

**The Right of Children to Free and
Compulsory Education Act 2009
&
The Right of Children to Free and
Compulsory Education Kerala Rules 2010**

FREQUENTLY ASKED QUESTIONS

1. What is the Right of Children to Free and Compulsory Education (RCFCE) Act, 2009?

The Right of Children to Free and Compulsory Education Act, 2009 is a legislation passed by the Indian Parliament that has come into effect from 1st April, 2010. It is based on the 86th amendment in the Constitution through which an Article 21 (A) was inserted after Article 21 of the Constitution. Article 21 (A) states that “The State shall provide free and compulsory education to all children of the age group of six to fourteen years in such manner as the State may, by law, determine”. The RCFCE Act, 2009 is that law. It ensures all children of India, in the age group of 6 to 14 years, a fundamental right to free and compulsory elementary education.

As per the Article 254 of the Constitution, all the existing State Acts on Education have been superseded by the Right of Children to Free and Compulsory Education Act, 2009. Amendments to the RCFCE Act, 2009 would require presidential assent.

2. When has the Act come into effect and how will it be implemented in the State?

The Act has come into effect from **1st of April, 2010** across India except in the state of **Jammu & Kashmir**. The Rules for implementing the provision of the Act in Kerala have been formulated.

These Rules are known as The Right of Children to Free and Compulsory Education Kerala Rules 2010.

3. How is child defined in the Act?

The term 'child' in the Act means a child in the age group of 6-14 years. (The original Article 45 and the Unnikrishnan verdict by the Supreme Court had included the age group of 0-6 years in the definition of a child. However, the present RCFCE Act has confined, the definition of the child to the age group of 6-14 years as mentioned in the Article 21-A.)

4. What is the appropriate government mentioned in the Act?

Education being a concurrent subject under the Constitution of India, both the Central and State Governments have responsibility for education. Appropriate Government in this Act, refers to either of these Governments, or the Government of an Union Territory.

5. What are the duties of the Appropriate Government?

The Act prescribes the following duties for the Appropriate Government.

- a. To provide free and compulsory elementary education to all children in the age group of 6-14 years;
- b. To ensure availability of a neighbourhood school with requisite infrastructure, teachers, and learning equipment as specified in the Act;
- c. To ensure admission, attendance and completion of elementary education for every child;
- d. To ensure that children belonging to disadvantaged or weaker section are not discriminated against and prevented from pursuing or completing elementary education on any ground;
- e. To provide special training facilities to out-of-school children admitted to age appropriate class;

- f. To provide training facility for teachers;
- g. To ensure timely prescribing of curriculum and course of studies, and
- h. To ensure quality education conforming to standards specified in the Schedule of the Act.

6. Who is the local authority?

Municipal Corporation or Municipal Council or Dist. Panchayat or Nagar Panchayat or Gram Panchayat, by whatever name called and including such other authority empowered by Appropriate Government.

7. What are the duties of the local authority?

The duties of local authorities are as follows:-

- a. Ensuring availability of neighbourhood school.
- b. Ensuring admission of children from weaker section, disadvantaged group, children with special needs and children of migrant families.
- c. Maintaining records of the children under Rule 10 of the Right of Children to Free & Compulsory Education Kerala Rules, 2010.
- d. Ensuring timely prescription of curriculum, syllabus and deciding the academic calendar.
- e. Monitoring functioning of the schools in its jurisdiction.
- f. Providing infrastructure, teachers and their training, special training for children and learning materials.
- g. Ensuring good quality education.

8. Who shall ensure free and compulsory education for the children?

The Appropriate Government or Local Authority will ensure free and compulsory education to every child within the age group of 6 to 14 years irrespective of caste, gender, class, creed, religion, etc.

9. How is the “school” defined?

The term ‘School’ referred in the Act is any recognized school imparting elementary education. At Section 2(n), four categories of schools are defined: (i) school established, owned or managed by the government or local authority, (ii) an aided school receiving aid or grants from the government or local authority to meet whole or part of its expenses, (iii) schools belonging to specified category, like Kendriya Vidyalaya, Navodaya Vidyalaya, Sainik School and similar others, and (iv) private schools receiving no aid from the government or local authority.

