



**Centre for Child Rights,  
NATIONAL LAW UNIVERSITY ODISHA,  
CUTTACK**

**Juvenile Justice (Care and Protection of  
Children) Act, 2015  
(Central Act of 2 of 2016)  
AND  
Draft Odisha JJ Rules, 2016**

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In exercise of the powers conferred by Section 110 of the Juvenile Justice (Care and Protection of Children) Act, 2015 [Central Act 56 of 2015) the Governor of Odisha is hereby makes the following rules, namely:-

## RULES

### CHAPTER-I

#### PRELIMINARY

##### 1. Short title, extent and commencement

- (1) The Rules may be called as the Odisha Juvenile Justice (Care and Protection of Children) Rules, 2015
- (2) The rules supersede the previous Rules issued in 2009
- (3) These rules shall extend to the whole of the State of Odisha.
- (4) These rules shall come into force (on the date of publication of these Rules in the Odisha Government Gazette).

##### 2. Definitions

In these rules, unless the context otherwise requires.-

- (a) "Act" means the Juvenile Justice (Care and Protection of Children) Act, 2015 (Central Act No. of 2015)
- (b) "Adoption" means, taking custody and responsibility permanently of a Juvenile or a child who has not completed eighteenth year of age and who shall have all the rights and privileges of a natural born child.
- (c) "Abuse" means any form of abuse as defined below as --
  - (i) "physical abuse" means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;
  - (ii) "Sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of a child include non-penetrating sexual exploitation such as genital exhibition, pornography exposure, inappropriate touching etc.
  - (iii) "Verbal and emotional abuse" includes-
    - a) Insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and
    - b) Repeated threats to cause physical pain to any person in whom the aggrieved person is interested.
  - (iv) "Economic abuse" includes-
    - (a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a Court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household

necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance;

(b) disposal of household effects, any alienation of assets, whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and

(c) Prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

- (d) "Care-taker" or "House parent" means a person who is in charge of the House / Home.
- (e) "Child Welfare Officer" means a person appointed by the Government to perform the duties and functions of Child Welfare Officer as defined in the rule and includes the Probation Officer specially empowered. Empowering of Probation Officer shall be made on their professional expertise;
- (f) "Child with special needs" means a child for whom specialized services or interventions are necessary to facilitate proper care and rehabilitation, in addition to regular services provided under the Act;
- (g) "Competent Authority" means the Juvenile Justice Board or the Children's Court in respect of children in conflict with law and the Child Welfare Committee in respect of Children in need of Care and Protection competent to take any decisions and pass necessary orders for care, protection, treatment and rehabilitation of a child dealt with under the provisions of the Act.
- (h) "Form" means, the Forms annexed to these rules;
- (i) "Government" means the State Government of Odisha
- (i) "Officer-in-Charge" means a person appointed for the control and management of an institution certified or recognized as such under the Act;
- (k) "Place of safety" means any place or institution (not being a Police Lock-up or jail), established separately or attached to any Observation Home or a Special Home, as the case may be, the person in-charge of which is willing to receive and take care of the children alleged or found to be in conflict with law, by an order of the board or the Children's Court, both during inquiry and ongoing rehabilitation after having been found guilty for a period and purpose as specified in the order.
- Provided the Placed of safety attached to Observation Home shall be exclusively for keeping children in conflict with law during pending enquiry before the Board or the Children's Court.
- Provided further that the place of safety attached to the Special Home or the Observation Home shall have separate entry and exit point and under no circumstances, observation Home, Special Home and Place of Safety shall be housed in same campus with one entry and exit points.

- (l) "Probation Officer" means an Officer appointed by the State Government as a Probation Officer under the Probation of Offenders Act, 1958 or the Legal Cum Probation Officer appointed under the District Child Protection Unit or an Officer or a Person conferred with the powers of Probation Officer under the said Act, specifically for the purpose of discharging the duties and functions relating to child as probation Officer including the Child Welfare Officer or Social Worker;

No other person other than those appointed as Probation Officer or Legal cum probation officer or specially recognized as Probation Officer under the Probation of offenders Act shall perform the functions of Probation Officer

- (m) "Secondary victimization" means and refers to behaviours and attitudes of authorities and personnel in the juvenile justice system, which further traumatizes victims who are within the juvenile justice system;
- (n) " Social Worker" means a person duly recognized by the Competent Authority or by any other authority to perform enquiry, supervision of children during community service or on probation or to perform professional services as counseling and guidance shall be a Social Worker and includes Probation Officer specially empowered;
- (o) " Surrendered child "means a child surrendered by its own biological parent(s). Guardian surrendering the child shall be declared as such after due process of enquiry and determination. A child surrendered by any person other a biological parent shall be considered an abandoned child";
- (p) All words and expressions defined in the Act and the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) but not defined in these Rules shall have the same meaning as assigned to them in the Act or the said code respectively.

## CHAPTER- II

### FUNDAMENTAL PRINCIPLES OF JUVENILE JUSTICE AND PROTECTION OF CHILDREN

#### **3. Fundamental principles to be followed in administration of these rules.**

(1) The State Government, the Children' Court, the Juvenile Justice Board, the Child Welfare Committee or other authorities or agencies, as the case may be, while implementing the provisions of these rules 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 the Act and the rules made hereunder:

#### ***I. Principle of presumption of innocence:***

(a) A juvenile or child in conflict with law is presumed to be innocent of any *malafide* or criminal intent up to the age of eighteen years.

(b) The juvenile's or child in conflict with law or child's right to presumption of innocence shall be respected throughout the process of justice and protection, from the initial contact to alternative care, including aftercare.

(c) Any unlawful conduct of a juvenile or a child in need of care and protection or a child in conflict with law which is done for survival, or is due to environmental or situational factors or is done under control of adults, or peer groups, is ought to be covered by the principles of innocence.

(d) The basic components of presumption of innocence are:

(i) *Age of innocence*: Age of innocence is the age below which a juvenile or child or a child in conflict with law cannot be subjected to the criminal justice system. The Beijing Rule 4(1) clearly lays down that "the beginning of the age of criminal responsibility shall not be fixed at too low an age level bearing in mind the facts of mental and intellectual maturity". In consonance with this principle, the mental and intellectual maturity of juvenile or child or child in conflict with law below eighteen years is considered insufficient through out the world.

(ii) *Procedural protection of innocence*: All procedural safeguards that are guaranteed by the Constitution and other statutes to the adults and that go in to strengthen the juvenile's or child's right to presumption of innocence shall be guaranteed to juveniles or the children or children in conflict with law.

(iii) *Provisions of Legal aid and Guardian Ad Litem* : Children in conflict with law have a right to be informed about the accusations against them and a right to be legally represented. Provisions must be made for guardian *ad litem*, legal aid and other such assistance through legal services at State expense. This shall also include such juveniles' right to present his case before the competent authority on his own.

## ***II Principle of dignity and worth:***

(a) Treatment that is consistent with the child's sense of dignity and worth is a fundamental principle of juvenile justice. This principle reflects the fundamental human right enshrined in Article 1 of the Universal Declaration of Human Rights that all human beings are born free and equal in dignity and rights. Respect of dignity includes not being humiliated, personal identity, boundaries and space being respected, not being labeled and stigmatized, being offered information and choices and not being blamed for their acts.

(b) The juvenile's or child's right to dignity and worth has to be respected and protected throughout the entire process of dealing with the child from the first contact with law enforcement agencies to the implementation of all measures for dealing with the child.

## ***III. Principle of Right to be heard:***

Every child's right to express his views freely in all matters affecting his interest shall be fully respected through every stage in the process of juvenile justice. Children's right to be heard shall include creation of developmentally appropriate tools and processes of interacting with the child, promoting children's active involvement in decisions regarding their own lives and providing opportunities for discussion and debate.

## ***IV. Principle of Best Interest:***

(a) In all decisions taken within the context of administration of juvenile justice, the principle of best interest of the juvenile or the child in conflict with law or child in need of care and protection shall be the primary consideration.

(b) The principle of best interest of the juvenile or child in conflict with law or child in need of care and protection shall mean for instance that the traditional objectives of criminal justice, retribution and repression, must give way to rehabilitative and restorative objectives of juvenile justice.

(c) This principle seeks to ensure physical, emotional, intellectual, social and moral development of a child in conflict with law or child a child in need of care and protection so as to ensure the safety, well being and permanence for each child and thus enable each child to survive and reach his or her full potential.

## ***V. Principle of family responsibility:***

(a) The primary responsibility of bringing up children, providing care, support and protection shall be with the biological parents. However, in exceptional situations, this responsibility may be bestowed on willing adoptive or foster parents.

(b) All decision making for the child should involve the family of origin unless it is not in the best interest of the child to do so.

(c) The family - biological, adoptive or foster (in that order), must be held responsible and provide necessary care, support and protection to the juvenile or child under their care and custody under the Act, unless the best interest measures or mandates dictate otherwise.

***VI. Principle of Safety (no harm, no abuse, no neglect, no exploitation and no maltreatment):***

(a) At all stages, from the initial contact till such time he remains in contact with the care and protection system, and thereafter, the juvenile or child in need of care and protection or juvenile in conflict with law shall not be subjected to any harm, abuse, neglect, maltreatment, corporal punishment or solitary or otherwise any confinement in jails and extreme care shall be taken to avoid any harm to the sensitivity of the juvenile or the child.

(b) The state has a greater responsibility for ensuring safety of every child in its care and protection, without resorting to restrictive measures and processes in the name of care and protection.

***VII. Positive measures:***

(a) Provisions must be made to enable positive measures that involve the full mobilization of all possible resources, including the family, volunteers and other community groups, as well as schools and other mainstream community institutions or processes, for the purpose of promoting the well-being of the juvenile or child through individual care plans carefully worked out.

(b) The positive measures shall aim at reducing vulnerabilities and reducing the need for intervention under the law, as well as effective, fair and humane dealing of the juvenile or child.

(c) The positive measures shall include avenues for health, education, relationships, livelihoods, leisure, creativity and play.

(d) Such positive measures must facilitate the development of identity for the child and provide them with an inclusive and enabling environment.

***VIII. Principle of non-stigmatizing semantics, decisions and actions:***

The non-stigmatizing semantics of the Act must be strictly adhered to, and the use of adversarial or accusatory words, such as, arrest, remand, accused, charge sheet, trial, prosecution, warrant, summons, conviction, inmate, delinquent, neglected, custody or jail is prohibited in the processes pertaining to the child or juvenile in conflict with law under the Act.

***IX. Principle of non-waiver of rights:***

(a) No waiver of rights of the child in need of care and protection or juvenile in conflict with law, whether by himself or the competent authority or anyone acting or claiming to act on behalf of the juvenile or child, is either permissible or valid.

(b) Non-exercise of a fundamental right does not amount to waiver.

***X. Principle of equality and non-discrimination:***

(a) There shall be no discrimination against a child in need of care and protection or juvenile in conflict with law on the basis of age, sex, place of birth, disability, health, status, race, ethnicity, religion, caste, cultural practices, work,

activity or behaviour of the juvenile or child or that of his parents or guardians, or the civil and political status of the juvenile or child.

(b) Equality of access, equality of opportunity, equality in treatment under the Act shall be guaranteed to every child or juvenile in conflict with law.

***XI. Principle of right to privacy and confidentiality:***

The juvenile's or child's right to privacy and confidentiality shall be protected by all means and through all the stages of the proceedings and care and protection processes.

***XII. Principle of last resort:***

Institutionalization of a child or juvenile in conflict with law shall be a step of the last resort after reasonable inquiry and that too for the minimum possible duration.

***XIII. Principle of repatriation and restoration:***

(a) Every juvenile or child in need of care and protection or juvenile in conflict with law has the right to be re-united with his family and restored back to the same socio-economic and cultural status that such juvenile or child enjoyed before coming within the purview of the Act or becoming vulnerable to any form of neglect, abuse or exploitation.

(b) Any juvenile or child, who has lost contact with his family, shall be eligible for protection under the Act and shall be repatriated and restored, at the earliest, to his family, unless such repatriation and restoration is likely to be against the best interest of the juvenile or the child.

***XIV. Principle of Fresh Start:***

(a) The principle of fresh start promotes new beginning for the child in need of care and protection or juvenile in conflict with law by ensuring erasure of his past records.

(b) The State shall seek to promote measures for dealing with children alleged or recognized as having impinged the penal law, without resorting to judicial proceedings.



## **CHAPTER -III**

### **JUVENILE IN CONFLICT WITH LAW**

#### **4. Tenure of the Juvenile Justice Board**

(1) Every Social Worker member of the Board shall hold office for a period of three years from the date of appointment.

“Provided that an existing member shall continue to hold office until his / her Successor assumes charge (or ) for a period of 3 months from the date of completion of his / her tenure, whichever is earlier” with in three months new Board should be constituted.

Provided further if no such Board is constituted within three months of expiry of the Board, the High Court of Orissa shall constitute an Adhoc Board till such time the regular Board is constituted.

(2) The Social Worker member of the Board shall be eligible for appointment for a maximum of two terms and shall not be more than 65 years of age at the time of first or second appointment.

#### **5. Qualification of Social Worker members**

(1) Any person to be appointed as a Social Worker member of the Board should possess a Bachelor's degree of a recognized University as educational qualification. Preference shall be given to persons having a degree in any one of the Social Sciences such as Criminology, Psychology, Sociology, Social Work, Economics, Home Science, Education, Political Science, and studies pertaining to women, Rural Development, Law or Medicine.

(2) The Social Worker member shall have at least seven years of active involvement in health, education or welfare activities pertaining to children.

(3) Practicing professional in the filed of Psychology, Psychiatric treatment or practicing law and Medicine shall also be eligible for appointment provided such persons should given and undertaking tat shall participate in the Board proceeding regularly not less than 1/3 of the period in a month.

#### **6. Eligibility criteria**

1. The applicant on the first July of the year in which the application is called for shall not be less than 35 years of age and must not have completed 65 years age.
2. The application shall become ineligible if the person has applied for more than one district. However, the applicant shall apply for the position in JJB or Child Welfare Committee.
3. If he or she is selected for a position in JJB CWC he or she has to relinquish either of the one
4. The applicant shall not be an active political functionary
5. The applicant is not eligible for consideration if any case is pending in any of the criminal court in the Country or in abroad

6. The applicant is also not eligible for consideration if any civil suit is pending against him either in India or in abroad
7. The applicant shall be the permanent resident of the respective district or the distance between his place of resident and JJB/CWC shall not be more than 30 kms.
8. Faculty members of any discipline shall be eligible to apply provided the academic institution has given an undertaking to spare his services for the purpose of serving in the Board or the Committee
9. The applicant shall not be an office bearer or staffs of residential care institutions, Childline service providers, adoption Centres etc.
10. The applicant shall not hold similar positions in any other Government bodies/departments
11. No member of child care organization who has been running and maintaining child care institutions and involving in adoption related issues shall not be considered for selection. The same criteria shall also be applied in respect of those who are running and maintain child care institutions under the provisions of the Act of 2015

## **7. Selection of the members of the Juvenile Justice Board**

(1) The selection of Social Worker members of the Board shall be made by a selection committee, consisting of the following persons, namely;

- |  |   |             |
|--|---|-------------|
| (a) Principal District & Sessions Judge                  | - | Chairperson |
| (b) District Collector                                   | - | Member      |
| (c) Commissioner of Police/Dist Superintendent of Police | - | Member      |

(2) The selection committee shall be assisted by experts\_in the field of child development to identify the committed person to hold the position of a member in the Juvenile Justice Board.

(3) The expert may be drawn from an academic in the area of criminology, sociology, social work and child development including child rights activists and psychologists

(4) Calling of application for the selection of Social Worker member shall be made by the District Child Protection Units through website, advertisement in electronic and print media, Radio announcement etc. Display of the advertisement may also be made in the Collectorate of the concerned district, Revenue Divisional Office, Block Development Office etc.

- (3) The website should define the roles and responsibilities, qualification for the members, the age limit prescribed; the honorarium and such other information enabling the

eligible persons alone apply for the position. An application form shall be devised for this purpose

- (4) In order to prevent the conflict of interest no member of child care organization who has been running and maintaining child care institutions and involving in adoption related issues shall be considered for selection
- (5) Individuals shall send their nomination to the selection committee for consideration through the Directorate of Odisha State Child Protection Society
- (6) Selection of members shall be made through personal interview. Necessary guidelines shall be formulated for this purpose
- (7) As soon as the selection process is over, the selection committee shall prepare a panel of not more than ten names identified from willing and competent persons to be considered for the appointment as a member of the Juvenile Justice Board
- (8) The Government shall appoint Social Worker members to the Board, only from the list of persons recommended by the selection committee headed by the Principal, District and Sessions Judge and no person shall be eligible for appointment unless he is recommended by the selection committee.
- (9) The selected members shall be directed to sign an agreement or a memorandum of understanding which should spell out the duties and function, honorarium, accountability and the action for non-compliance etc.

