to specialised teachers	7,62,685	7,59,120

Particulars	FY 2014-15	FY 2015-16
Repair & maintenance	11,99,755	13,60,000
Uniform for taekwondo class	3,00,500	3,72,000
Total	29,47,325	36,93,555

- b. During FY 2014-15 and 2015-16, Development Fund has been utilised by the school for upgradation and additions to fixed assets as stated in the table below. However, it is noted that the additions in the fixed assets were not reflected in the fixed assets schedule and thus the financial statements are not prepared by the school in proper manner. Further, on review of Fixed assets register, it is noted that the Fixed assets register was not maintained in proper manner because the information like quantitative details, type of assets, nature of assets, depreciation charged and location of assets were not there in the fixed assets register. Accordingly, school is directed to prepare its Financial Statements and Fixed assets register in proper manner and to submit the same at the office of Directorate of Education with its fee increase proposal for the next year. In case school fails to follow aforesaid direction, Rs. 1,03,75,684 shall be treated as diversion of funds and shall be dealt with accordingly in the evaluation of fee increase proposal of the next year. The details of expenditure incurred by the school is as under:

(Figures in Rs.)		
Particulars	FY 2014-15	FY 2015-16
Upgradation & addition to furniture	28,84,169	32,25,593
Air conditioner	-	31,000
Band instruments	-	72,946
Electrical equipment	14,19,013	13,96,021
Medical equipment	-	50,000
Musical equipment	-	50,500
Computers	7,43,052	5,03,390
Total	50,46,234	53,29,450

- c. As per Clause 2 of Public notice dated May 4, 1997, "Schools are not allowed to charge building fund and development charges when the building is complete or otherwise as it is the responsibility of the society. Society means the trust or institution who has established the school, society should raise such fund from their own sources because the immovable property of the school become the sole property of the society. Therefore, the students should not be burdened by way of collecting the building fund or development charges". Further, The Hon'ble High Court of Delhi in its Judgment dated 30 October, 1998 in case of Delhi Abibhavak Mahasangh concluded that "Tuition Fee cannot be fixed to recover capital expenditure to be incurred on the properties of the Society". Also clause (vii) of order No. F.DE/15/Act/2k/243/KKK/883-1982

dated 10 Feb, 2005 issued by this Directorate states "Capital Expenditure cannot constitute a component of financial fee structure". As per Rule 177 of DSER, 1973 income derived by an unaided recognised schools by way of fees shall be utilised in the first instance, for meeting the pay, allowance and other benefits admissible to the employee of the school. Provided that savings, if any from the fees collected by such school may be utilised by its managing committee for meeting capital or contingent expenditure of the school or for one or more the specified education expenses. Accordingly, based on the aforementioned public notice, High Court Judgment and Order of the Directorate, the expenditure relating to construction of Building is to be met by the society and not from the funds of the School.

On review of the financial statement of the school for FY 2016-17, it has been noted that the school has incurred capital expenditure of **Rs. 68,00,083** from development fund under the head Building in contravention of the aforesaid provisions. Therefore, the school is directed to recover Rs. 68,00,083 from society for the amount spent on building.

Other Irregularities:

- I. As per DOE order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as DDA land allotment letter, the school shall provide 25% reservation to children belonging to EWS category. However, the school has not complied with aforesaid direction, therefore, DDE District is directed to look into this matter. The details of total students and EWS students for the FY 2014-15, 2015-16 & 2016-17 are given below.

Particulars	FY 2014-15	FY 2015-16	FY 2016-17
Total strength	1484	1534	1618
EWS students	198	219	245
% EWS to Total strength	13%	14%	15%

- II. On review of audited financial statement for FY 2014-15, 2015-16 and 2016-17, it is noted:
- As per clause 18 of order no. F.DE. /15(56)/Act/2009/778 dated 11.02.2009, the school is required to refund the caution money collected along with bank interest to the students at the time of his/ her leaving the school. However, the school has not refunded interest on caution money to students on leaving of school which is in contravention of above said clause.
 - As per Clause 4 of Order No.DE./15/150/ACT/2010/4854-69 dated 09.09.2010, the un-refunded caution money (un-refunded more than 30 days) belonging to ex-students shall be reflected as income for the next financial year. However, school has shown the un-refunded caution money as liability. Further, school has not provided details of number of students left the school in FY 2014-15 to FY 2016-17 and hence no financial impact of the same could be ascertained.

- III. As per audited financial statements for FY 2014-15, it is noted that the school has shown the fixed assets in the fixed assets schedule on different basis. Some of the fixed assets were shown at written down value (WDV), some of the fixed assets were shown at Nil Value and the rest of the fixed assets were shown at usage value. The school failed to provide any basis or reason for such presentation of fixed assets. These assets were further carried over in the fixed assets schedule of FY 2015-16. Again, the school has changed the practice of presenting the fixed assets in the fixed assets schedule in FY 2016-17. The fixed assets have been categorised under two categories in the financial statements i.e. assets purchased out of general fund and assets purchased out of development fee. Assets purchased out of the general fund are shown at cost (taking WDV as on 31.03.2016 as base) whereas assets purchased out of the development fee have been shown at the gross value in the financial statement. Therefore, the school is directed to prepare and present its financial statements as per Generally accepted accounting principles.