All these schools have to conform to the minimum norms and standards as specified in the Schedule of the Act (see Q- 13)

10. What is meant by neighbourhood school?

‘Neighbourhood school’ means the nearest primary/upper primary school within walking distance from the child’s residence.

The neighbourhood school concept relates to availability of a school within safe and accessible distance from the habitation where a child lives. The Act defines the limits of neighbourhood schools as 1 km walking distance from the habitation of a child at the primary level (class 1 to 5) and within 3km walking distance for upper primary level (class 6 to 8).

However, under the Kerala Rules, in places with difficult terrain, risk of landslides, floods etc., small hamlets or habitations where no school exists, this limit may be reduced and the state will make adequate arrangements for providing elementary education.

The Government has to ensure availability of neighbourhood school for all children within 3 years of the implementation of the Act.

11. What are the responsibilities of the parents?

The responsibilities of parents include admitting their child to an elementary education in the neighborhood school and sending them to school regularly.

12. Are children with Special Needs (CWSN) covered under the Act?

Yes, Children with Special Needs are equally entitled to receive free and compulsory education in school. Arrangements for the education of such children will be made by the Government as per the provisions of Persons with Disabilities (Equal Opportunities, Protection and Full Participation) Act 1996 and in accordance with the provisions of chapter V of the said Act till he/she attains 18 years. Rule 6(7) and Rule 8(2) details the specific responsibilities of the state government and the local authority.

13. Are out-of-school children (6-14 years) also covered under the Act?

The Act, at Section 4, lays down that all children who are out of school (in the age group 6-14), as never-enrolled or drop-outs, would have to be admitted in the age-appropriate class in the regular schools. They would have a right to complete elementary education even after crossing 14 years of age, wherever required.

14. What if a child is older than six years and has never been to school? Will she/he be enrolled? If, yes in which class?

Yes, she/he would be enrolled in a class appropriate to her/his age. For example, if she/he is 10 years old she/he will be admitted in Class V and given special training so as to cope with the level of learning in that class. No child in the age group of 6-14 years shall be refused admission in a school under the Act.

15. Is the Act targeted only for children from weaker sections?

No, it is universal. Any child who is a citizen of India, rich or poor, boy or girl, born to parents of any caste, religion or ethnicity shall have this right. Where a parent decides to send his/her child to a school owned or controlled by the government/local authority, that child would have a right to all the free entitlements.

16. What does “free” mean?

According to the Act, no financial constraints can prevent a child from enrolling, attending and completing elementary cycle of education. The Act in Section 3(2) enlarges the term “free” by mandating that “no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing the elementary education”. This could include, beyond fees, expenses relating to textbooks, note books, writing material, uniforms, transportation, educational and support materials for children with special needs (e.g. hearing aids, spectacles, Braille books, crutches, etc.) and so on.

17. What does “Compulsory” Elementary Education mean?

The word ‘compulsory’ has implications for the appropriate government alone. In other words, while it is the duty of the parent to send their children to school, it is the responsibility of the Government to ensure not just enrolment but attendance and completion of elementary education (Class 1 to 8) by every child in the age group of 6-14 years.

18. What is the provision for pre-primary education to the children up to 6 years of age?

With a view to prepare children above the age of 3 years for elementary education, the appropriate government/local authority shall make necessary arrangements for providing free pre-primary education. Rule 6(10) gives more details.

19. What are the minimum standards of a school under the Act?

The Act lays down minimum norms and standards for all schools, government aided and unaided, through a mandatory Schedule. This covers Pupil Teacher Ratio, number of teaching days per year, number of teaching hours per day, number of rooms, availability of teaching learning materials, library, toilets, safe drinking water, playground, kitchen for mid-day meals, subject teachers for classes 6 to 8, Part Time Instructors for Art, Work and Physical Education etc. All schools have to conform to these minimum norms within three years from the date of enforcement of the Act, failing which they will not be allowed to function.