## **8. Disqualification of a Social Worker Member**

- (1) A person shall not be appointed as a Social Worker member if he-
  - (i) Has involved in any criminal offences or has been convicted previously; or
  - (ii) Is an active political worker; or
  - (iii) is guilty of domestic violence or child abuse etc.,; or
  - (iv) Is aged less than thirty five years.
- (2) (a) Social Worker member shall not hold any office as "*Full time employee*" in any capacity in any of the Non-Governmental Organization or in a Government department or Public Sector. Provided, the employer is willing to spare the individual No-objection Certificate from the employer shall be obtained and produced at the time of interview and such NOC shall be submitted each time if the employee switchover from one job to another.
- (c) The social worker member shall not be an employee or officer bearer of an organization which promotes in-country or inter-country adoption or providing residential care to children

## **9. Termination of appointment as Social Worker Member**

- (1) The tenure of Social Worker member other than the Principal Magistrate may be terminated by the State Government at any time, if –
  - (a) He has been found guilty of misuse of power vested under this Act.
  - (b) He has been convicted of an offence and such conviction has not been reversed or he has not been granted full pardon in respect of such offence.
  - (c) He fails to attend the proceedings of the Board for a month consecutively without any valid reason or he fails to attend less than three-fourth of the sittings in a quarter.

- (d) Holding the position in Child Welfare Committee either within the district or other district or a Member of Board in any of the district

**(10) Filling up of vacancies**

(1) Every casual vacancy of a Social Worker member in the Board shall be filled up by appointment of another member who shall hold office for the remaining period of tenure of the member in whose place he is appointed. Appointment to a casual vacancy shall be made by the Government from the panel of names earlier recommended by the Selection Committee for appointment to the regular vacancies.

(2) Any social worker member may resign at any time by giving three months advance notice in writing to the State Government.

**(11) Training and Orientation**

(1) All the members shall be given training / orientation on National and International instruments on children related issues, National Policies on children, handling the affairs of child in conflict with law in relation to admission of petition or processing bail application and sanction interim order, recording of statements including Section 164 CrPC, writing disposition orders, child psychology, child rights, child welfare etc., for a period of not less than 5 days, either prior to or soon after their assuming office by the National Law University Odisha or by Judicial Academy

(2) The Judicial Magistrates shall also be given training /orientation on National and International instruments on children related issues, National Policies on children, handling the affairs of child in conflict with law in relation to admission of petition or processing bail application and sanction interim order, recording of statements including Section 164 CrPC, writing disposition orders, child psychology, child rights, child welfare etc., for a period of not less than 5 days

(3) Each social worker member of the Board shall be paid Honorarium and Traveling Allowance as the Government may fix from time-to-time”.

**12. Time and place of sitting of the Board-**

(1) The Board shall hold its sitting in the premises of the Observation Home or at any place as may be specified by the State Government in this behalf. The Board shall hold its sitting for three days in a week on Monday, Wednesday and Friday between 10.30 a.m. and 1.00 p.m. However, the sitting time may be extended by the Principal Magistrate in case of any important business to transact.

Provided that the Board may hold its sittings in any place other than its scheduled place of sitting for the benefit of the children hailing from different blocks within its jurisdiction, as camp court sittings

(2) The proceedings of the Board shall not become invalid for the absence of any of the member during any stage of proceedings.

(3) The final disposition of the enquiry shall be passed by at least two members of whom one shall be the Principal Magistrate.

(4) In case of difference of opinion in the process of disposition, or interim order if any to be made, the opinion of the majority shall prevail, but, where there is no such majority, the opinion of the Principal Magistrate shall prevail. In such issues, the Principal

Magistrate shall record in writing the circumstances that led to the Principal Magistrate to take the final decision.

### **13. Proceedings of the Board**

(1) The Board shall observe such rules of procedures in regard to the transaction of business at its meetings as contemplated in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(2) A child in conflict with law may be produced either before the Principal Magistrate of the Board, or before a Social worker Member even in his house when the Board is not sitting. It is the accountability of the Principal Magistrate or the Social Worker member to inform that the facilities of the Legal Services Authority is available free of cost and the same shall be recorded that the child and his or her representative has been informed,

### **14. Legal aid services in Juvenile Justice Board**

The legal services authority shall nominate a lawyer from the legal Aid Panel of lawyers to facilitate the legal services to children being dealt with under the provisions of the Act. The legal service includes not only to represent the proceedings against the child before the Juvenile Justice Board but also to obtain relief for abuse or exploitation that the child has faced.

### **15. Procedure to be adopted**

(1) A child in conflict with law may be produced either before the Principal Magistrate of the Board, or before a Social worker Member even in his house when the Board is not sitting. The Board to whom a child is produced shall immediately arrange for a hearing with the child on the next sitting date. The Principal Magistrate or the Social Worker member shall examine the child confidentially, peruse the record produced before the board by Police and satisfy that the child is not subjected to abuse and exploitation including the safe placement from the time of apprehension and orders the safe placement of the Child either in the Observation Home in a place of Safety.

(2) The Board shall determine the age of the child

(3) The Board should satisfy either from the declaration of Police in writing or otherwise that the child was not kept in Police lock up or jail prior to the production of the child before the Board and that the child is produced before the Board at the earliest not exceeding 24 hours excluding travel time of taking charge of the child.

(4) The child's views and expression shall be recorded. Proceedings shall be made on the views and expressions of the child.

(5) The Board should also satisfy that the Police on taking charge of the child have intimated to the Probation Officer concerned and Parents/guardians of the Child as required under section 13 of the Act, 20155. The police shall be insisted to file a written statement in this aspect in Form prescribed for the purpose.

(6) The objective of intimation to the Probation Officer is to facilitate the Probation Officer to furnish an interim report to the Board to act on the following:-

(i) to process the bail application of a child and take a decision to release the child on bail or to send the child to an institution

(ii) to propose necessary conditions to be followed either by the child or the person who takes charge of the child in order to prevent the child to associate with the anti social elements or indulge in unlawful behavior.

(iii) Propose necessary conditions for pre-try supervision by the Probation Officer.

(e) The Board should also satisfy that the child has not been subjected to ill treatment or harassment either by the Police or by any other person, who takes charge of the child for the purpose of bringing before the Juvenile Justice Board.

(7) Board shall order the probation officer to conduct an intake work with the juvenile, who shall be the Officer of the board for this purpose.

(a) In-take is a process of examining and evaluating the circumstances of every case referred to the board. Intake includes the following

(i) Factual verification, screening and referral of cases including diversion

(ii) Control of detention

(iii) Expediting board's action

(iv) Regulations on the role of law enforcement agency

(v) Identify the gap and prevent human right violation

(vi) Ensure the optimum use of resources and fix the accountability

(b) It is the accountability of the probation officer to speak with the child and elicit information regarding the date and time of apprehension, the place of detention till such time the child is produced before the board, the treatment met out by the child, the views and opinions of the child besides his expectations from the board.

(c) The probation officer shall also ascertain from the juvenile whether the police has taken the finger prints and photos

(d) Determine the case which requires no action.

(e) Which case require referral to other agencies

(f) Which can be benefited and adjusted by treatment without judicial action (through diversion)

(g) Which need judicial action

(h) The intake report shall be made available to the board by the probation officer with is comments and observation, enabling the board to conduct the initial hearing.

## **16. Intermediate sanction or bail**

(1) The Board or the Police may irrespective of the offence committed by the child wither bailable or non-bailable offence, notwithstanding anything contained in the Code of Criminal Procedure, 1973, (Central Act 2 of 1974) or any other law for the time being in force may release the child on bail with or without surety to the parents or legal guardians or fit person or fit institution after considering the interim report of the Probation Officer upon conditions to be followed during the bail period.

Provided that the Board may release a child in conflict with law on bail is cases where there are reasonable grounds to believe that the child and the child's family shall be amenable to ensure good behaviour and attitude and in such cases the necessary conditions that are viable shall be imposed and bail may be granted.

Provided in the case of child in conflict with law is a female, the release may be ordered after obtaining the report of the probation officer to ensure the safety and security of the girl child.

(2) Children who are released on bail to the care of parent or guardians or fit person or fit facility may impose such constitutions that should ensure the elimination of undesirable behaviours, attitudes and habits including the treatment for alcoholism and substance (drug) abuse and for behavior management and subject to the supervision by Probation Officer who shall make monthly or fortnight progress report to the Board

(3) The Board or the Police shall examine the report of probation officer and satisfy the progress of the child during intermediate sanction period or bail period.

(4) If any adverse report is made, the Board shall examine the report, summon the juvenile and the surety if any and revise the order or cancel the bail and order to place the child in the Observation Home or the Place of Safety as the case may be.

(5) The Board shall review the status of children in conflict with law and their well being during the bail period and such review shall be in the best interest of children in conflict with law is keeping away from crime and delinquency and also getting progress

#### **17. Denial of bail**

(1)The Juvenile Justice Board shall also refuse bail to the child in conflict with law for the reason to be recorded in writing that the release would bring the child's association with known criminal or expose that person to moral, physical or psychological danger and is against the best interest of the child.

(2) Bail shall also be denied as the release would defeat the end of justice. In this case, the board shall record in writing the observations in what ways the release would defeat the end of justice.

(3) Bail shall not be refused for the reasons that the crime committed by the child is serious or heinous crimes. The ground for denial shall be based in sub-rules (1) and (2) above.

#### **18. Initial hearing on the interim report**

(1) If the juvenile is not released on bail and he or she is ordered to be kept in the observation home or in the place of safety as the case may be.

(2) The intake report from the probation officer shall also be made available to the officer in-charge of the observation home or the place of safety enabling him or her to provide the necessary interventions required for the developmental needs of the child.

(3) The board shall examine the child and such other stakeholders including the police, parents or the report of probation officer and to arrange for a personal hearing in camera.

(4) If the board has prima-facie evident of violations of the rights of child the findings shall be recorded in writing and initiate appropriate actions against those responsible for such violations.

(5) If a child confesses before the board about his or her infringing criminal law should be given option to record his or her statement under section 164 Criminal Procedure Code.

- (6) If the child is accepted for the recording of statement under section 164 Criminal Procedure Code the JJB shall fix a date for final hearing and direct the parties concerned to be present. The probation officer may be specifically instructed to submit the social enquiry reports.
- (7) If the child desires to contest, the board shall provide an opportunity for the child to be represented by a legal practitioner of his or her choice including a social worker who is willing to represent during hearing.
- (8) If the child has no legal representative, the board shall arrange for a free legal aid either from the legal services authority or by a voluntary organization which is willing to provide such services
- (9) If during intake an assessment is made of no action case, the board shall either handover the child to the care of parents after initial hearing with a promise of good behaviour by the child and the willingness of the parents to ensure his or her good behaviour or to refer the child to child welfare committee if need for further care and protection
- (10) If the child is in need of intervention by a professional viz psychologists or other to assess the personality traits and problems relating to adjustment with his or her family or for any drug related programmes, the child shall be referred to Juvenile Guidance Centre if it is established or to any service providers for intervention and direct the agency to file a progress report. For such action the board has to decide the place of detention or to release under the care of parents or guardians with or without supervision by probation officer.
- (11) If the board based on the intake and during initial hearing comes to a conclusion that the child's behavior is or not serious in nature and at the same time require constant supervision and guidance, the child shall be diverted to probation officers under the concept of diversion and adjudicate accordingly. The board shall receive periodical report in this context and review the progress.
- (12) If the board comes to a conclusion of judicial action, the board shall explain to the parties concerned, the child, family, the social worker who represents the child and the victims. Hearing shall be conducted and such hearing should ensure the right to privacy and confidentiality
- (13) Right to participation and to be heard should reflect in the proceedings
- (14) The Board shall conduct the proceeding in an informal way to ensure that child's interest is of paramount importance. The Board shall take care to ensure that the proceedings are conducted in a simple and child - friendly manner, with the participation of the juvenile by ascertaining his views during all the stages". The Board shall conduct the enquiry of each child like a conference and during such enquiry the parties relating to the case alone shall be present and shall be in-camera proceedings
- (15) The Board shall initiate action against any media for publishing any matters relating to the children in conflict with law which would lead to the identification of the child.
- (16) The Board shall ensure that no girl child was taken charge by police between Sunset and Sunrise; provided if the circumstances warrants, the Police to take charge of a girl child during such time, the Board should ensure that the girl child was kept under the care of a female fit person or a relative of the girl child, who shall also be a female fit person or in a place of safety or in an Observation Home.



(17) The Board shall obtain a declaration from Police in writing that the child was dealt with due regard and decency. The Board shall also enquire the child in conflict with law and shall record the summary of proceedings.

(18) The Board shall if at any stage during the cause of enquiry is satisfied that the attendance of the child is not essential for the purpose of enquiry, may dispense with his attendance and proceed with the enquiry in the absence of the child.

## **19. Determination of age of the child**

1. (a) The board shall fix the age of the child. The parties concerned shall have the option to produce any documents which is acceptable as a proof. Age fixation shall be made on the guidelines formulated. In case of any doubt or dispute with regard to the age of the child, the member shall pass an order to obtain either;

(i) a birth certificate issued by a competent authority, or

(ii) a certificate recording the date of birth, from a school attended by the child, or

(iii) Recognized School certificate, if available;

(iv) in the absence of any of the certificate referred to in items

(i) to (iii) above, the opinion of the Medical experts such as Radiologists or any other competent experts fixing the age of the juvenile under question subject to a margin of one year.

(b) While passing orders in such cases, the Board shall, after taking into consideration of such evidence as may be available or the medical opinion, as the case may be, record its finding in respect of the age of the juvenile:

Provided that in case of any doubt on the genuineness of the certificate produced as proof for age, the member may direct the probation Officer to make necessary enquiry and submit a report.

## **20. Enquiry by the Board**

(1) The complaint against the child in conflict with law shall be made in accordance with the procedures established in the Code of Criminal Procedure, 1973 for the petty offences through summary proceedings.

(2) In the case of serious offences committed by a child in conflict with law, the procedure of trial in summons cases as contemplated in the Code of Criminal Procedure, 1973 shall be followed.

(3) In the case of heinous offences committed by a child in conflict with law and the person has not completed sixteen years of age, the procedure of trial in summons cases as contemplated in the Code of Criminal Procedure, 1973 shall be followed.

(4) In the case of heinous offences committed by a child in conflict with law and the person has completed sixteen years of age the board shall with the help of Professionals like Psychologists or Psychosocial experts and assess the personality traits of the child in conflict

with law and calling of a report from the Probation officer and assess the mental and physical capacity, the factors that are associated with the child for committing such offences including the probability of the child being provoked for any valid reasons.

(5) The Psychologist or the psychosocial expert shall be a clinical psychologist with adequate academic excellence from reputed institution like NIMHANS and practicing personnel either with the Government or Private Hospitals or a Private practitioner.

(6) The Board shall order the District Child Protection Society to arrange for such assessment by taking the child in conflict with law to the place where such assessment shall be made.

(7) The Board shall fix the honorarium to be paid to the professional and the payment of such Honorarium from the Odisha State Juvenile Justice Fund or from any other fund being operated by the Department of Women & Child Development, Government of Odisha.

(8) Based on the technical report and the preliminary assessment report from the probation Officer, the Board shall take a decision whether to commute the enquiry to the Children's Court or to be dealt with by it. The finding shall be recorded with the strong reasons for such conclusion.

(8) If the Board comes to the conclusion to conduct the enquiry by it, then the enquiry shall be made in accordance with the procedure of trial in summons cases as contemplated in the Code of Criminal Procedure, 1973

(9) If the Board comes to the conclusion that the enquiry shall be conducted by the Children's Court, the Board shall commute the enquiry to the Children's Court along with the records and reports from the Professional and the probation officer.

## **(21) Adjudication of enquiry**

(1) The Board shall not adjudicate the proceedings or effect final disposition of the enquiry without calling the report of the Probation Officer.

(2) The Board can also direct the Probation Officer to conduct social enquiry and furnish the report to the Board and also direct him to cause the professional/experts opinion on cases pertaining to the psychological/psychiatric problems of the child from the Juvenile Guidance Centre or if no such centre is available from any such experts.

Provided the Board, can also direct the professionals to furnish a special report about the child in conflict with law to it directly.

(3) Hearing should be like a conference. All parties concerned including the child shall sit comfortably. The enquiry shall be completed as quickly as possible and should not go beyond four months.

(4) Final hearing shall be made involving the victims and their views before arriving the disposition

(5) Disposition should be self speaking. The disposition order shall incorporate with the conditions to be followed during probation, the roles and responsibilities of borrowing agencies like treatment centers for drug abuse, counseling and guidance at the Juvenile Guidance centers or by an individual psychologist and their accountability to the board. Family and the child should also enter into an agreement by executing a bond for adopting the conditions imposed.

(6) Once the juvenile is released to the care of family upon conditions for good behaviour, probation officer shall be ordered to supervise them, who have to furnish a progress report to the board every month. The progress report of the probation officer shall be reviewed and the observation of the board shall be communicated to the probation officer for further follow-up.