After detailed examination, considering all the material on record and clarification submitted by the school it was finally evaluated/ concluded that:

- i. The total funds available for the year 2017-18 amounting to Rs. **12,06,73,631** out of which cash outflow in the year 2017-18 is estimated to be Rs. **11,28,07,507**. This results in net surplus of amounting to Rs. **78,66,124**. The details are as under:

Particulars	Figures (Rs.) Amount
Cash and Bank balances as on 31.03.17 as per audited Financial Statements	60,19,614
Investments as on 31.03.17 as per audited Financial Statements	71,90,763
Less: Premium paid towards group gratuity scheme of LIC towards Gratuity and Leave encashment (Refer Note 1)	85,84,000
Add: Recoverable from society for construction of building in contravention to the clause 2 of public notice dated May 4, 1997 and Rule 177 of DSER, 1973	16,72,655
Add: Amount recoverable against principal repaid on loan taken for purchase of bus from ICICI Bank and Axis Bank	29,04,318
Add: Amount recoverable against interest paid on loan taken from ICICI Bank and Axis Bank for purchase of bus	3,89,259
Add: Amount recoverable against purchase cost of Skoda car taken on loan from HDFC Bank	10,10,509
Add: Recoverable from society for upgradation of building in FY 2016-17	68,00,083
Less: Development Fund as on 31.03.2017	26,675
Total	1,73,76,526

Particulars	Amount
Fees for FY 2016-17 as per audited Financial Statements (we have assumed that the amount received in FY 2016-17 will at least accrue in FY 2017-18)	10,15,77,720
Other income for FY 2016-17 as per audited Financial Statements (we have assumed that the amount received in FY 2016-17 will at least accrue in FY 2017-18)	17,19,385
Estimated availability of funds for FY 2017-18	12,06,73,631
Less: Budgeted expenses for the session 2017-18 (after making adjustment)- Refer Note 2	11,28,07,507
Net Surplus	78,66,124

Note 1: The school has taken group gratuity and leave encashment scheme from LIC in FY 2017-18 and has paid premium of Rs. 85,84,000 towards this scheme as per premium receipt submitted by the school. Therefore, the premium paid by the school has been considered for evaluation of fee increase proposal.

Note 2: The school has proposed following capital expenditure in budget for FY 2017-18 which has not been considered for evaluation of fee increase proposal.

Particulars	Figures (Rs.)
	As per the budget provided by school for FY 2017-18
Fans, lights, electrical items and furniture for auditorium	35,00,000
Sports fixtures for lawn tennis & basketball court	15,00,000
Total	50,00,000

- ii. The school has sufficient funds to carry on the operation of the school for the academic session 2017-18 on the existing fees structure. In this regard, Directorate of Education has already issued directions to the schools vide order dated 16/04/2010 that,

"All schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of expert Chartered

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Accountants that prima facie there are financial and other irregularities and also, sufficient funds are available with the school to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7th CPC, the fee increase proposal of the school may not be accepted.

AND WHEREAS, recommendations of the team of expert Chartered Accountants along with relevant material were put before the Director of Education for consideration and who after considering all the material on the record, found that sufficient funds are available with the school to meet its budgeted expenditure for the academic session 2017-18 including the impact of implementation of recommendations of 7th CPC. Therefore, Director (Education) has rejected the proposal of fee increase submitted by the said school.

Accordingly, it is hereby conveyed that the proposal of fee increase of **Delhi International Public School, Sector-9, Rohini, Delhi - 110085 (School Id: 1413277)** is rejected by the Director of Education. Further, the management of said school is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. Not to increase any fee in pursuance to the proposal submitted by school on any account including implementation of 7th CPC for the academic session 2017-18 and if, the fee is already increased and charged for the academic session 2017-18, the same shall be refunded to the parents or adjusted in the fee of subsequent months.
2. To communicate the parents through its website, notice board and circular about rejection of fee increase proposal of the school by The Directorate of Education.
3. To remove all the financial and other irregularities/violations as listed above and submit the compliance report within 30 days from the date of issue of this order to the D.D.E (PSB).
4. To ensure that the salaries and allowances shall come out from the fees whereas capital expenditure will be a charge on the savings in accordance with the principles laid down by Hon'ble Supreme Court of Delhi in its Judgment of Modern School vs Union of India. Therefore, school not to include capital expenditure as a component of fee structure to be submitted by the school under section 17(3) of DSEA, 1973.
5. To utilise the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.
6. In case of submission of any proposal for increase in fee for the next academic session, the compliance of the above listed financial and other irregularities will also be attached.



Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with the provision of Section 24(4) of DSEA, 1973 and DSER, 1973.

This order is issued with the prior approval of the Competent Authority.


(Yogesh Pratap)

Deputy Director of Education
(Private School Branch)

Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
Delhi International Public School,
Sector-9, Rohini
Delhi – 110085, (School Id: 1413277)

No. F.DE.15 (14)/PSB/2019 /1443-1447

Dated 7/2/2019

Copy to:

1. P.S. to Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. P.A. to Addl. Director of Education (Private School Branch), Directorate of Education, GNCT of Delhi.
4. DDE concerned
5. Guard file.


(Yogesh Pratap)

Deputy Director of Education
(Private School Branch)

Directorate of Education, GNCT of Delhi