THE SCHEDULE
NORMS AND STANDARDS FOR A SCHOOL

Sl. No	Item	Norms and Standards	
1.	Number of teachers: (a) For first class to fifth class	Admitted children	Number of teachers
		Up to Sixty	Two
		Between sixty-one to ninety	Three
		Between Ninety-one to one hundred and twenty	Four
		Between One hundred and twenty-one to two hundred	Five
		Above One hundred and fifty children	Five plus one Head teacher
		Above Two hundred children	Pupil-Teacher Ratio (excluding Head teacher) shall not exceed forty
	(b) For sixth class to eighth class	(1) At least one teacher per class so that there shall be at least one teacher each for (i) Science and Mathematics (ii) Social Studies (iii) Languages (2) At least one teacher for every thirty-five children. (3) Where admission of children is above one hundred	

		(i) a full time head teacher; (ii) Part time instructors for- i. Art Education; ii. Health and Physical Education; iii. Work Education
2.	Building	All weather building consisting of- (i) at least one class-room for every teacher and an office-cum-store-cum-Head teacher's room; (ii) barrier-free access; (iii) separate toilets for boys and girls; (iv) safe and adequate drinking water facility to all children; (v) a kitchen where mid-day meal is cooked in the school; (vi) Playground; (vii) arrangements for securing the school building by boundary wall or fencing
3.	Minimum number of working days/instructional hours in an academic year	(i) two hundred working days for first class to fifth class (ii) two hundred and twenty working days for sixth class to eighth class; (iii) eight hundred instructional hours per academic year for first class to fifth class; (iv) one thousand instructional hours per academic year for sixth class to eighth class.
4.	Minimum number of working hours per week for the teacher	Forty-five teaching including preparation hours.
5.	Teaching learning equipment	Shall be provided to each class as required.
6.	Library	There shall be a library in each school providing newspaper, magazines and books on all subjects, including story-books.
7.	Play material, games and sports equipment	Shall be provided to each class as required.

20. When can a child be admitted to a school during the year?

A child can be admitted at any time of the year when he/she attains six years of age. A child should be admitted within the admission period, and extended period of admission or at the start of academic year.

However, no child can be denied admission at any later date during the academic year. Rule 14.

21. Can lack of proof of age be the basis of denying admission?

In the absence of a birth certificate issued under the Births, Deaths and Marriage Registration Act 1886, a certificate based on hospital/ANM or Anganwadi record will be considered as age proof. However, if none of these are available, a child would not be denied admission and the declaration of the parents or guardian will be considered as the proof of age for the child.

22. How would a child be admitted if there are no tests and no documents required?

There shall be no screening tests, interviews, counseling etc., neither for the child nor for the parents. If the number of applicants for admission is more than the number of seats available in the school, then selection can be decided by open lottery or through any other random and transparent method. No admission can be denied for lack of documents including proof of age.

23. What does “screening procedure” mean?

Any test or interview/interaction of the child or interview/interaction of parents for the purpose of admission is termed as screening procedure. Section 2(o) along with Section 13(2) (b) prohibits any of these screening procedures and calls for only random procedures to be used for admitting a child to school. Random procedure implies that if the number of children applying to a school exceeds the available seats, an open lottery system or any other random selection process will be used to fill the seats.

24. Can a child seek transfer to any other school at any time of the academic year?

A child can seek transfer to any other school at any time [other than to a school specified in sub-clause (iii) and (iv) of Section 2 (n) of the Act.] and the transfer certificate will be issued by the Head Teacher or in-charge of the school without delay. Delaying issuance of transfer certificate shall make a person liable for disciplinary action under the service rule applicable to him/her.

25. What happens if parents/guardians do not send their children to school?

Section 10 of this Act makes it the duty of the parents to ensure that their children shall be admitted to school, without prescribing any punishment. This implies that School Management Committee members, local authorities and the community at large must persuade parents to fulfill their duties. For child laborers and children living on the street, the government would have to ensure that they are not compelled to work and provide schools for them, preferably residential. Parents and communities who traditionally forbid their adolescent girls from going to school or who practice child marriage would have to be persuaded against such practices or the Child Marriage Prohibition Act would need to be invoked against them. Civil society and NGO interventions would be required here.

26. What does ‘Age Appropriate Class’ mean?

This means that children will be enrolled in the class that corresponds to their age. In other words, if a 10 year old child has not been to school or dropped out earlier, she/he will be enrolled in class 5. To enable her/him to cope in class 5, “Special training” will be provided in order to be at par with others in the class.