- (7) Any subsequent alterations of conditions shall be informed to the probationer in writing.
- (8) If the Board decides to commit a child to any institution against the report of the Probation Officer as contemplated under section 6 of the Probation of Offenders Act, 1958 (Central Act 20 of 1958, the reasons for the same should be recorded in writing.
- (9) The board shall also direct the residential care givers to ensure any specific interventions to be provided enabling the officer in charge to respond.
- (10) Whenever a child is ordered to be released on Probation or for doing community services or to participate in group counselling or similar activities or to be released on probation of good conduct under the care of any fit person or parent or guardian or fit facility institution, the Board shall direct the Probation Officer to effect supervision as prescribed for the period and report to the Board regularly. While doing so, the Board shall satisfy that the probation conditions are very specific in nature and not in general terms alone. The specific probation conditions should find place in the Social Enquiry Report of the Probation Officer and such conditions can be prescribed in conformity with law.
- (11) The Board shall also direct the Probation Officers to effect intensive Probation supervision on specific cases whose accountability can be ensured by frequent supervision of the Probation Officer.
- (12) The Board shall explain the conditions of Probation to be followed by the Probationer and direct him to appear before the Probation Officer immediately.
- (13) Whenever the action of a child in conflict with law is due to his victimization or exploitation and such issues are brought before the Juvenile Justice Board either by the child himself or from the report of the Medical Officer or the Probation Officer, the Board shall direct the police to register a case, investigate and report for further proceedings. However, such proceedings should not delay the disposition.
- (14) In case of institutionalization in a Special Home is inevitable the Board shall record the reasons on the non-application of community based intervention. In such cases, the individual care plan shall be seen to the Special Home for necessary treatment and interventions.
- (15) the Board shall not declare any of the Children's' home or shelter homes either as a place of safety or fit institution for the purpose of keeping a child in conflict with law and no child in conflict with law shall be ordered to be kept in children' homes or shelter homes under any circumstances.
- (16) The Board shall also issue orders towards the payment of maintenance charge of a child to the officer in charge of the place of safety, which equals to the sum being paid to the maintenance of a child in a residential care institution run by NGO and receive grant-in-aid from the Department of Women and Child Development Department, Government of Odisha who shall arrange for the payment of such maintenance charge.
- (17) The Board shall maintain a list of Non Governmental Organization, fit persons etc. While preparing the list of Non-Governmental Organizations, it should be ensured that the organization is a licensed one. Department of Women & Child Development Department is duty bound to provide the list of recognized NGOs for the purpose of selection of organizations by the board.
- (18) The Board shall maintain the list of experts in the field of psychology, counselling and guidance, psychiatric institutions etc., who is willing to provide such services. The list can be prepared in consultation with the Odisha State Child protection Society under the Women &

Child Development Department, Government of Odisha . The Department of Pediatric / Psychiatric medicines of the Medical colleges/hospitals shall be recognized as nodal agencies for giving professional opinion. The State Government may establish Juvenile Guidance Bureau in each district for this purpose.

(19) If the board is satisfied on the offences committed by the child is petty offences or serious offences or heinous offences committed by a child who has not completed 18 years of age, the types of disposition options enshrined in Section 18 shall be blended appropriately to ensure the best interest of the child and also the best interest of the community and such restorative justice concept shall be applied to ensure the victims satisfaction including the possibility of victim compensation from the offending child's family.

Provided admonition shall be ordered in accordance with the provisions of Section 3 of the probation of offenders Act and shall be restricted to petty offences or serious offences that would qualify as per Section 3 of the Probation of Offenders Act, 1958

#### **(22) Victim Assistance/support**

(1) The Board in accordance with the merit of the case shall also order the either the total or portion of fine to be collected from the parent shall be paid as "compensation" to the victims.

(2) The Board shall also direct to pay victim assistances required to the victim out of crime committed by the child in conflict with law and such payment shall be made from the Odisha State Juvenile justice Fund or from any other welfare fund including the Chief Ministers Relief Fund.

#### **23. Continuation of enquiry in respect of a child who has ceased to be a child**

(1) Whenever an enquiry has been initiated against a child in conflict with law and during such enquiry the child ceases to be such, he child shall be kept in a place of safety during the period of enquiry and not in an Observation Home, till such time the enquiry is completed.

(2) In the course of adjudication process, if it is established that the child is found to have conflicted with law and the disposition is to be made under section 18, all the options except to be placed in a Special Home shall be considered.

#### **24. Time limit for investigation and disposition**

(1) The investigation agency shall complete the investigation in relation to a child in conflict with law within a period of three months so as to enable the Juvenile Justice Board to adjudicate the disposition within four months.

(2) If the police do not complete the investigation within the specified period of admissible time limit and fails to file the final report, the Board shall serve a notice to the police to be present on a day and times fixed for a final hearing and adjudicate the disposition on the basis of materials available before it.

#### **25. Participatory rights of child and enquiry procedures**

(1) As soon as a child is produced before the Juvenile Justice Board, the child shall be enquired on a one to one basis, to enable the child to participate in a proceeding which relates to him.

(2) The atmosphere of the Juvenile Justice Board shall be child-friendly. There shall be no raised dais, witness boxes etc., and the proceedings of the Board shall be like a conference in which the Juvenile Justice Board members, the child, Probation Officer, the Police Officer, the parents, the legal representative etc., shall sit informally and participate in the proceedings.

(3) The wall shall also be fitted with pictures, natural scenarios etc., to create a child friendly atmosphere to develop a positive approach.

## **26. Inspection and evaluation**

(1) The District and Sessions Judge shall be the Inspecting Officer of the activities of the Juvenile Justice Board under whose jurisdiction the Juvenile Justice Board functions.

(2) The District and Sessions Judge shall inspect the functions of Juvenile Justice Board at least once in a year and report to the State Government and the High court for follow-up.

(3) The District and Sessions Judge shall also be the Vigilance Officer for the purpose of entertaining any allegations or complaints if any made on the activities of Juvenile Justice Board or against the Principal Magistrate, Social Worker Members and other staffs of the board.

(4) The District and Sessions Judge shall arrange for a review meeting once in three months consisting of the Principal Magistrate and the members of Juvenile Justice Board, Child Welfare Committee, Police, Assistant Public Prosecutor, Deputy Director of Prosecution, Superintendent of Observation Home, Probation officers, Medical personnel etc to ensure that the children related issues are being carried out effectively

## **27. Abuse and Offences against a child in conflict with law**

(1) If the board either on enquiry or on the report of the Probation Officer or on the report of a Medical Officer, or in any other manner is satisfied that a child in conflict with law is either exploited or victimized or faced with any form of abuse and such issues are brought before the Juvenile Justice Board either by the child himself or from the report of the Medical Officer or the Probation Officer, the Board shall direct the police to register a case, investigate and report for further proceedings. Such report shall be made available to the court which entertains the complaint against the abuser or the perpetrator. However, such proceedings should not delay the disposition of the enquiry against the juvenile

Provided, in case the alleged abuser is himself a juvenile or child the Board shall proceed to deal with the said abuser as a juvenile in conflict with law”.

(2) The board shall also record the statement of the juvenile and arrange for such medical and forensic evidences to initiate medico-legal case against the adult offender. Arrangements shall also be made to take colour photograph on the injury for using it as evidence for the prosecution of the adult offender.

(3) The board shall also arrange for the counseling and guidance supports including the placement of the child in an appropriate place of safety and ordered the Department of Women & Child Development Department to pay maintenance charges, the sum which is equal to the amount being paid under grant-in-aid.

**28. Transferring of proceedings or enquiries to the Committee:** A child in conflict with law shall be referred to the Child Welfare Committee under, if the child in conflict with law is

discharged from the allegation made against him or her or acquitted and such child do not have place to stay or interested persons to take care of him or her immediately, such child shall be referred to the Child Welfare Committee after declaring the child as a child in need of care and protection and directed the child to be produced before the committee for necessary interventions

**29. Inspection of homes:** The Board shall inspect and evaluate the activities of Observation Home or a place of Safety or the Special Home at least once in a month and ensure the child's developmental needs have been adequately addressed in terms of educational and vocational requirements, behavioural management, treatment for any other diseases including the treatment for drug or substance abuse. A questionnaire shall be developed and standardized

**30. Procedure in the case of heinous crimes committed by a child:** If a child who has committed an offence which is heinous in nature and has completed the age of 16 years, the board shall order the assessment of the child's mental ability and capacity to understand the consequences of seriousness of the offences with the help of Psychologists or psychiatrists as the case may be including the personality assessment and habits and also order the Probation Officer to conduct an extensive social enquiry report to bring the facts associated with his peers, social and economic backgrounds. The social enquiry reports and the technical reports from experts shall be assessed and suitable orders shall be passed whether the enquiry against the child has to continue with the board or to commute the trial to the Children's Court

**31. Review of cases by the Chief Judicial Magistrate:** The pendency of cases before the JJB shall be reviewed by the Chief Judicial Magistrate once in three months. The review shall be to eliminate the backlogs in disposition and shall give necessary directions to the board, police and others to strictly adhere to the time limit granted under the Act. The report shall be communicated to the board and the officials to respond within 15 days from the date of report received with time bound action plan to reduce the pendency of cases.

## **32. Children's Court**

(1) In every district the Children's Court constituted under the provisions of the NCPCR Act, 2005, such Court shall conduct the trial against the children in conflict with law who have committed heinous crime and has completed 16 years of age on the day of commission of the Crime. If no such children's court is designated, the Court of Session shall be the Children's Court for the purpose of conducting trial.

(2) The Children's Court that receives the commuted cases of children in conflict with law shall decide the manner in which the trial has to be conducted. If the Court desires to conduct as in the case of adults, the reasons shall be recorded and the trial shall be commenced accordingly.

(3) If the Court decides that the trials shall be as in the case of adults, the reasons shall be recorded and the trial shall be commenced as in the case of enquiry conducted by the Board and orders shall be passed accordingly

Provided the time limit for disposition of the trial against the child in conflict with law shall be made within four months from the date of receipt of commuted case file from the Board.

### **33. Orders that may be passed by the Children's Court**

(1) The Children's Court shall after due process of enquiry or trial of the cases against the children in conflict with law as in the case of Board, the disposition options as contemplated in Section 18 of the Act shall be made and such various disposition shall be blended proportionately to ensure the offenders treatment and rehabilitation and also the best interest of the victim and the community.

(2) Children's Court shall obtain the social enquiry report from the Probation officer before the final disposition order is made and shall take into consideration of the report of the Probation Officer

(3) If the Children's Court decides to commit a child to any institution against the report of the Probation Officer as contemplated under section 6 of the Probation of Offenders Act, 1958 (Central Act 20 of 1958, the reasons for the same should be recorded in writing.

(4) The Children's Court shall also direct the residential care givers to ensure any specific interventions to be provided enabling the officer in charge to respond.

(5) Whenever a child is ordered to be released on Probation or for doing community services or to participate in group counselling or similar activities or to be released on probation of good conduct under the care of any fit person or parent or guardian or fit facility institution, the Children's Court shall direct the Probation Officer to effect supervision as prescribed for the period and report to the Board regularly. While doing so, the Children's Court shall satisfy that the probation conditions are very specific in nature and not in general terms alone. The specific probation conditions should find place in the Social Enquiry Report of the Probation Officer and such conditions can be prescribed in conformity with law.

(6) The Children's Court shall also direct the Probation Officers to effect intensive Probation supervision on specific cases whose accountability can be ensured by frequent supervision of the Probation Officer.

(7) The Children's Court shall explain the conditions of Probation to be followed by the Probationer and direct him to appear before the Probation Officer immediately.

Provided admonition shall be ordered in accordance with the provisions of Section 3 of the probation of offenders Act

(34) The Children's Court after due process of trial and enquiry of heinous crimes committed by the children in conflict with law as in the case of adult, the Children's Court shall convicted the person for the offence committed as per the penal provisions applicable to the offence and ordered to place the person in a place of safety till he attains the age of 21 years and thereafter to transfer the person to a Jail to undergo the remaining period of sentence.

Provided the person shall not be sentenced to death penalty.

#### **(34) Victim Assistance/support**

(1) The Children's Court as the case may in accordance with the merit of the case shall also order the either the total or portion of fine to be collected from the parent shall be paid as "compensation" to the victims.

(2) The Children's Court shall also direct to pay victim assistances required to the victim out of crime committed by the child in conflict with law and such payment shall be made from the Odisha State Juvenile justice Fund or from any other welfare fund including the Chief Ministers Relief Fund.

**(35) Removal of disqualification**

(1) A child in conflict with law enquired by the Juvenile Justice Board and disposition was ordered in accordance with Section 18 of the Act shall not suffer disqualification and the Board while passing final disposition shall mention specifically the protective provisions.

(2) A child in conflict with tried by the Children's Court shall suffer disqualification because of conviction ordered and sentenced by the Children' Court. Provided such person shall not suffer disqualification if the person is released on probation under the supervision of probation officer in accordance with the provisions of Probation of Offenders Act, 1958.

**(36) Destruction of records of Children in Conflict with Law**

(1) The record pertaining to children in conflict with law dealt with by the Board shall be destroyed after a lapse of appeal period or five years which ever is earlier and no reference of such records shall be considered for denial or deprivation of any benefits including the issue of pass port and consideration for employment in Government or in any other assignment.

(2) The records pertaining to children in conflict with law by the Children's Court shall be preserved in accordance with the established procedure.

(3) The Board or the Children's Court shall specifically mention in the disposition order regarding the destruction or preservation of records as the case may be.

**37. Proceedings of a run away child in conflict with law**

(1) Any child in conflict with law who run away or escaped from the observation Home or Special Home or a place of safety or under the care of fit facility or fit person an intimation shall be sent to the Board or the Children' Court that enquires/enquired the child and also to the nearest police station and the nearest Board or the Children' Court.

(2) Police shall take appropriate measures to trace the child in conflict with law and produce the child before the Board or the Court to which the police has jurisdiction under intimation to the Board or the Children's Court which has actual authority over the child. After due process of enquiry, the Board or the Children's Court shall pass necessary orders. Provided the run away from the custody shall not invite any additional proceeding

**38. Special needs of children in conflict with law**

(1) The Board or the Children's Court shall order the removal of a child in conflict with law from the Observation Home/Special Home or a Place of safety or Jail as the case may be and placed in an appropriate institutions for treatment for mental illness or psychosocial issues or addition to alcoholism or substance abuse, if such facilities are not available

(2) The officer in-charge of Observation Home/Special Home or a Place of safety or Jail shall pay the maintenance cost of the child in conflict with law including the cost of medicine if any administered to the child equivalent to the amount that could be incurred towards the child, as if the child was maintained in the institution.



(3) The treatment progress shall be periodically report to the Board or the Children's Court as the case may be and as soon as the child is recovered fully from the ailment and certified accordingly, the child shall be sent back to the institutions to which he or she was committed.

(4) The period of stay in such specialized institution shall be considered as the period spent in the institution to which the child in conflict with law was ordered to be kept by the Board or the Children's Court.

### **39. Orders that may be passed on a child from outside the jurisdiction of the Board**

(1) If a child in conflict with law hails from other State and committed an offence in the state in which the enquiry against him is initiated by a Board, the Board after due process of enquiry and conclude that the child is found to have committed an offence, the disposition shall be made for the care, treatment and rehabilitation process in the respective state from which the child hailed after obtaining the social enquiry report from the Probation Officer of the respective state and send the entire process to the Board in the respective State which has jurisdiction over the child's place of residence.

(2) In case of such transfer of cases, the Board shall order the Special juvenile Police Unit to cause necessary arrangements towards the journey of the child with proper escorts. Provided if a female child is to be transferred, the child shall also be accompanied by a female escort in addition to the male escorts for the proper safety and security

(3) The escort party shall produce the child before the Board in the respective state and obtain necessary acknowledgement for the proper handing over of the child is made and the same shall be produced before the Board which has ordered the transfer of the Child.

### **40. Premature release**

(1) A child in conflict with law who has been committed to Special Home or to a place of safety by the Board shall be considered for the premature release or absolute release after spending 1/3 of the period committed and subject to supervisions by the probation officer upon the promise of good behavior and agreed to abide the conditions if any to be imposed by the Board.

(2) Either the absolute or premature release shall be considered under the following circumstances

(i) the child in conflict with law has shown exemplary positive attitudes and behaviours and his institutionalization shall not be necessitated further based on the report of the Officer in-charge of the institution and the report from the professionals like Psychologist or Psychosocial therapist.

(ii) the child in conflict with law has been eliminated from his undesirable behaviours such as addiction to drug or alcohol and has been showing emotional stability

(iii) the child has maintained good track record of education, life skills and livelihood training and such proficiency shall help him or her to get employability

(3) If a child in conflict with law is released without proper rehabilitation and found that he has been showing the same attitudes and behaviours that were existed at the time of his committal shall be brought back to the institution and in such cases the period spent outside the institution shall be extended as period of committal.

#### **41. Appellant Authority**

(1) The District and Session Judge shall be the appellant authority in respect of matters dealt with by the Board. If two or more district Session Judges is in the district, the Principal District Sessions Judge shall be appellant authority

(2) The High Court shall be the appellant authority in respect of matters dealt with by the Children's Court

#### **42. Power to amend the orders of placement of institutions**

Subject to the provisions of appeal or revision, the Board or the Children's Court shall amend its own orders relating to revision of placement of children in any of the residential facilities such as Special Home or Place of safety of fit person or fit facility made earlier and shall alter the placement of children to any of the institution on special circumstances on an application filed in this behalf either by the parent or guardian or the authority of any institution to which the child in conflict with law was previously ordered to be placed. Provided such revision shall be made once and shall not be made often.

#### **42. Reports Confidential**

The social enquiry report obtained from the probation officer or through any other person authorized under the Probation of Offenders Act to furnish such report either by the Board or the Children's Court shall be confidential and such reports shall be always kept in a sealed cover in the case file and such report shall not be governed under the RTI Act.

The report on supervision shall be shared by the Board or the Children's Court provided such disclosure shall ensure the child's well being

## CHAPTER- IV

### CHILD IN NEED OF CARE AND PROTECTION

#### 43. Constitution of the Child Welfare Committee

(1)The Committee shall consist of a Chairperson and four other members as the State Government may think fit to appoint, on the recommendation of the committee constituted for this purpose under rule 16 of whom at least one shall be a women, and another an expert on matters concerning children.

(2)The Child Welfare Committee shall be a Bench of Magistrate and every such bench shall have the powers conferred by the Code of Criminal Procedure, 1973, on a Metropolitan Magistrate or a Judicial Magistrate.

#### 44. Tenure of the Child Welfare Committee

(1) The Chairperson and Members of Child Welfare Committee shall hold office for a period of three years from the date of appointment.

“Provided that an existing members shall continue to hold office until his / her Successor assumes charge (or) for a period of 3 months from the date of completion of his / her tenure, whichever is earlier” with in three months new committee should be constituted.

Provided further if no such committee is constituted within three months of expiry of the it, the High Court of Orissa shall constitute an Adhoc Committee till such time the regular committee is constituted.

(2) The Chairperson and Members of Child Welfare Committee shall be eligible for appointment for a maximum of two terms and shall not be more than 65 years of age at the time of first or second appointment.

#### 45. Qualification of the Chairperson and Members of Child Welfare Committee

(1) Any person to be appointed as a Chairperson and Members of Child Welfare Committee should possess a Bachelor’s degree of a recognized University as educational qualification. Preference shall be given to persons having a degree in any one of the Social Sciences such as Criminology, Psychology, Sociology, Social Work, Economics, Home Science, Education, Political Science, and studies pertaining to women, Rural Development, Law or Medicine.

(2) The Chairperson and Members of Child Welfare Committee shall have at least seven years of active involvement in health, education or welfare activities pertaining to children.

(3) Practicing professional in the filed of Psychology, Psychiatric treatment or practicing law and Medicine shall also be eligible for appointment provided such persons should given and undertaking tat shall participate in the Board proceeding regularly not less than 1/3 of the period in a month.

#### 46. Eligibility criteria

- 1) The applicant on the first July of the year in which the application is called for shall not be less than 35 years of age and must not have completed 65 years age.

- 2) The application shall become ineligible if the person has applied for more than one district. However, the applicant shall apply for the position in JJB or Child Welfare Committee.
- 3) If he or she is selected for a position in JJB CWC he or she has to relinquish either of the one
- 4) The applicant shall not be an active political functionary
- 5) The applicant is not eligible for consideration if any case is pending in any of the criminal court in the Country or in abroad
- 6) The applicant is also not eligible for consideration if any civil suit is pending against him either in India or in abroad
- 7) The applicant shall be the permanent resident of the respective district or the distance between his place of resident and JJB/CWC shall not be more than 30 kms.
- 8) Faculty members of any discipline shall be eligible to apply provided the academic institution has given an undertaking to spare his services for the purpose of serving in the Board or the Committee
- 9) The applicant shall not be an office bearer or staffs of residential care institutions, Childline service providers, adoption Centres etc.
- 10) The applicant shall not hold similar positions in any other Government bodies/departments
- 11) No member of child care organization who has been running and maintaining child care institutions and involving in adoption related issues shall not be considered for selection. The same criteria shall also be applied in respect of those who are running and maintain child care institutions under the provisions of the Act of 2015

#### **47. Selection of the members of the Committee**

(1) The selection of Chairperson and Members of Child Welfare Committee shall be made by a selection committee, consisting of the following persons, namely;

- |  |   |             |
|--|---|-------------|
| (a) Principal District & Sessions Judge                  | - | Chairperson |
| (b) District Collector                                   | - | Member      |
| (c) Commissioner of Police/Dist Superintendent of Police | - | Member      |

(2) The selection committee shall be assisted by experts\_in the field of child development to identify the committed person to hold the position of a member in the Juvenile Justice Board.

(3) The expert may be drawn from an academic in the area of criminology, sociology, social work and child development including child rights activists and psychologists

(4) Calling of application for the selection shall be made by the District Child Protection Units through website, advertisement in electronic and print media, Radio announcement etc. Display of the advertisement may also be made in the Collectorate of the concerned district, Revenue Divisional Office, Block Development Office etc.

- (5) The website should define the roles and responsibilities, qualification for the members, the age limit prescribed; the honorarium and such other information enabling the eligible persons alone apply for the position. An application form shall be devices for this purpose
- (6) In order to prevent the conflict of interest no member of child care organization who has been running and maintaining child care institutions and involving in adoption related issues shall be considered for selection
- (7) Individuals shall send their nomination to the selection committee for consideration through the Directorate of Odisha State Child Protection Society
- (8) Selection of members shall be made through personal interview. Necessary guidelines shall be formulated for this purpose
- (10) As soon as the selection process is over, the selection committee shall prepare a panel of not more than fifteen names identified from willing and competent persons to be considered for the appointment as Chairperson and Members of Child Welfare Committee
- (11) The Government shall appoint the Chairperson and Members of Child Welfare Committee, only from the list of persons recommended by the selection committee headed by the Principal, District and Sessions Judge and no person shall be eligible for appointment unless he is recommended by the selection committee.
- (12) The selected chairperson and members shall be directed to sign an agreement or a memorandum of understanding which should spell out the duties and function, honorarium, accountability and the action for non-compliance etc.

#### **48. Disqualification of** Chairperson and Members of Child Welfare Committee

(1) A person shall not be appointed as Chairperson and Members of Child Welfare Committee if he/she-

- (i) has involved in any criminal offences or has been convicted previously;  
or
  - (ii) is an active political worker; or
  - (iii) is guilty of domestic violence or child abuse etc.,; or
  - (iv) is aged less than thirty five years.
- (2) (a) The Chairperson and Members of Child Welfare Committee shall not hold any office as "*Full time employee*" in any capacity in any of the Non-Governmental Organization or in a Government department or Public Sector. Provided, the employer is willing to spare the individual No-objection Certificate from the employer shall be obtained and produced at the time of interview and such NOC shall be submitted each time if the employee switchover from one job to another.
- (d) The Chairperson and Members of Child Welfare Committee shall not be an employee or officer bearer of an organization which promotes in-country or inter-country adoption or providing residential care to children

#### **49. Termination of appointment as Chairperson and Members of Child Welfare Committee**

(1) The tenure of Chairperson and Members of Child Welfare Committee may be terminated by the State Government at any time, if –

- (a) He has been found guilty of misuse of power vested under this Act.
- (b) He has been convicted of an offence and such conviction has not been reversed or he has not been granted full pardon in respect of such offence.
- (c) He fails to attend the proceedings of the Committee for a month consecutively without any valid reason or he fails to attend less than three-fourth of the sittings in a quarter.
- (d) Holding the position in Juvenile Justice Board either within the district or other district or a Member of Board in any of the district

#### **(50) Filling up of vacancies**

(1) Every casual vacancy of the Chairperson and Members of Child Welfare Committee shall be filled up by appointment of another member who shall hold office for the remaining period of tenure of the member in whose place he is appointed. Appointment to a casual vacancy shall be made by the Government from the panel of names earlier recommended by the Selection Committee for appointment to the regular vacancies.

(2) Any Chairperson and Members of Child Welfare Committee may resign at any time by giving three months advance notice in writing to the State Government.

#### **(51) Training and Orientation**

(1) All the members shall be given training / orientation on National and International instruments on children related issues, National Policies on children, handling the affairs of child in conflict with law in relation to admission of petition or processing bail application and sanction interim order, recording of statements including Section 164 CrPC, writing disposition orders, child psychology, child rights, child welfare etc., for a period of not less than 5 days, either prior to or soon after their assuming office by the National Law University Odisha or by Judicial Academy

(2) The Chairperson and the Members of the Child Welfare Committee shall be paid Honorarium and Traveling Allowance as the Government may fix from time-to-time”.

#### **52. Time and place of sitting of the Committee**

(1) The Committee shall hold its sitting in the premises of the Children’s Home or at any place as may be specified by the State Government in this behalf. The Committee shall hold its sitting for five days in a week commencing from Monday to Friday between 10.30 a.m. and 1.00 p.m. However, the sitting time may be extended by the Chairperson in case of any important business to transact.

Provided that the Committee may hold its sittings in any place other than its scheduled place of sitting for the benefit of the children hailing from different blocks within its jurisdiction, as camp court sittings

(2) The proceedings of the Committee shall not become invalid for the absence of any of the member during any stage of proceedings.

(3) The final disposition of the enquiry shall be passed by at least three members of whom one shall be the Chairperson.

(4) In case of difference of opinion in the process of disposition, or interim order if any to be made, the opinion of the majority shall prevail, but, where there is no such majority, the opinion of the Chairperson shall prevail. In such issues, the Chairperson shall record in writing the circumstances that led to take the final decision.

### **53. Proceedings of the Committee**

- (1) The Committee shall observe such rules of procedures in regard to the transaction of business at its meetings as contemplated in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).
- (2) The Committee shall hold its sitting in the premises of the Children's Home or at any other place as may be prescribed by Government. The Committee shall hold its sitting for three days in a week on Tuesday, Thursday and Friday between 10.00 a.m. and 5.00 p.m. However, the Chairperson in case may extend the sitting time for any important business to transact.
- (3) The proceedings of the Committee shall not be invalid for the absence of any of the member during any stage of proceedings.
- (4) The final disposition of the case of enquiry shall be passed by at least three members of whom one shall be the Chairperson.
- (5) In the absence of the Chairperson of the Committee in a particular sitting, the members present may elect a chairperson from among themselves for conducting the business of the committee for that sitting.
- (6) In case of difference of opinion in the process of disposition, or interim order if any to be made, the opinion of the majority shall prevail, but, where there is no such majority, the opinion of the Chairperson shall prevail. In such issues, the Chairperson shall record in writing the circumstances that led to the Chairperson to take the final decision.
- (7) A child in need of care and protection may be produced either before the Chairperson or any one of the member even in his house when the Committee is not sitting.
- (8) If a child in need of care and protection in the opinion of the committee is in need of legal services, it is the accountability of the Chairperson or the member to inform that the facilities of the Legal Services Authority is available free of cost and the same shall be recorded that the child and his or her representative has been informed,

### **54. Mandatory reporting and follow-up action**

- (1) Any individual or a police officer or any functionary of any organization or a nursing home or a hospital or maternity home who or which finds an abandoned or uncared child shall report to the Child Welfare Committee or to the District Child Protection Unit or to the nearest police station or to child line services.
- (2) On receipt of such information, the police officer or the Child line service providers or the District Child Protection Unit shall take charge of the child and produce the child before the Committee within twenty four hours of taking charge of the child.
- (3) If the place of abandonment of a child is far away from the accessibility of Childline providers or the District Child Protection Unit, such information shall be provided to Police Control room which in turn shall arrange for taking charge of the child and produce before the Child Welfare Committee.

- (4) No child shall be handed over to child care organization or individual by any other authority without the proper approval of the Child Welfare Committee
- (5) If a child is received by any organization under extraordinary circumstances without approval from the committee shall make intimation to the committee and also to the police station in which jurisdiction the child was taken possession and produce before the Committee within twenty hours of taking possession of the child
- (6) Any Nursing home or hospital or maternity Centre whether run by Government or by private shall make intimation to the Committee and also to the police regarding the abandonment of a child within the premises with the details available.
- (7) No child shall be handed over to any organization by the Nursing home or hospital or maternity Centre without the consent of the Committee and the hospital authorities are duty bound to produce the child before the committee or intimate the existence of the child if the committee is not accessible to them.
- (8) Hospitals or Nursing Homes or Maternity Centres or District Child Protection Unit or any other Authority or officials before taking possession of the child shall take colour photograph at the place of abandonment and quick assessment shall be made and such assessment report along with the photograph of the child shall be produced before the Committee
- (9) Any omission or commission on the part of the hospital shall be viewed as abetment of trafficking of child and shall be considered abetment of trafficking and penal action shall be initiated.
- (9) No hospital is entitled to collect fee for the maintenance of abandoned child
- (10) Any NGO that receives intimation regarding the abandonment of the child shall make intimation to any one of the member of the Child Welfare Committee prior to taking charge of such child from the hospital.

#### **55. Procedure in the case of taking charge of a child in the risk of marriage**

- (1) If information is received regarding the risk of a child being given in marriage by the parent or guardian, such child shall be taken charge by any person or official authorized to take possession of a child in need of care and protection and such child shall be produced before the Committee. The committee after personal enquiry with the child and others and satisfied that the child shall be sent to residential facility upon direction to Child Marriage Prohibition Officer to enquire and investigate in accordance with the provisions of the Prohibition of Child Marriage Act, 2006.
- (2) The Child Marriage Prohibition Officer shall take appropriate steps as deemed fit in accordance with the provision of the Prohibition of Child Marriage Act, 2006

#### **56. Proceeding of the Committee in case of children engaged in child labour**

- (1) A child who has not completed 14 years of age and is employed in hazardous labour shall be rescued or taken possession and produce before the Child Welfare Committee as a child in need of care and protection.
- (2) The Committee upon enquiry and recording the statement of the Child shall fix the age of the child
- (3) Medical examination shall also be ordered to ensure that the child has no physical abuses in the past also and based on such medical examination shall pass appropriate orders for the safe placement of the child
- (4) The Committee shall also direct the Labour Inspector or any other official to initiate prosecution procedure against the employer and furnish report to the committee periodically.



(5) If the child was in bondage, the Committee shall record its finds and direct the authorities concerned to provide relief under the provisions of the Bonded Labour System (Abolition) Act, 1976

(6) The Committee shall not restore the child to the care of parent or guardian without any legal initiatives against the perpetrators or employers for the violation of child rights and the provisions of Labour laws.

## **57. Proceedings of the Committee**

(1) The Committee shall perform the following functions to achieve the objectives of the Act, namely:-

- (a) Take cognizance of and receive children produced before the Committee;
- (b) Decide on the matters brought before the Committee;
- (c) Conduct necessary inquiry on all issues relating to and affecting the safety and well being of the child;
- (d) Direct the Probation Officer to conduct social inquiry and submit a report to the Committee;
- (e) Ensure necessary care and protection, including immediate shelter;
- (f) Ensure appropriate rehabilitation and restoration, including passing necessary directions to parents or guardians or fit persons or fit institutions in this regard, in addition to follow-up
- (g) Direct the Officer-in-charge of children's homes to receive children requiring shelter and care;

## **58. Age determination**

(1) The age of the child shall be determined as soon as the child is produced. In case of any doubt or dispute with regard to the age of the child, the committee shall pass an order to obtain either

- (i) a birth certificate issued by the competent authority; or
- (ii) a certificate regarding the date of birth , from a school attended by the child; or
- (iii) Matriculation or equivalent certificate, if available; or
- (iv) In the absence of any other certificate referred to in item (i) to (iii) above, the opinion of the medical experts such as radiologist or any other competent experts fixing the age of the child under question subject to a margin of one year.

Provided while passing orders in such cases, the committee shall after taking into consideration of such evidences as may be available or the medical opinion, as the case may be, record its findings in respect of the age of the child.

Provided that in case of any doubt on the genuine of the certificate produced as proof of age, the committee may direct the Probation Officer to make necessary enquiry and submit a report.

## **59. Functions of Committee**

(1) The child may be ordered to be kept in children's home or fit institution or fit person till such time the enquiry is completed. The placement order shall be filled in properly without omission and any correction shall be endorsed with signature and seal.

(2) The Committee shall also issue orders towards the payment of maintenance charge of a child to the officer in charge of a fit institution or a fit person or a place of safety which equals to the sum being paid to the maintenance of a child in a residential care institution run by NGO with the support of the grant-in-aid from the Department of Women and Child Development. The Director of Odisha Child Protection Society shall arrange for the payment of such maintenance charge

(3) If a child is unable to provide information leading to the identification of family, the committee shall authorize the Probation Officer to publish news about a child in electronic and print media and also in radio to identify the parents or legal guardian of the child, keeping in mind the reunion of the child with the family is paramount important. The Committee shall also authorize the Probation Officer to share such information with the police department (Missing person unit)

(4) The committee shall also arrange for counseling and guidance services and support including the placement of a child in an appropriate place of safety.