27. In what manner will the special training be provided to out-of-school children admitted in the age-appropriate classes?

It is the responsibility of the state government/local authority to provide the Special Training to out of school children admitted in the age-appropriate classes.

28. What is School Management Committee?

The School Management Committee (SMC) is a school based committee comprising of parents, representatives from local authority, teachers, students and the community to plan for the school development and monitor its functioning. All government, government aided, and special category schools shall have to constitute SMCs as per Section 21 of the Act.

As per the Kerala Rule, School Management Committee will be constituted in all schools, other than an unaided school, within six months from the notification of the State Rules and will be reconstituted in every two years. The SMC will comprise of 16 to 17 members. The Committee will have 75% of its members from amongst parents while the remaining 25% will comprise of the Ward Member of the local authority, one teacher of the school, one local educationist and the school leader. The Head Teacher will be the Member-Convenor. The School Manager or his nominee will also be a member in the case of an aided school.

29. What is the role/functions of SMC?

The role of SMC under the Act includes-

- Monitor the functioning of the school
- Prepare and recommend the school development plan
- Monitor the utilization of grants received
- Besides the above mentioned activities, the State Rules require following activities to be taken up by the SMC.

- Communicate to the local population, the rights of the child and role of State Government, local authority, school and parents as enunciated in the Act.
- Ensure regularity and punctuality of the teachers' attendance
- Ensure enrolment and continued attendance of all the children from the neighbourhood.
- Bring to notice of the local authority any violation of rights of the child, in particular physical and mental harassment of children, denial of admission and timely provision of the free entitlements.
- Monitor maintenance of the norms and standards in the school, as prescribed in the Schedule in the Act.
- Monitor the identification and enrolment of, and facilities for learning by children with special needs and ensure their participation and completion of the elementary education.

30. What is the School Development Plan that the SMCs will prepare?

It is elaborated in Rule 4 of the Right of Children to Free and Compulsory Education Kerala Rules, 2010, in which a bottom-to-top process of school development has been encouraged, rather than the top-to-bottom approach practiced earlier. The SMC will be responsible for preparing the School Development Plan.

31. What does the 25% quota obligation of private schools imply? What is the obligation of aided schools?

All private (un-aided) schools and specified category schools have to reserve minimum 25% seats of the entry class (at pre-primary level or in class 1, as the case may be) for the children from disadvantaged groups and weaker sections from their neighbourhoods (as per the limits defined- 1 km and 3 kms) for free and compulsory elementary education every year.

Under the State Rules, the neighbourhood limit can be extended if the number is not filled up, after obtaining prior approval of the government. Where there is no neighbourhood school ie, government or aided school for the child to pursue her/his elementary education, the unaided school which gives her/him admission to class one or pre-primary class will be reimbursed to the extent of per child expenditure incurred by the government or by the school, whichever is less.

32. How will 25% quota in the private schools be administered? How will these schools be reimbursed by the Government for the reserved quota?

For the reimbursement of the cost towards 25% reservation, the appropriate government shall work out its per-learner cost by adding up all the recurring costs it incurs in one year, from its own and central funds including mid-day meals, in government schools and divide it by the total number of children enrolled in government schools. This will be the per-child expenditure it will reimburse the unaided school that admits 25% children at this rate, or the fee of the school, whichever is less. If the school is already under obligation to admit a certain number of children on account of having received any land, building or other benefits free of cost or on concessional rate from the government, it will not receive reimbursement for such number of children.

33. What are the other regulations for unaided schools?

They will have to adhere to the norms and standards prescribed in the Schedule of the Act within three years from the date of enactment of the Act. The teachers working in the unaided schools are required to have the nationally prescribed teacher qualifications, within five years. They cannot take screening tests or interview of children or parents for giving admission, all admissions have to be based on random selection and

violations will lead to financial punishments. They must announce at the beginning of the term, the fees they will charge, and cannot levy any other charges during the year including donations, capitation fees etc.