(5) If the committee is of the opinion that restoring the child to the care of parent or guardian would not facilitate the development of a child or the child is refused to go with them or reasons to believe that the parent or guardian are very bad in character leading to abuse and exploitation of the child, such restoration should not be made without proper enquiry.

(6) (a) If the committee either on enquiry or on the report of the Probation Officer or on the report of a Medical Officer, or in any other manner is satisfied that a child in need of care and protection is either exploited or victimized or faced with any form of abuse and such issues are brought before the committee either by the child himself or from the report of the Medical Officer or the Probation Officer, the committee shall direct the police to register a case, investigate and report for further proceedings. Such report shall be made available to the court which entertains the complaint against the abuser or the perpetrator. However, such proceedings should not delay the disposition of the enquiry against the child.

(7) The committee shall also record the statement of the child and arrange for such medical and forensic evidences to initiate medico-legal case against the adult offender. Arrangements shall also be made to take colour photograph on the injury for using it as evidence for the prosecution of the adult offender. The Committee shall also arrange for the counseling and guidance supports including the placement of the child in an appropriate place of safety.

(8) If a child produced before the committee is known as a sexually abused child, the committee shall direct the medical authorities to examine the child in accordance with Section 164-A of Criminal Code Procedure and the guidelines formulated for medical examination of children and send the report in a sealed cover. While examining the child, the provisions of POCSO Act, 2012 shall be followed including the provisions of support person and safe placement.

9) While enquiring a child the member should be satisfied that the child was not kept in Police lock-up or jail prior to the production of the child before the member, and that the child is produced before the committee within 24 hours of taking charge of the child, excluding the time required for travel from the place where the child was found to the place of production of the child before the member

(10) The Committee should also satisfy that, the child has not been subjected to ill treatment or harassment either by the Police or by any other person, who takes charge of the child for the purpose of bringing before the Child Welfare Committee.

(11) The Committee may release the Child to the care of parents, guardian, Fit person, Fit institution, or recognized NGOs with an undertaking till such time the final disposition is made.

(12) The Child Welfare Committee shall also refuse temporary custody of the child to parents for the reason recorded in writing, if the release is against the best interest of the child.

(13) The Committee shall conduct the proceeding in an informal way to ensure that the child's interest is of paramount importance.

(14) The Committee shall initiate action against any media for publishing any matters relating to the children in need of care and protection, which would affect the best interest of the child.

(15) The Committee shall enquire the child in need of care and protection and shall record the statements in accordance to the procedure as laid down in the Code of Criminal Procedure, 1973.

(16) The Committee shall if at any stage during the cause of the enquiry is satisfied that the attendance of the child is not essential for the purpose of enquiry, may dispense with his attendance and proceed with the enquiry in the absence of the child.

(17) The Chairperson or member of the Child Welfare Committee either on its own motion or through any report may enquire any Child alleged to have been abused or a child with special needs at his place of stay in the Children's Home, Shelter Home, or Fit institution and initiate appropriate action.

(18) The committee shall not adjudicate the proceedings or effect any disposition of the enquiry in the matter of abused children or the victim of trafficking without calling for the report of the Probation Officer or any other person empowered to conduct social enquiry"

(19) The Committee can also direct the Probation Officer or any other person empowered to conduct social enquiry to conduct such enquiry and furnish the report to the Committee.

(20) Professional bodies like Departments of Pediatric Psychiatric Medicine of the Medical Colleges or Hospitals, Departments of Psychology or Criminology of Universities or any other expert body may be recognized as nodal agencies for giving professional opinions. The Committee may direct the said professional bodies to furnish a special report about a child in need of care and protection.

(21) The Committee shall maintain a list of experts and reputed institutions in the field of psychology, counseling and guidance, psychiatry and an empanelled list of language interpreters who are willing to provide such services. The list can be prepared in consultation with the District Child Protection Unit and the Directorate of Odisha State Child Protection Society

(22) Whenever a child is ordered to be restored to the care of parents or guardians or fit person to participate in group counselling or similar activities or to be restored under the

care of any fit institution, the Committee shall direct, the Probation Officer to effect supervision during such period and report to the Committee regularly. While doing so, the Committee shall satisfy that the follow-up conditions are very specific in nature and not in general terms. The specific follow-up conditions should find place in the Social Enquiry Report of the Probation Officer and such conditions can be prescribed in conformity with law.

(23) The Committee shall also direct the Probation Officer to effect intensive follow-up on specific cases whose accountability can be ensured by frequent supervision.

(24) The Committee shall also ensure that while restoring a person and put on follow-up, the parents should enter into an agreement with the Probation Officer, that he will adhere the follow-up conditions. Whenever the residence of the child falls outside the jurisdiction of the Child Welfare Committee, the Child Welfare Committee while ordering the follow-up shall communicate such orders to the Child Welfare Committee of the respective jurisdiction for further action.

(25) Whenever a child is ordered to be placed in a Children's Home, the Child Welfare Committee shall substantiate the reasons for the non-application of community - based assistance. The placement of a child in an institution shall be for the shortest possible duration so as to prevent a child, delinking from the family.

(26) After completion of the enquiry, if the child is under orders to continue in the Children's Home the committee shall carry out two reviews after three months each, and thereafter an annual review every year, to monitor the progress of the child in the Home.

(27) To ensure the accountability and fulfill the responsibility as parents to protect and maintain their child, the Child Welfare Committee shall direct the parents or guardian to take charge of their children with appropriate directions and ensure that the Child's rights are protected and assess the progress of the child calling supervision report from the probation officer in cases that warrants such follow-up.

(28) If the parents / guardian insist that a child shall be placed in an institution, the parents/guardians shall be directed to pay maintenance charges being fixed by the committee. Provided, admission of children without maintenance charges shall be restricted to children who had been abused, orphans, destitute and deserving children from single parent family and the children of chronically ill persons who are unable to earn their livelihood due to incapacitation.

(29) The committee shall direct the parent or guardian to pay maintenance charges, which is fixed on the basis of the socio economic status of the family.

(30) In all cases of reported abuse, the Committee shall ensure that medical - Check up of the child is carried out and details of physical, mental, verbal or any other type of abuse, if any, be recorded and appropriate legal action regarding the said abuse is taken.

(31) In all other cases, the Committee may direct a Medical Officer or any medical institution to undertake appropriate medical examination in respect of a child and furnish a report for follow-up". The Committee and the medical hospital shall refer such reports to the competent judicial court for necessary action

(32) If the Child Welfare Committee either on enquiry or on the report of the Probation Officer or on the report of a Medical Officer, or in any other manner, is satisfied that a child produced before it has been abused by an adult, either physically or sexually or in any other manner the committee shall direct the police to file an FIR, investigate the case and take

necessary further action as per Law. The Committee shall also direct the Police to furnish to it, a status report on the case periodically.

Provided in case the alleged abuser is a child the Committee shall direct the Police to investigate the case and also refer the matter to the Board for further proceedings.

(33) If a medical authority examine a case comes before him or her for non-accidental injuries or any form of sexual exploitation, either directly for medical intervention or through referral, the authorities shall conduct the medical examination and the details shall be informed to the Child Welfare Committee. However, the medical report shall be sent to the Children' Court. The medical authorities shall be to the child, the family and the referral agency regarding the importance of making intimation

(34) When a child is produced before the Committee, members of the committee shall ensure that the proceedings of the committee are carried out in a language that the child understands or arrange for an empanelled interpreter to help the child understand the proceedings.

(35) The Child Welfare Committee shall send a child in need of care and protection to any such organization which receives grant from the Government or not and refuse to admit the child ordered to be placed in the respective institution is acting against the judicial order

#### **60. Functions of Committee in relation to abandoned children**

(1) Whenever an abandoned or orphaned or destitute child or infant is to be placed on adoption, the Child Welfare Committee, after due enquiry and process, shall declare the child/infant as legally free for adoption. No child or infant shall be placed on adoption without a certificate carrying such a declaration from the Child Welfare Committee. The certificate shall be valid if is signed by at least three members of the Committee including the Chairperson / acting Chairperson.

(2) Before issuing a certificate declaring a child/ infant legally free for adoption, the Child Welfare Committee shall obtain a declaration from the placement agency stating that there has been no claimant for the child/ infant even after publishing notifications in at least two leading newspapers (one national and another a regional language newspaper), announcements over television and radio and after waiting for a period of one month. This one month period will run concurrently to the enquiry to be conducted by the Child Welfare Committee.

(3) The publication of photograph shall be made in the source district with the details of the exact location from where the abandoned child was found and with specific mention regarding the date and time of rescue. The text of publication shall be approved by the Child Welfare Committee before it is published in the local magazines and also in the electronic media.

(4) The Child Welfare Committee shall obtain a report before the probation officer from the source district before taking decision on the petitions filed by the Adoption Agency.

(5) Child Welfare Committee shall admit the petition filed before it for consideration, if the documents are properly arranged and the requisite documents are submitted or otherwise the petition shall be dismissed and the agency shall file fresh petition subsequently.

(6) The adoption agency shall file its petition in the place where it functions physically and not before the source district from where the child was brought to the agency.

## **61. Procedure in the case of surrendered child**

(1). Any parent or guardian who voluntarily surrenders his/her right over the child/children in various circumstances shall execute a bond in a non-judicial stamp paper in the presence of Child Welfare Committee.

(2) Such a surrender deed shall explain the reason for surrender and other relevant information about the child/infant. It shall be written in the regional language. The document shall contain the information the parent or the guardian has a right to revoke the surrender deed within 60 days from the date to execution of the said deed.

(3) The Probation officer or the Protection officer of the District Child Protection Unit shall counsel the parents or guardian, explaining the consequences of adoption and explore the possibility of parents retaining the child and shall submit a report to the Committee in this context

(4) Prior to the execution of the deed of surrender, the Child Welfare Committee shall satisfy itself about the genuineness of the surrender after examining the person surrendering the child and ensure that the surrender is done voluntarily. While doing so, the Child Welfare Committee shall explain the implications of executing the surrender deed to the person (s) surrendering the child.

(5) If a surrender deed is executed by any one of the parent, in such cases the person who executes the deed should declare the present position of the other parent. In such issues, the report of the Probation Officers shall be called for by the Child Welfare Committee and the procedure relating to the abandoned children shall be followed if the child is surrendered without the knowledge of the other parent.

(6) If a child is surrendered by a guardian, such guardian shall produce necessary documents in relation to his guardianship and his relationship with the child. If the child has biological parent, the guardian shall not surrender the child. If both the parent is not alive and the guardian surrenders the child, the Committee shall call for a report from the probation officer regarding the socio economic status of the guardian and the surrender child's parents to ensure that the child has no moveable or immovable property in the name of the child's parents or in their undivided Hindu family and the surrender has been made because of inability of the guardian to provide care and protection.

## **62. Time limit for the process of declaring a child is legally free for adoption**

The Child Welfare Committee shall make an order declaring a child legally free for adoption within a period of two months in case of children below the age of 2 years and four months in the case of children above that age from the date of making the application.

## **63. Procedure for adoption**

No abandoned child shall be offered in adoption unless it is declared legally free for adoption by a Child Welfare Committee. In the case of surrendered children/infants, the process shall be given effect to after the permissible period of two months time for reconsideration by the parent (s) is completed. In all issues concerning a child to be placed on adoption, the consent of the child shall be taken into consideration, if the child can understand and is able to express his/her opinion.

#### **64. Procedure in the case of sexually abused children**

- (1) Whenever a child appears or being produced before it, and upon interaction with the child or otherwise is suspected to have been abused sexually, the Child Welfare Committee shall make specific direction in the prescribed format to the medical authorities to conduct medical examination of the child as required under Section 164-A of Criminal Code Procedure and furnish the report confidentially.
- (2) Upon receipt of such reports, the Committee shall make a report to the designated Special Court regarding its observation, statements recorded from the child, medical reports and also any other relevant documents available with it to take cognizance of the case by the Special Court and simultaneously direct the police to register a case of child abuse. The direction to police shall also be based on its observation, medical reports etc.
- (3) In case of placing the abused child in safe place, the committee shall pass appropriate direction with the intimation to the Special Court. The committee shall not restore the child to the care of parent or guardian or ordering the placement in any other places without the consent of the Special Court.
- (4) While placing a child to the care of any residential care institution or to the care of fit facility institution, specific instructions have to be issued to maintain the right to privacy and confidentiality of the child and should not permit any person or authority to interview the child without the consent of the Special Court. The staffs should also ensure the right of the child and not to reveal any information to outsiders. The superintendent or any other competent authority of the institutional management is personally responsible on the omission and commission on the part of the staffs in the institution. Instructions are therefore to be given to ensure all the precautionary measures to be adopted to protect the interest of the child. The placement order should be attached with the conditions to be followed to ensure the safety, security and right of privacy by the institutional authorities.
- (5) Whenever the child welfare committee receives a report from Police regarding the sexual abuse of any nature as defined in Section 3, 5, 7, 9, 11 and 13 of the POCSO Act, 2012, the Child Welfare Committee has to nominate a support person to help the victim child in the process of police interrogation, medical examination, recording of statements of the child and also to assist the child during trial by the Special Court.

- (6) Any support person authorized by the Child Welfare Committee should always carry the original authorization letter issued by the Child Welfare Committee duly seal affixed.
- (7) The Family or the child has the right to have their own support person and the right of accepting the person designated as support person by the Child Welfare Committee laid with the child and the child's family and it is not necessary that it is mandatory for the committee to nominate.
- (8) Whenever, the Committee receives complaints of child abuses of any nature is taking place or there are rumors of such incidents and the creditability of such organization or institution is questionable, the Committee could direct the police or the District Child Protection Unit to investigate and report and the committee. Upon such enquiries, if the committee comes to the conclusion that such incidents have been taken place, the Police could be directed to initiate criminal proceedings and make the report to the Special Court.
- (9) The support person shall also be designated cautiously and such person shall also sign an MOU that he would not reveal any information, maintain confidentiality and would not pass information to the offenders' family or others and in case of such incidents proved on a later date, he might be considered as conspirator of the crime and criminal action will be initiated against them for such deviant actions.
- (10) The support person need not requires filing any status report to the Child Welfare Committee or to any other authority except accountable to the court concerned.

11. The services of the nominated Support person shall be dispensed with if the services of the person are not required either by the child or by any other authority. In such circumstance, the Child Welfare Committee shall issue order dispensing his or her nomination as support person.

(12) While issuing direction, the Committee shall specify through an order that the person could not attempt to contact the child or his family or having any contact with the accused and share information and such actions would amount to legal actions against him or her.

## **65. Legal and services in Child Welfare Committee**

The Child Welfare Committee shall have an empanelled list of lawyers and social workers who may assist the committee in dealing with cases of abused children and who may also interface with the Public Prosecutor to facilitate legal services to the abused children, when the cases relating to such children are taken up in regular criminal courts.



## **66. Secretariat Assistance to the Committee**

The Odisha State Child protection Society shall ensure that every Child Welfare Committee shall be assisted by one Protection officer exclusively to attend secretariat and other relevant works. Such Protection Officer shall be appointed in addition to the already existing Protection officers in the District Child Protection Unit. District Child Protection Unit shall depute one Protection officer to assist the Child Welfare Committee on secretariat work.

## **67. Transfer from one state to another**

(1) If a child during enquiry is found to have hailed from any other State, the Committee shall examine the Child with the help of a translator or interpreter or otherwise and determine the exact state from which the child has come.

(2) The factual verification shall be made based on the material evidences or information collected from the State with the help of Police or probation officer and should ensure that the child was not a trafficked child.

(3) if the authenticity of place of origin or the residence of the parent or guardian is established, the child Welfare Committee shall orders the transfer of the child along with its findings to the committee which has jurisdiction over the place of residence of the child's family for necessary rehabilitation.

(4) if the child is a trafficked and exploited, the committee shall direct the Anti-Trafficking police unit to take appropriate legal proceedings against the perpetrators, employers and the facilitators.

(5) The Child shall be transferred to the respective state's Committee after the police complete their investigation within fifteen days

(6) The Committee shall direct the Special Juvenile Police Unit to arrange for escorts to handover the child in the destination within fifteen days.

(7) The Child Welfare Committee shall direct the Officer-in-Charge of Children' s Home/Shelter Home to arrange for the safety and security of the child during transportation.

(8) The expenditure to be incurred on the part of a child towards maintenance during transit should not exceed the amount equal to the amount spent in an institution on him towards maintenance.

(9) The Traveling Allowance shall be paid by the Department which is in charge of Juvenile Justice in the State to the escort staff and the child

(10) Girl child shall be escorted by a woman only.

## **68. Inspection and Evaluation**

(1) The functions and responsibilities of Child Welfare Committee are judicial pronouncement exercising the powers of a Metropolitan Magistrate of the Judicial Magistrate of the First Class as the case may be and the appellant authority in matters of disposition by the committee is the District Sessions Court.

(2) The Chief Judicial Magistrate shall be the Supervisory Authority and Inspecting Officer of the Child Welfare Committee who shall review the functions of the Committee and no other administrative authority shall review the functions of the committee and the orders pronounced by it.

(3) The Chief Judicial Magistrate shall inspect the functioning of the Child Welfare Committees at least once in a three months and report to the State Government and High Court.

(4) The Chief Judicial Magistrate shall be the Vigilance Officers for the purpose of enquiring into any allegation or complaints pertaining to the functioning of the Child Welfare Committees or the Chairpersons or members of such Committees”.

(5) The Chief Judicial Magistrate shall convene the meeting of Chairperson and members of Child Welfare Committee, Police Officers, Probation Officers, District Social Welfare Officer and such other officials and the officers in-charge of residential service providers of Government and other recognized children’s home run by NGO under the Act and ensure that the holistic development of children has been ensured by all stakeholders within the frame of law and in the best interest. This meeting shall also review the disposition of enquiries, allegation against the committee.

## CHAPTER V

### STANDARDS OF CARE FOR INSTITUTIONS

**69. Establishment of Observation Homes:** In every district or for a group of districts the State government shall either by itself or through voluntary or non-Governmental organizations establish and maintain Observation Homes in accordance with the provisions of Section 47 to ensure the care, treatment, protection and developmental process of children in conflict with law during pending enquiry before the Juvenile Justice Board.

(70) **(1) Establishment** of Special Homes: In every district or for a group of districts the State government shall either by itself or through voluntary or non-Governmental organizations establish and maintain in accordance with the provisions of Section 48 to ensure the care, treatment, protection and developmental process of children in conflict with law committed towards their rehabilitation by the Board for a period as specified in its order.

(2) Every Observation Home and Special Home shall set up facility for providing treatment for alcoholism and Substance (drug) abuse in accordance with the guidance formulated by Government under the Ministry of Social Justice & Empowerment and financial support from it

**71 Place of safety:** (1) In every district or for a group of districts the State government shall either by itself or through voluntary or non-Governmental organizations establish and maintain “**Place of safety**” in accordance with the provisions of Section 49 to ensure the care, treatment, protection and developmental process of children in conflict with law who are above the age of eighteen years or those who have committed heinous crimes and above the age of 16 years at the time of commission of crime. The place of safety shall be ensured with maximum security cover with all facilities to ensure the developmental needs. Such centres shall like “Boot camps” with facilities for rigorous drill, treatment for alcoholism and substance (drug) abuse, behavior management programmes, life skill and livelihood training besides academic achievements through formal or non-formal or open school system of education. Every “Place of Safety” shall set up facility for providing treatment for alcoholism and Substance (drug) abuse in accordance with the guidance formulated by Government under the Ministry of Social Justice & Empowerment and financial support from it.

(2) Separate facility shall also be provided for keeping children in conflict with law who have committed heinous crimes and above the age of 16 years or have ceased to be a child

and has completed eighteen years of age and the enquiry is pending before the Board or the Children's Court as the case may be.

(3) Transfer of such children conflict with law from the Observation Home to the Place of safety shall be made by the respective board or the court

(4) Every place of safety shall have the facility for video conferencing enabling the board or the Children's Court conduct the enquiry or trial without physical production of the child in conflict with law

(72). Children's Home: In every district or for a group of districts the State government shall either by itself or through voluntary or non-Governmental organizations establish and maintain Children's Homes in accordance with the provisions of Section 50 to ensure the care, treatment, protection and developmental process of children in need of care and protection by Child Welfare Committee for a period as specified in its order

(73). Shelter Homes: (1) In every city or in district and taluk headquarters or in industrious places the State Government shall establish open shelters to ensure the night stay or as a recreation centre during day time for vagrant or working children. The Centre shall also ensure the safe stay of runaway or lost children or missing children till such time their families are traced. The admission and disposal are informal and shall be accessible to children and available nearer to Railway station or bus station or market places within one km distance.

(2) The officer in-charge shall send a monthly report to the Child Welfare Committee regarding the number of children availed the facilities and the steps taken towards their restoration.

**(74) Function and responsibilities of residential institutions**

1. Ensure a child during the stay in the institution with the highest standards of care and protection with all facilities for his or her development.
2. The highest standards of care include appropriate and adequate health care, purified drinking water facilities, spacious and airy accommodation, bathing and toilet facilities with hygienic atmospheres, good environment, recreational facilities, library and accessible to information and age appropriate facilities for education and vocation inputs.

3. Standards of care include the following

- 1) *The child's wishes and feelings and the views of children are recognized*
- 2) *Promoting diversity, a positive identity and potential through individualized care  
Children develop positive self view, emotional resilience and knowledge and understanding of their backgrounds*
- 3) *Promoting positive behaviour and relationships Children enjoy sound relationships, interact positively with others and behave appropriately*
- 4) *Children feel safe and are safe. Children understand how to protect themselves; and feel protected and are protected from significant harm including neglect, abuse and accident.*
- 5) *Arrangements for the protection of children. Notification of events and incidents- Protocol and standards of reporting*
- 6) *Promoting good health and wellbeing Children live in a healthy environment where their physical, emotional and psychological health is promoted and where they are able to access the services to meet their health needs. Good hygienic practices, Personal safety education, Reproductive health education, First Aid*
- 7) *Leisure activities*
- 8) *Promoting and supporting contact Children have, where appropriate, constructive contact with their parents, grandparents, siblings, half-siblings, families, friends and other people who play a significant role in their lives*
- 9) *Providing a suitable physical environment for the child - Children live in well designed, safe and pleasant homes with adequate space in a suitable location where there is access to the necessary facilities for a range of activities which will promote their development Preparation for a placement*
- 10) *Admissions and discharge procedure with children's individual care plan*
- 11) *Children, staff and the placing authority are clear about the aims and objectives of the home and what services and facilities it provides.*
- 12) *Fitness to provide or manage the administration - The home is provided and managed by those who are suitable to work with children and have the appropriate skills, experience and qualifications to deliver an efficient and effective service*
- 13) *Suitability to work with children - Arrangements for the protection of children. It requires the fitness of workers.*
- 14) *Employment of staff- Adequate numbers of staffs with necessary qualifications and Proper training with excellence*

- 15) *Handling allegations and suspicions of harm - Investigations into allegations or suspicions of harm are handled fairly, quickly, and consistently in a way that provides effective protection for children, the person making the allegation, and at the same time supports the person who is the subject of the allegation.*
- 16) *Managing effectively and efficiently and monitoring the home - Review of quality of care, Visits by the registered provider, Notice of absence and notice of changes and the children's home is managed ethically, effectively and efficiently, delivering a service which meets the needs of its users.*
- 17) *The registered person monitors the welfare of the children the service provides for including consultation with children about their welfare*
- 18) *Records Children's case records or profile of children*
- 19) *Records are clear, up to date and stored securely, and contribute to an understanding of the child's life.*
- 20) *All significant events relating to the protection of children accommodated in the home are notified by the registered person of the home to the appropriate authorities and appropriate action is taken following the incident.*
- 21) *Recognize the child's right to privacy and confidentiality besides provide a platform for children's participation in all matters relating to children affairs and facilities for interaction with community*
- 22) *Facilities for assessment in relation to I.Q., personality traits, psycho social issues etc., by Juvenile Guidance Center to be administered by academically qualified and professionally trained personnel.*

## **75. Physical infrastructure.**

(1) The homes for children in conflict with law and children in need of care and protection shall function from separate premises.

(2) The accommodation in each institution shall be as per the following criteria, namely:-

(a) Observation Home:

- (i) Separate observation homes for girls and boys;
- (ii) Classification and segregation of children according to their age group preferably 7-11 years, 12-16 years and 16-18 years, giving due consideration to physical and mental status and the nature of the offence committed.

(b) Special Home:

- (i) Separate special homes for girls above the age of 10 years and boys in the age groups of 11 to 15 and 16 to 18 years;
- (ii) Classification and segregation of children on the basis of age and nature of offences and their mental and physical status

- (c) Children's Home:
- (i) While children of both sexes below 10 years can be kept in the same home, separate bathing and sleeping facilities shall be maintained for boys and girls in the age group of 5-10 years;
  - (ii) Separate children's homes for boys and girls in the age group of 7-11 and 12-18 years;
  - (iii) Separate facilities for children in the age group of 0-5 years with appropriate facilities for infants.
- (d) Shelter Home:
- (i) Separate shelter homes for girls and boys;
  - (ii) Separate shelter homes for girls above the age of 10 years and boys in the age groups of 11 to 15 and 16 to 18 years.
- (e) Place of safety
- (i) Separate facility for girls and boys;
  - (ii) Separate facility during enquiry pending before the Board or Children' Court during pending enquiry and for children committed
- (3) The norms for building or accommodation for an institution with 50 children shall be as under:

(i)	2 Dormitories	Each 1000 Sq. ft. for 25 children i.e. 2000 Sq. ft.
(ii)	2 Classrooms	300 Sq. ft. for 25 children i.e. 600 Sq. ft.
(iii)	Sickroom/First aid room	75 Sq. ft. per children for 10 i.e. 750 Sq. ft.
(iv)	Kitchen	250 Sq. ft.
(v)	Dining Hall	800 Sq. ft.
(vi)	Store	250 Sq. ft.
(vii)	(vii) Recreation room	300 Sq. ft.
(viii)	(viii) Library	500 Sq. ft.
(ix)	(ix) 5 bathrooms	25 Sq. ft. each i.e. 125 Sq. ft.
(x)	(x) 8 toilets/latrines	25 Sq. ft. each i.e. 200 Sq. ft.
(xi)	Office rooms	(a) 300 Sq. ft. (b) Superintendent's room 200 sq. fit
(xii)	Counselling and guidance room	120 Sq. ft.
(xiii)	Workshop	1125 Sq. ft. for 15 children @75 Sq. ft. per trainee
(xiv)	Residence for Superintendent	(a) 2 rooms of 250 Sq. ft. each (b) kitchen 75 Sq. ft. (c) bathroom cum Toilet/latrine 50 Sq. ft
(xv)	2 Rooms for Juvenile Justice Board/Child Welfare Committee	300 Sq. ft. each i.e. 600 Sq. ft.
(xvi)	Play ground	Sufficient area according to the total number of children
	<b>Total</b>	<b>8495 Sq. ft.</b>

(4) The officer in-charge of the institution shall stay within the institution and be provided with quarters and in case he is not able to stay in the home for legitimate reasons, any other senior staff member of the institution shall stay in the institution and be in a position to supervise the overall care of the children and take decisions in the case of any crisis and emergency.

(5) (i) the standards of accommodation as per the norms laid down in rule 75 shall be observed to the extent possible and shall include a minimum of following facilities:

- (a) Dormitory: 40 Sq. ft. per child
- (b) Classroom: 300 Sq. ft for 25 children
- (c) Workshop: 75 Sq. ft. per child
- (d) Play ground: Sufficient play ground area shall be provided in every institution according to the total number of children in institution

(ii) There shall be proper and smooth flooring for preventing accidents.

(iii) There shall be adequate lighting, ventilation, heating and cooling arrangements, safe drinking water and clean toilets, in terms of gender, age appropriateness and accessibility.

(iv) All institutions under the Act shall make provision of first aid kit, fire extinguishers in kitchen, dormitories, store rooms, counselling room, periodic review of electrical installations, proper storage and inspection of articles of food stuffs, stand-by arrangements for water storage and emergency lighting.

(6) The Observation homes and special homes shall be child-friendly and in no way shall they look like a jail or lock-up.

#### **76. Clothing and Bedding.**

The clothing and bedding shall be as per the scale and climatic conditions. The requirements of each child and the minimum standards for clothing and bedding are laid down in Schedule-I of these rules.

#### **77. Sanitation and Hygiene.**

Every institution shall have the following facilities, namely:-

- (a) Sufficient treated drinking water; water filters shall be installed;
- (b) Sufficient water for bathing and washing clothes, maintenance and cleanliness of the premises;
- (c) Proper drainage system;
- (d) Arrangements for disposal of garbage;
- (e) Protection from mosquitoes by providing mosquito nets;
- (f) Annual pest control;
- (g) Sufficient number of well lit and airy toilets in the proportion of at least one toilet for seven children;
- (h) Sufficient number of well lit and airy bathrooms in the proportion of at least one bath room for ten children;
- (i) Sufficient space for washing;
- (j) Clean and fly-proof kitchen and separate area for washing utensils;
- (k) Sunning of bedding and clothing;
- (l) Maintenance of cleanliness in the Medical Centre.

#### **78. Daily Routine.**

(1) Every institution shall have a daily routine for children developed in consultation with the Children's Committees, which shall be prominently displayed at various places within the institution.



(2) The daily routine shall provide, *inter alia*, for a regulated and disciplined life, personal hygiene and cleanliness, physical exercise, yoga, educational classes, vocational training, organized recreation and games, moral education, group activities, prayer and community singing and special programmes for Sundays and holidays.

#### **79. Nutrition and Diet Scale.**

The following nutrition and diet scale shall be followed by the institutions, namely:-

- (a) The children shall be provided four meals in a day including breakfast;
- (b) The menu shall be prepared with the help of a nutritional expert or doctor to ensure balanced diet and variety in taste as per the minimum nutritional standard and diet scale set out in Schedule II of these rules;
- (c) Every institution under this Act shall strictly adhere to the minimum nutritional standard and diet scale specified in Schedule II;
- (d) Children may be provided special meals on holidays and festivals;
- (e) Infants and sick children shall be provided special diet according to the advice of the doctor on their dietary requirement.

#### **80. Medical Care.**

Every institution shall:

- (a) Maintain a medical record of each child on the basis of monthly medical check-up and provide necessary medical facilities;
- (b) Ensure that the medical record includes weight and height record, any sickness and treatment, and other physical or mental problem;
- (c) Have arrangement for the medical facilities, including a doctor on call available on all working days for regular medical check-ups and treatment of juveniles or children;
- (d) Have sufficient medical equipments to handle minor health problems including first aid kit with stock of emergency medicines and consumables;
- (e) Train all staff in handling first aid;
- (f) Tie-up with local Primary Health Centre, Government hospital, medical colleges, other hospitals, clinical psychologists and psychiatrists and mental health institutes for regular visits by their doctors and students and for holding periodic health camps within the institutions;
- (g) Make necessary arrangements made for the immunization coverage;
- (h) Take preventive measures in the event of out break of contagious or infectious diseases;
- (i) Set up a system for referral of cases with deteriorating health or serious cases to the nearest civil hospital or recognized treatment centres;
- (j) Keep sick children under constant medical supervision;
- (k) Admit a juvenile or child without insisting on a medical certificate at the time of admission;
- (l) Arrange for a medical examination of each child admitted in an institution by the Medical Officer within twenty four hours and in special cases or medical emergencies immediately;
- (m) Arrange for a medical examination of the child by the Medical Officer at the time of transfer within twenty four hours before transfer;
- (n) Surgical treatment cannot be carried out on any child without the previous consent of his parent or guardian, unless either the parent or guardian cannot be found and the condition of the child is such that any delay shall, in the

opinion of the medical officer, involve unnecessary suffering or injury to the health of the child, or otherwise without obtaining a written consent to this effect from the Officer-in-charge of the institution;

- (o) Provide or arrange for regular counselling of every child and ensure specific mental health interventions for those in need of such services, including separate rooms for counselling sessions within the premises of the institution;
- (p) Refer such children who require specialized drug abuse prevention and rehabilitation programme, to an appropriate centre administered by qualified personnel where these programmes shall be adopted to the age, gender and other specifications of the concerned child.

## **81. Mental Health.**

(1) A mental health record of every child shall be maintained by the concerned institutions.

(2) Both milieu based interventions that is creating an enabling environment for children and individual therapy are must for every child and shall be provided in all institutions.

*Explanation:* For the purpose of this sub-rule, milieu based intervention is a process of recovery, which starts through providing an enabling culture and environment in an institution so as to ensure that each child's abilities are discovered and they have choices and right to take to decisions regarding their life and thus, they develop and identify beyond their negative experiences and such intervention has a critical emotional impact on the child.

(3) The environment in an institution shall be free from abuse, allowing juveniles or children to cope with their situation and regain confidence.

(4) All persons involved in taking care of children in an institution shall participate in facilitating an enabling environment and work in collaboration with the therapists.

(5) Individual therapy is a specialized process and each institution shall make provisions for it as a critical mental health intervention.

(6) Every institution shall have the services of trained counselors or collaboration with external agencies such as child guidance centres, psychology and psychiatric departments or similar Government and non-governmental agencies, for specialized and regular individual therapy for every juvenile or child in the institution.

(7) A mental health care plan shall be developed for every child by the child welfare officers in consultation with mental health experts associated with the institution and integrated into the individual care plan of the concerned juvenile or child.

(8) The recommendations of mental health experts shall be maintained in every case file and integrated into the care plan for every child.

(9) All care plans shall be produced before the Management Committee set up under rule 37 of these rules every month and before the Child Welfare Committee every quarter.