As per the Kerala Rules, the unaided schools established before the commencement of the Act need to make a self-declaration in the prescribed form for obtaining Certificate of Recognition under Section 18. After due process of inspection and other formalities, they will be granted recognition. Recognised schools that have been established before 01.04.2010 and have been presenting their students for the respective class 10 Board examinations continuously since 01.01.2000, shall be issued Certificate of Recognition under section 18(1) of the Act based on the self declaration of the educational agency without site inspection. All schools have to conform to the minimum norms and standards within three years of the commencement of the Act, failing which their recognition will be withdrawn, and heavy financial penalty will be imposed for running such de-recognized schools. They should pay salaries and allowances to teachers as prescribed by the state government from time to time (Rules 19 and 20).

34. Does the Act define a ‘Teacher’? Who will prescribe teacher qualifications?

Section 23(1) defines that any person possessing the minimum qualifications as laid down by the Academic Authority authorized by the Central Government can be appointed as a teacher. National Council for Teacher Education (NCTE) has been notified as the Academic Authority for laying down the minimum qualifications to be a teacher. All teachers of the country must have these academic and professional qualifications within five years of the commencement of the Act.

35. What are the specific duties of the teacher as per the Act?

The specific duties of the teachers under this Act are-

- Maintain regularity and punctuality in the school.
- Complete entire curriculum within a specified time.
- Assess the learning ability of each child and provide supplementary additional instruction if required.
- Hold regular meetings with parents and apprise them of regularity in attendance, learning abilities, progress and other issues concerning the child.
- Besides the above mentioned activities, the Kerala Rules specify the following activities to be taken up by the teachers:
 - Maintain a file containing the pupil-cumulative record for every child that will be the basis of awarding the certificate of completion of the elementary education.
 - Participate in the training programmes organized by the academic authority.
 - Participate in curriculum formulation and development of syllabi, training modules and text book development.
 - Perform other such duties as may be specified from time to time.

36. Can teachers be engaged in non-academic work as per the Act?

The Act bans all non-academic work by teachers, except that related to elections, decennial census and disaster related tasks as per the notification by the Central Government. Whereas census involves work once in ten years and disasters are rare, increasingly frequent elections do keep teachers away from schools for long periods of time, particularly for the preparation of electoral rolls. The Ministry of Human Resource Development (MHRD), Govt. of India has notified guidelines for the

deployment of teachers for the purpose of elections and mentions the following duties of teachers relating to the conduct of election.

- Deployment on the days of poll and counting.
- Attending the training and collection of election materials for such deployment

The guidelines mention that all other duties relating to electoral roll revision will be undertaken during holidays or during non-teaching hours or non-teaching days.

37. Is private tuition banned for all teachers?

Private tuition or private teaching activity is banned for all teachers working in government, aided or unaided elementary schools as defined under the Act.

38. Who will prescribe the curriculum and evaluation systems at the state level?

The State Council of Educational Research and Training (SCERT) has been notified as the academic authority that will lay down curriculum and evaluation procedures at the state level.

39. What is “Comprehensive and Continuous Evaluation (CCE)” as per the Act?

The Act emphasizes evaluation to be a “comprehensive” performance of the child, reflecting all facets, talents of the child and should not be based only on the subject areas. This may include music, theatre, leadership and social skills etc. The evaluation is to be continuous i.e. throughout the year and not be based only on a one-time assessment.

40. Can a child be failed in any class? What about the Board Examination?

No, a child cannot be failed or expelled from any class till he/she completes 8 years of elementary education. There will be no Board examination at the elementary level.

41. If there are no Board examinations, how will children be certified when they complete elementary education?

As per the State Rule, a child will be awarded Certificate of Completion of elementary education at the school level within one month of the completion of the elementary education. This certificate will contain the Pupil Cumulative Record which will also indicate the child's talents and abilities in areas other than the formal school subjects.

42. How can it be ensured that a child is learning if promotion is automatic and there is no test?

According to the Act, the Academic Authority specified by the state government shall lay down an evaluation procedure based on the principle of 'Continuous and Comprehensive Evaluation' for every child. Thus, the child will not be evaluated through a single end-of-year examination but through a process that is continuous and looks at all aspects of the child's learning and abilities up to the completion of elementary education.