(10) No juvenile or child shall be administered medication for mental health problems without a psychological evaluation and diagnosis by appropriately trained mental health professionals.

## **82. Education.**

(1) Every institution shall provide education to all children according to the age and ability, both inside the institution or outside, as per the requirement.

(2) There shall be a range of educational opportunities including, mainstream inclusive schools, bridge school, open schooling, non formal education and learning and input from special educators where needed.

(3) Wherever necessary, extra coaching shall be made available to school going children in the institutions by encouraging volunteer services or tying up with coaching centers.

## **83. . Vocational Training.**

(a) Every institution shall provide gainful vocational training to children.

(b) The institutions shall develop networking with Institute of Technical Instruction, Jan Shikshan Sansthan, Government and Private Organization or Enterprises, Agencies or nongovernmental organizations with expertise or placement agencies.

## **84. Recreation facilities.**

(1) A provision of guided recreation shall be made available to all children in the institutions.

(2) It shall include indoor and outdoor games, music, television, picnics and outings, cultural programmes and library.

## **85. Institutional Management of children.**

(1) The following procedure shall be followed in respect of the newly admitted juveniles:

- (a) Receiving and search;
- (b) Disinfection and storing of juvenile's personal belongings and other valuables;
- (c) Bath and haircut (unless prohibited by religion);
- (d) Issue of toiletry items; new set of clothes, bedding and other outfit and equipment (as per scales);
- (e) Medical examination and treatment where necessary and in case of every child suspected to be suffering from contagious or infectious diseases, mental ailments or addiction;
- (f) Segregation in specially earmarked dormitories or wards or hospitals in case of a child suffering from contagious disease requiring special care and caution;
- (g) Attending to immediate and urgent needs of children like appearing in examinations, interview letter to parents, personal problems and verification by the Officer-in-charge of age of juvenile as per order of the Board.

(2) Every newly admitted child shall be first interviewed and case file or profile format prepared by the child welfare officers or social workers or counsellors attached to the institutions or voluntary social workers or counsellors.

(3) Every newly admitted child shall be familiarized with the institution and its functioning and shall receive orientation in the following areas:

- (a) Personal health, hygiene and sanitation;
- (b) Institutional discipline and standards of behaviour, respect for elders and teachers;
- (c) Daily routine, peer interaction, optimum use of developmental opportunities; and
- (d) Rights, responsibilities and obligations within the institution.

(4) The designated officer shall enter the name of the child in the Admission Register and allocate appropriate accommodation facility.

(5) The photograph shall also be taken immediately for records and the Child Welfare Officer shall begin the investigation and correspondence with the family members or relatives or person the child might have named.

(6) The Officer-in-charge shall see that the personal belongings of the child received by the institution is kept in safe custody and recorded in the Personal Belonging Register and the item must be returned to the juvenile or child when he leaves the institution.

(7) The girl child shall be searched by a female member of the staff, and with due regard to decency and dignity of the juvenile or child.

(8) The educational level and vocational aptitude of the admitted child, may be assessed on the basis of test and interview conducted by the teacher, the workshop supervisor and other technical staff and necessary linkages may also be established with outside specialists and community-based welfare agencies, psychologist, psychiatrist, child guidance clinic, hospital and local doctors, open school or Jan Sikshan Sansthan.

(9) A case history of the child admitted to an institution shall be maintained as per **Form XX**, which shall contain information regarding his socio-cultural and economic background and these information may invariably be collected through all possible and available sources, including home, parents or guardians, employer, school, friends and community.

(10) A well conceived programme of pre-release planning and follow up of cases discharged from special homes shall be organized in all institutions in close collaboration with existing governmental and voluntary welfare organizations.

(11) In the event of a child leaving the institution without permission or committing an offence within the institution, the information shall be sent by the officer-in charge of the concerned institution to the police and the family, if known; and the detailed report of circumstances along with the efforts to trace the child, from where the child is missing, shall be sent to the Board or Committee, as the case may be.

(12) An individual care plan for every child in institutional care shall be developed with the ultimate aim of the child being rehabilitated and re-integrated based on their case history, circumstances and individual needs. Individual care plan shall be based on following guidelines:

- (a) the Officer-in-charge, counsellor along with the child welfare officer shall prepare an individual care plan for every child in an institution within one month of his admittance as per **Form XXI**;
- (b) all care plans shall include a plan for the child's restoration, rehabilitation, reintegration and follow-up;
- (c) the care plan shall be reviewed quarterly by the Management Committee set up under rule 90 of these rules for appropriate development and rehabilitation including options for release or restoration to family or foster care or adoption;
- (d) Juveniles or children shall be consulted while determining their care plan;
- (e) Continuity of care plan shall be ensured in cases of transfer or repatriation or restoration.

## **86. Prohibited Articles.**

No person shall bring into the institution the following prohibited articles, namely:

- (a) fire-arms or other weapons, whether requiring license or not (like knife, blades, lathy, spears and swords);
- (b) alcohol and spirit of any description;
- (c) bhang, ganja, opium or other narcotic or psychotropic substances;

- (d) tobacco; or
- (e) any other article specified in this behalf by the State Government by a general or special order.

### **87. Articles found on search and inspection.**

(1) The Officer-in-Charge shall see that every child received in the institution is searched, his personal belongings inspected and money or any valuables found with the juvenile is kept in the safe custody of the Officer-in-Charge.

(2) The girls shall be searched by a female member of the staff and both the girls and boys shall be searched with due regard to decency and dignity.

(3) In every institution, a record of money, valuables and other articles found with a child shall be maintained in the "Personal Belongings Register".

(4) The entries made in the Personal Belongings Register, relating to each child, shall be read over to child in the presence of a witness, whose signature shall be obtained in token of the correctness of such entries and it shall be countersigned by the Officer-in-Charge.

### **88. Disposal of articles**

The money or valuables belonging to a juvenile received or retained in an institution shall be disposed of in the following manner, namely:

- (a) on an order made by the competent authority in respect of any child, directing the child to be sent to an institution, the Officer-in-Charge shall deposit such child's money together with the sale proceeds in the manner laid down from time to time in the name of the child;
- (b) the child's money shall be kept with the Officer-in-Charge and valuables, clothing, bedding and other articles, if any, shall be kept in safe custody;
- (c) when such child is transferred from one institution to another, all his money, valuables and other articles, shall be sent along with the child to the Officer-in-Charge of the institution to which he has been transferred together with a full and correct statement of the description and estimated value thereof;
- (d) at the time of release of such child, the valuables and other articles kept in safe custody and the money deposited in name of the child shall be handed over to the parent or guardian, as the case may be, with an entry made in this behalf in the register and signed by the Officer-in-Charge;
- (e) when a child in an institution dies, the valuable and other articles left by the deceased and the money deposited in the name of the child shall be handed over by the Officer-in-Charge to any person who establishes his claim thereto and executes an indemnity bond;
- (f) a receipt shall be obtained from such person for having received such valuables and other articles and the amount;
- (g) if no claimant appears within a period of six months from the date of death or escape of such child, the valuables and other articles and amount shall be disposed of as per the decision taken by Management Committee set up under rule 90 of these rules.

### **89. Maintenance of case file.**

(1) The case file of each child shall be maintained in the institution containing the following information:

- (a) report of the person or agency who produced the child before the Board;
- (b) officer-in-charge's, probation officer's or child welfare officer's, counselor's and caseworkers reports;
- (c) information from previous institution;
- (d) report of the initial interaction with the child, information from family members, relatives, community, friends and miscellaneous information;
- (e) source of further information;
- (f) observation reports from staff members;
- (g) regular health status reports from Medical Officer, drug de-addiction progress reports, progress reports *vis-a-vis* psychological counselling or any other mental health intervention, where applicable;
- (h) Intelligence Quotient (I.Q) testing, aptitude testing, educational or vocational tests;
- (i) social history;
- (j) summary and analysis by case-worker and Officer-in-charge;
- (k) instruction regarding training and treatment programme and about special precautions to be taken;
- (l) leave and other privileges granted;
- (m) special achievements and violation of rules, if any, ;
- (n) quarterly progress report;
- (o) individual care plan, including pre-release programme, post release plan and follow-up plan as prescribed in **Form XXI**;
- (p) leave of absence or release under supervision;
- (q) final discharge;
- (r) follow-up reports;
- (s) annual photograph;
- (t) case history duly filled in prescribed **Form XX**;
- (u) follow-up report of post release cases as per direction of the competent authority if any; and
- (v) remarks.

(2) All the case files maintained by the institutions and the Board or Committee shall, as far as possible, be computerized and networked so that the data is centrally available to the State and the District Child Protection Unit and the State Government.

### **90. Management Committee.**

(1) Every institution shall have a Management Committee for the management of the institution and monitoring the progress of every child.

(2) In order to ensure proper care and treatment as per the individual care plans, a child shall be grouped on the basis of age, nature of offence or kind of care required, physical and mental health and length of stay order.

(3) The Management Committee shall consist of the following personnel:

District Child Protection Officer (District Child Protection Unit)	- Chairperson
Officer-in-charge	- Member-Secretary
Probation Officer or Child Welfare Officer	- Member
Medical Officer	- Member
Psychologist or Counsellor	- Member
Workshop Supervisor or Instructor in Vocation	- Member
Teacher	- Member
Social Worker Member of Juvenile Justice Board or Child Welfare Committee	- Member
A child representative from each of the Children's Committees (on a monthly rotation basis to ensure representation of children from all age groups)	- Member

(4) In the districts where District Child Protection Unit is not constituted the District Magistrate or Collector or his nominee shall be the Chairperson of this Committee.

(5) Where voluntary organizations are involved in providing professional and technical services like education, vocational training, psychosocial care, mental health intervention and legal aid, the Management Committee may invite a representative of such voluntary organizations as a special invitee to the Management Committee meetings.

- (6) (a) The Management Committee shall meet every month to consider and review-
- (i) custodial care or care in the institution, housing, area of activity and type of supervision or interventions required;
  - (ii) medical facilities and treatment;
  - (iii) food, water, sanitation and hygiene conditions;
  - (iv) mental health interventions with children;
  - (v) individual problems of children, provision of legal aid services and institutional adjustment, leading to the quarterly review of individual care plans;
  - (vi) vocational training and opportunities for employment;
  - (vii) education and life skills development programmes;
  - (viii) social adjustment, recreation, group work activities, guidance and counseling;
  - (ix) review of progress, adjustment and modification of residential programmes to the needs of the children;
  - (x) planning post-release or post-restoration rehabilitation programme and follow up for a period of two years in collaboration with aftercare services;
  - (xi) pre-release or pre-restoration preparation;
  - (xii) release or restoration;
  - (xiii) post release or post-restoration follow-up;

- (xiv) minimum standards of care, including infrastructure and services available;
- (xv) daily routine;
- (xvi) community participation and voluntarism in the residential life of children such as education, vocational activities, recreation and hobby;
- (xvii) oversee that all registers as required under the Act and rules are maintained by the institution, check and verify these registers, duly stamped and signed in the monthly review meetings;
- (xviii) matters concerning the Children's Committees;
- (xix) any other matter which the Officer-in-Charge may like to bring up.

(b) The officer-in-charge or child welfare officer shall file a quarterly progress report of every child in the case file and send a copy to the District Child Protection Unit and Board or Committee, as the case may be.

(7) The Management Committee shall set up a complaint and redress mechanism in every institution and a Children's Suggestion Box shall be installed in every institution at a place easily accessible to juveniles and children away from the office set up and closer to the residence or rooms or dormitories of the children.

- (8)
  - (a) The Children's Suggestion Box, whose key shall remain in the custody of the Chairperson of the Management Committee, shall be checked every week by the Chairperson of the Management Committee or his representative from District Child Protection Unit, in the presence of the members of the Children's Committees.
  - (b) If there is a problem or suggestion that requires immediate attention, the Chairperson of the Management Committee shall call for an emergency meeting of the Management Committee to discuss and take necessary action.
  - (c) The quorum for conducting the emergency meetings shall be five members, including two members of Children's Committees, Chairperson of the Management Committee, Member of Committee or the Board as the case may be and the Officer-in-Charge of the institution.
  - (d) In the event of a serious allegation or complaint against the Officer-in-Charge of the institution, he shall not be part of the emergency meeting and another available member of the Management Committee shall be included in his place.
  - (e) All suggestions received through the suggestion box and action taken as a result of the decisions made in the emergency meeting or action required to be taken shall be placed for discussion and review in the monthly meeting of the Management Committee.

(9) A Children's Suggestion Book shall be maintained in every institution where the complaints and action taken by the Management Committee are duly recorded and such action and follow up shall be communicated to the Children's Committees after every monthly meeting of the Management Committee.

(10) The Board or Committee shall review the Children's Suggestion Book at least once in three months.



## **91 Children's Committees**

(1) Officer-in-Charge of every institution for children shall facilitate the setting up of Children's Committees for three different age groups of children, viz., 6-10 years, 11-15 years and 16-18 years and these Children's Committees shall be constituted solely by children.

(2) Such Children's Committee shall be encouraged to participate in following activities:

- (a) Improvement of the condition of the institution;
- (b) Reviewing the standards of care being followed;
- (c) Preparing daily routine and diet scale;
- (d) Developing educational, vocational and recreation plans;
- (e) Supporting each other in managing crisis;
- (f) Reporting abuse and exploitation by peers and caregivers;
- (g) Creative expression of their views through wall papers or newsletters or paintings or music or theater;
- (h) Management of institution through the Management Committee.

(3) The Officer-in-Charge shall ensure that the Children's Committees meet every month and maintain a register for recording its activities and proceedings, and place it before the Management Committee in their monthly meetings.

(4) The Officer-in-Charge shall ensure that the Children's Committees are provided with essential support and materials including stationary, space and guidance for effective functioning.

(5) The Officer-in-Charge shall, as far as possible, seek assistance from local voluntary organization or child participation experts for the setting up and functioning of the Children's Committees.

(6) The local voluntary organization or child participation expert shall support the Children's Committees in the following:

- (i) selecting their leaders;
- (ii) conducting the monthly meetings;
- (iii) developing rules for the functioning of Children's Committees and following it;
- (iv) maintaining records and Children's Suggestion Book and other relevant documents;
- (v) any other innovative activity.

(7) The Management Committee shall seek a report from the Officer-in-Charge on the setting up and functioning of the Children's Committees, review these reports in their monthly meetings and take necessary action where required.

## **92. Rewards and Earnings.**

The rewards to a child, at such rates as may be fixed by the management of the institution from time to time, may be granted by the Officer-in-Charge as an encouragement to steady work and good behaviour; and at the time of release, the reward shall be handed over after obtaining a receipt from the parent or the guardian who comes to take charge of the child or child himself. Behaviour Modification techniques shall be adopted by the

institutional authorities under the direct supervision of the Child Welfare Officer. The Child Welfare Officer shall determine the Rewards and Earnings from time to time.

(i) The Child Welfare Officer shall adopt a Behaviour Modification programme for children. The group Behaviour Modification programme shall be designed in consultation with experts in the field.

### **93 Maintenance of rewards and earnings**

(1) The House parent of each House shall maintain the records pertaining to rewards and earnings and the records shall be scrutinized by the Child Welfare Officer once in a month and once in two months by the officer in charge of the institution.

(2) The Rewards and Earnings shall be reviewed in the classification Committee meeting and the recommendation of the Classification Committee shall be carried over by the Officer-in-Charge.

(3) The District Advisory Committee for outstanding performance shown by the children shall grant special Rewards and Earnings. The Special awards shall be for the following reasons:-

- (a) to a child who has achieved or contributed creative works for the development of the institution.
- (b) to a child who has shown bravery to prevent accident, suicide or save the life of other child/staff or alert the officials to prevent major calamities likely to happen in the institution.
- (c) to a child who has won special awards, prizes in various competitions, including sports and related activities.

### **94. Visits to and communication with children**

(1) The parents and relatives of children shall be allowed to visit once in a month or in special cases, more frequently at the discretion of the Officer-in-Charge as per the visiting hours laid down by him, except where parents or relatives or guardian have been found to be responsible for subjecting the juvenile or child to violence, abuse and exploitation.

(2) The receipt of letters by children of the institution shall not be restricted and they shall have freedom to write as many letters as they like at all reasonable times; and the institution shall ensure that where parents, guardians or relatives are known, at least one letter is written by the children every month for which the postage shall be provided by the institution.

(3) The Officer-in-Charge may peruse any letter written by or to children, and may for the reasons that he considers sufficient refuse to deliver or issue the letter and forward it to the Committee after recording his reasons in a book maintained for the purpose.

(4) The Officer-in-Charge shall, in special circumstances or as per orders of the Board or Committee, allow a child to make telephonic communication with his parents or guardians or relatives.

### **95. Death of a child.**

In the event of a death or suicide of an inmate of an institution, the following procedures shall be adopted by the Superintendent or Officer-in-charge of the institution.