43. What does it mean for a school to be child-friendly?

Child-Friendly Schools and Systems (CFSS) approach has emerged as a holistic solution for putting together a comprehensive range of quality interventions in education. It promises a participatory and comprehensive approach as desired under the RTE Act to plan for quality education and aims to revamp schools and systems through child-friendly principles in policy, planning, teacher support system, teaching learning material and pedagogical processes. A child-friendly school is not just child-welcoming but also child-seeking. It works to attract and retain children

from different backgrounds, respects diversity and ensures equity and participation. This requires not just getting all children into schools but making sure that all schools work in the best interest of the children entrusted to them by working in the following areas:-

Redesigning the school and system in a more sensible manner thereby ensuring all inputs, and processes in a system that is child-centered and sensitive towards children's world, their views and issues. Such a system observes, consults and values children to make the schools and systems more suitable for every child rather than fitting each child into the system;

Providing safe and protective schools that are adequately staffed with trained and responsive teachers, equipped with adequate resources and appropriate conditions for learning;

Recognizing that different children face different circumstances and have different needs, so schools build on the assets that children bring from their homes and communities and also compensate for constraints in the home and community environment;

Promoting children's ability to think and reason, build self respect and respect for others and reach their full potential as individuals, members of their communities and citizens of the world.

44. What does the Act say regarding physical and mental harassment to the child?

As per the Section 17, no child shall be subjected to physical punishment or mental harassment. In case of contravention, the person responsible, will be liable to disciplinary action under the service rules applicable. As per Circular No. 16993 dated 23rd September 2010 of the Director of Public Instruction, Government of Kerala, corporal punishment in schools is prohibited.

45. Whom shall a child approach if she/he is subjected to physical punishment or mental harassment?

Any child subjected to physical punishment or mental harassment can approach the SMC, local authority, school students' Helpline, SCPCR, NCPCR one after another or directly, till redress is achieved. She/he can also approach a court of law for redressal. This effort of the child should be supported by his/her parents or guardians, and teachers as found appropriate.

46. If a child is denied admission, beaten up or discriminated against, or his/her right is violated in any other manner, what will be the redressal mechanism?

As per the State Rules, it is the responsibility of the School Management Committee (SMC) to bring such cases of violations of the rights of the child, to the notice of the local authority which will decide on the matter after affording a reasonable opportunity of being heard, to the parties concerned. The complainant could appeal to the SCPCR if the action of the local authority does not redress the complaint satisfactorily.

47. Can NCPCR/SCPCR act on their own, even if a complaint has not been filed?

Yes, both the NCPCR and the SCPCRs can move on their own, suo moto, without any one specifically filing a complaint. The State is expected to set up the State Commission for Protection of Child Rights (SCPCR) shortly and also a School Students Help Line, accessible by telephone and letter for receiving and registering complaints and grievances related to violation of child rights, under the Act.

48. What will happen to Sarva Shiksha Abhiyan after implementation of the Right to Education Act?

Ministry of Human Resource Development (MHRD), Government of India has already initiated processes to harmonize Sarva Shiksha Abhiyan by changing various norms and governance structure to make it in tune with the provisions of the RCFCE Act, 2009.

49. On what basis can recognition be granted to schools?

A school already in existence must fulfill norms and standards mentioned in the Schedule of the Act and Rule 15 of the Right of Children to Free and Compulsory Education Kerala Rules, 2010, within 3 years of commencement of the Act failing which the school will be de-recognised. Apart from this, schools those are established after the commencement of the Act and do not fulfill the norms and standards mentioned in the schedule shall be treated as unrecognized schools and shall be required to stop functioning.

50. What shall be the consequence if the school decides to function even without recognition?

Such a school will be liable to pay a fine Rs. 1 lakh and if it continues the contravention, the fine will be at the rate of Rs. 10,000 per day. This fine will be imposed by the Director of Public Instruction.

51. Will NGO managed schools have to abide by this Act?

These schools too have to subscribe to and follow the norms in the Act and State Rules.

52. Where can complaints be made in case of violation of the provisions of the Act?

Any complaint regarding violation of the provisions of the Act can be reported to the Assistant Education Officer or the local authority. The AEO or the local authority will complete their enquiry and declare their decision on the said complaint within the prescribed time.

If required, a written complaint can be lodged with the State Commission for Protection of Child Rights or even the National Commission for Protection of Child Rights, as an appeal.