(1) Whenever a case of death of a child is reported, the Superintendent / Officer-in-charge of the institution shall immediately arrange to summon the concerned Medical Officer / Part-time Medical Officer / Medical Officer of the nearest Government Hospital / Municipal Hospital to examine the body of the child and if on such examination the said Medical Officer is of the opinion that the Child has already expired, the body of the Child shall be left in the position in which it was found, pending inspection by the officers concerned.

(2) In case a child dies due to causes other than natural causes or if the cause of death is not known or if the death has occurred due to suicide or violence or accident or wherever there is any doubt or complaint or question concerning the cause of death of any juvenile / child the Superintendent shall also immediately inform the Officer-in-charge of the police station having jurisdiction and the nearest Judicial Magistrate empowered to hold inquests. The Superintendent shall also inform the Juvenile Justice Board / Child Welfare Committee as the case may be and the District Child Protection Unit and the Director of Odisha State Child Protection Society with all relevant details.

(3) In case a child dies within 24 hours of his / her admission to the institution or in case of death due to suicide, accident, violence and sudden death etc, both inquest and post mortem shall be held by the authorities concerned, as per the provision of the Cr.P.C.

(4) The Superintendent or the Officer-in-charge of the institution shall make a detailed investigation, of all the circumstances connected with the case and submit a detailed report without delay to the District Child Protection Unit and the Director of Odisha State Child Protection Society

(5) In every case of natural death or illness which ends fatally, the Medical Officer shall examine the body of the child, record full particulars of the cause of death and furnish a detailed report to the Superintendent. The Superintendent in turn, shall immediately send a report about the death to the police station, having jurisdiction, the District Magistrate, the Juvenile Justice Board / Child Welfare Committee and the Director of Odisha State Child Protection Society.

(6) In all cases of death, the parent (s) / guardian, of the deceased child, if available shall be contacted and informed immediately and the Superintendent shall wait for 24 hours for their arrival before disposing of the dead body.

(7) After the inquest and / or post mortem is held wherever necessary and in all other cases of death, after the examination by the Medical Officer the body shall be handed over to the parents / relatives of the child if available and in case there are no possibilities of such handing over the Officer in charge of the institution shall arrange for the funeral of the body in accordance with the religion of the child, if known. In case the religion of the child is not known the funeral may be conducted in a decent manner by the Superintendent / Officer-in-charge of the institution. This shall be made after necessary publication in media regarding the procedure of disposition of unclaimed body and till such time the body shall be kept in the mortuary

(8) In all cases of death, the Officer in charge of the institution shall obtain the death certificate and keep it in the official records of the institution. He/she shall also communicate a copy of the death certificate to the parent(s) / guardian of the deceased child, if available and to the Director of Odisha State Child Protection Society.

(9) Any un-natural death is due to negligence or on the act of a person during custodial care, penal action shall be initiated and adequate compensation to the victim family shall also be ensured

(10) Wherever the dead body of a child is handed over to the parents / relatives the later shall be granted financial support not exceeding Rs.5000/- to meet the expenses on the funeral.

In cases where the Superintendent / Officer in charge of an Institution has to conduct the funeral he / she may incur an expenditure not exceeding Rs.5000/- for conducting such funeral”

(11) The Superintendent of the Organization shall cause necessary action to obtain the death certificate and such certificate shall also be sent to the parent/guardian and one copy shall be kept in the institution.

## **96. Abuse and exploitation of the child.**

(1) Every institution shall have systems of ensuring that there is no abuse, neglect and maltreatment and this shall include the staff being aware of what constitutes abuse, neglect and maltreatment as well as early indicators of abuse, neglect and maltreatment and how to respond to these.

(2) In the event of any physical, sexual or emotional abuse, including neglect of juveniles and children in an institution by those responsible for care and protection, the following action shall be taken:

- (i) The incidence of abuse and exploitation must be reported by any staff member of the institution immediately to the Officer-in-Charge on receiving such information;
- (ii) When an allegation of physical, sexual or emotional abuse comes to the knowledge of the Officer-in-Charge, a report shall be placed before the Board or Committee, who in turn, shall order for special investigation;
- (iii) the Board or Committee 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;
- (iv) the Board or Committee shall take necessary steps to ensure completion of all inquiry and provide legal aid as well as counselling to the juvenile or child victim;
- (v) the Board or Committee shall transfer such a child to another institution or place of safety or fit person;
- (vi) 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;
- (vii) in the event of any other crime committed in respect of children in institutions, the Board or Committee shall take cognizance and arrange for necessary investigation to be carried out by the local police station or Special Juvenile Police Unit;
- (viii) The Board or Committee may consult Children’s Committee setup 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 in an institution.

## **97. Child suffering from dangerous diseases or mental health problems.**

(1) When a child is placed under the care of an Observation Home or Special Home or Children's Home or fit person or a fit facility institution under the provisions of the Act, is found to be suffering from a disease or physical or mental health problems requiring prolonged medical treatment, or is found addicted to a narcotic drug or psychotropic substance, the child may be sent by an order of the competent authority to an appropriate place for such period as may be certified by medical officer to be necessary for proper treatment of the child or for the remainder of the term for which he has to stay.

(2) When the child is cured of the disease or physical or mental health problems, the competent authority may, if the child is still liable to stay, order the child to be placed back in the care of fit person or fit facility institution from where the child was removed for treatment and if the juvenile or the child is no longer liable to be kept under the care of fit person or institution, the competent authority may order him to be discharged.

(3) The order of restoration of a child suffering from an infectious or contagious disease to his parents or guardian shall be based on the principle of best interest of the child, keeping in mind the risk of stigmatization and discrimination and discontinuation of treatment.

(4) Where there is no organization either within the jurisdiction of the competent authority, or nearby District or State for care and protection of children suffering from serious psychiatric or physical disorder and infection, as required under Section 93 of the Act, necessary organization shall be set up by the State Government at such places, as it may deem fit to cater to the special needs of such children.

## **98. Leave of absence of a child.**

(1) A child in the Observation Home/Special Home or Children's home shall be granted leave of absence for not exceeding seven days at a time excluding the journey time either by the Board or the Committee as the case may be for the following reasons

- a. The leave of absence should be restricted to attend the funeral of a deceased father, mother, sibling's, paternal/maternal grandparents alone.
- b. To appear for any examination being conducted by approved educational boards
- c. To participate in the marriage of siblings, maternal/paternal aunt/uncle
- d. In the event of serious illness of father, mother, sibling's, paternal/maternal grandparents alone
- e. In the event of serious accidents of father, mother, sibling's, paternal/maternal grandparents alone

(2) The person who takes charge of a child from Observation Home for such purpose shall execute a bond to fulfill the conditions stipulated therein.

(3) The Juvenile Justice Board shall grant a child in a Special Home a leave of absence for 15 days in a calendar year and under no circumstances leave should be granted for more than 7 days including the journey time at one instance. The leave of absence cannot be claimed as a matter of right and his leave can be granted for participation in family functions like marriage, funeral of family members etc.,

(4) Application for leave shall be submitted to the Officer-in-Charge of the Special Home/Observation Home or Children's Home as the case may be, who in turn shall recommend to the Juvenile Justice Board in accordance to the merit of the petition.

(5) The Juvenile Justice Board or the Child Welfare Committee shall grant leave based on the merits, recommendation of the Officer-in-Charge of the institutions. Granting of such leave shall be at the discretion of the Juvenile Justice Board or the Child Welfare Committee and it cannot be claimed as a right.

(6) While issuing order sanctioning the leave of absence the Competent Authority shall clearly mention the period of leave and condition attached to the leave order. If any of these conditions are not complied with during the leave period the child may be recalled to the institution by the authority.

(7) The parents or guardian shall arrange to escort the child from and to the institution and bear the travelling expenses. In exceptional cases or during an emergency, the Officer-in-Charge may arrange to escort the child to the place of the family and back.

(8) If a child runs away from family during the leave period, the parents or guardians are required to inform the Officer-in-Charge of the institution immediately and try to trace the child and if found, send the child to the institution. If the parents or guardian do not take proper care of the child during the leave period or do not bring the child back to the institution within the stipulated period, such leave may be refused on later occasions. If the child does not return to the institution on expiry of the sanctioned leave, the Board shall refer the case to police for taking charge of the child and bring him back to the institution.

(9) The period of such leave shall be deemed to be part of the period of placement in the institution. The time that lapses after the failure of a child to return to the institution within the stipulated period shall be excluded in computing the period of his placement in the institution.

#### **99. Leave of absence in the case of a person in Place of safety**

(1) The Juvenile justice Board or the Children's Court may consider the leave of absence of a person who have committed serious and heinous crimes and above 16 years of age and under the purview of the Board or the Children's Court and kept in the Place of safety, the leave of absence shall be considered upon an application filed before the Board or the Court as the case may be in accordance with the merit of the case for not exceeding seven days for the following reasons.

- a. The leave of absence should be restricted to attend the funeral of a deceased father, mother, sibling's, paternal/maternal grandparents alone.
- b. To appear for any examination being conducted by approved educational boards
- c. To participate in the marriage of siblings, maternal/paternal aunt/uncle
- d. In the event of serious illness of father, mother, sibling's, paternal/maternal grandparents alone
- e. In the event of serious accidents of father, mother, sibling's, paternal/maternal grandparents alone

(2 ) The person who takes charge of a child from Place of safety for such purpose shall execute a bond to fulfill the conditions stipulated therein.

(3) The leave of absence cannot be claimed as a matter of right and his leave can be granted for participation in family functions like marriage, funeral of family members etc.,

(4) Application for leave shall be submitted to the Officer-in-Charge of the place of safety who in turn shall recommend to the Juvenile Justice Board in accordance to the merit of the petition.

(5) The Juvenile Justice Board or the Children's Court shall grant leave based on the merits, recommendation of the Officer-in-Charge of the institutions. Granting of such leave shall be at the discretion of the Juvenile Justice Board or the Children's Court and it cannot be claimed as a right.

(6) While issuing order sanctioning the leave of absence the Competent Authority shall clearly mention the period of leave and condition attached to the leave order. If any of these conditions are not complied with during the leave period the child may be recalled to the institution by the authority.

(7) The parents or guardian shall arrange to escort the child from and to the institution and bear the travelling expenses. In exceptional cases or during an emergency, the Officer-in-Charge may arrange to escort the child to the place of the family and back.

(8) If a child runs away from family during the leave period, the parents or guardians are required to inform the Officer-in-Charge of the institution immediately and try to trace the child and if found, send the child to the institution. If the parents or guardian do not take proper care of the child during the leave period or do not bring the child back to the institution within the stipulated period, such leave may be refused on later occasions. If the child does not return to the institution on expiry of the sanctioned leave, the Board shall refer the case to police for taking charge of the child and bring him back to the institution.

(9) The period of such leave shall be deemed to be part of the period of placement in the institution. The time that lapses after the failure of a child to return to the institution within the stipulated period shall be excluded in computing the period of his placement in the institution.

#### **100. Procedures for release of Juvenile/Child from the different institution**

(1) The Officer-in-charge of every Children's Home, Special Home or Children's Home shall maintain a roster of cases to be released on expiry of the period of stay as ordered by the competent authority. Each case shall be placed before the classification committee for due consideration. Action may be initiated 6 months before the scheduled release. The details of children to be released shall be furnished to the Probation Officer for submitting the pre-release enquiry report.

(2) Advance information regarding the release of a child/ juvenile with the probable date of release, shall be given to the parent or guardian, if available, and the parent or guardian shall be invited to come to the institution to take charge of the child/juvenile on the date of release. In cases where the parents or guardians are unable to bear the actual expenses of their journey both ways and the child's / juvenile's journey from the institution to his/her place of residence, the amount required for such expenditure shall be paid to the parent or guardian by the Officer-in-charge of the institution at the time of release of the child/juvenile, if the parent or guardian as the case may be fails to come to take charge of the child/juvenile on the appointed date, the child/juvenile shall be sent home with an escort of the institution. Girl children shall be escorted by female escorts only.

(3) The Officer-in-charge shall order the discharge of any child the period of whose detention has expired and inform the competent authority within 7 days of the discharge. The Officer-in-charge shall in appropriate cases order the payment of subsistence amount to the child for the period of journey at such rates as may be fixed from time to time.

(4) At the time of release or discharge a child may be provided with a set of clothing if the Officer-in-charge deems it necessary.

(5) If the child/juvenile has no parent of guardian, he may be sent to an After Care Organization after obtaining necessary orders from the Director of Odisha State Child Protection Society or to any institution like Probation Hostel or any such hostel run by any Department.

(6) The Officer-in-charge of a Girl's institution, subject to the approval of the Director of Odisha State Child Protection Society may get destitute/orphan girls above the age of 18 years who have no guardians to take care, married according to the procedure laid down by the Department of Odisha State Child Protection Society from time to time.

(7) In deserving cases the Officer-in-charge may provide the child with such small tools as may be necessary to start a business, subject to such maximum cost as may be fixed by the Government

(8) The Officer-in-charge may, subject to the approval of the Director of Odisha State Child Protection Society, allow school going children at their own request to stay in the institution after the completion of the period of their detention till the completion of the next annual examination.

(9) The Officer-in-charge shall intimate the release to the Director of Odisha State Child Protection Society who shall appoint a Probation Officer as after Care Officer for the child for a period of three years after the release.

#### **101. Restoration and Follow-up**

(1) The order for restoration of the child shall be made by the Board or Committee on the basis of a fair hearing of the child and his parents or guardian, as well as on the reports of the Probation Officers or Child Welfare Officers or non-governmental organizations directed by the Board or Committee to conduct the home study and any other relevant document or report brought before the Board or Committee for deciding the matter.

(2) The Board or Committee shall send a copy of the restoration order along with a copy of the order for escort as per **Form XXII** to the District Child Protection Unit or the Special Juvenile Police Unit.

(3) Every restoration shall be planned for as part of the individual care plans prepared by the case-workers or counsellors or child welfare officers or probation officer, as the case may be, and shall be based on the review and recommendations of the Management Committee set up under rule 90 of these rules.

(4) Besides police, the Board or Committee shall seek collaboration with non-governmental organizations to accompany children back to their family for restoration.

(5) In case of girls, the child shall necessarily be accompanied by female escorts.

(6) The expenses incurred on restoration of a child, including travel and other incidental expenses, shall be borne by the District Child Protection Unit or State Government.

(7) When a child expresses his unwillingness to be restored back to the family, the Board or Committee shall make a note of it in its records in writing and such child shall not be coerced or persuaded to go back to the family, particularly if the social investigation report of the child welfare officer or probation officer establishes that restoration to family may not be in the best interest of the child or, if the parents or guardians refuse to accept the child back.



(8) A follow-up plan shall be prepared as part of the individual care plans by the Child Welfare Officers or Probation Officers or non-governmental organizations assigned by the Board or Committee to assist in restoration of the child.

(9) A quarterly follow-up report shall be submitted to the Board or Committee by the concerned Child Welfare Officer or Probation Officer or non-governmental organization for a period of two years with a copy to the officer-in-charge of the institution from where the child is restored.

(10) The follow-up report shall clearly state the situation of the child post restoration and the child's needs to be met by the State Government in order to reduce further vulnerability of the child.

(11) The officer-in-charge shall file the follow-up report in the case-file of the child and place the report before the management committee set up under rule 90 of these rules in its next meeting.

(12) The officer-in-charge shall also send a copy of the follow-up reports to the District Child Protection Unit.

(13) Where a follow-up is not possible due to unavailability of government functionaries or nongovernmental organizations, the concerned District Child Protection Unit shall provide necessary assistance and support to the concerned Board or Committee.

## **102. Visitor's Book**

(1) A Visitor's Book shall be maintained, in every institution, in which the person visiting the home shall record the date of his visit with remarks or suggestions, which he may think proper.

(2) The Officer- in-charge shall forward a copy of every such entry to the District Child Protection Unit or State Government, with such remarks as he may desire to offer in explanation or otherwise; and thereon, the designated authority shall issue such orders as he may consider necessary.

## **103. Maintenance of Registers**

The Officer- in-charge shall maintain in his office, such registers and forms, as required by the Act and as specified by these rules made there under and the list of registers or files or books to be maintained shall minimally comprise of:

- (a) Admission and discharge register;
- (b) Supervision register;
- (c) Medical file or medical report;
- (d) Nutrition diet file;
- (e) Stock register;
- (f) Log book;
- (g) Order book;
- (h) Meeting book;
- (i) Cash book;
- (j) Budget statement file;
- (k) Inquiry report file;
- (l) Individual case files with individual care plan;
- (m) Children's Suggestion book;
- (n) Visitor's book;
- (o) Staff movement register;

- (p) Personal belongings register;
- (q) Minutes register of Management Committee;
- (r) Minutes register of Children's Committees; and
- (s) Attendance registers for staff and juveniles or children.

#### 104. Personnel or Staff of a Home

(1) The personnel strength of a home shall be determined according to the duty, posts, and hours of duty per day and category of children that the staff is meant to cater to.

(2) The institutional organizational set up shall be fixed in accordance with the size of the home, the capacity, and workload, distribution of functions and requirements of programmes.

(3) The whole-time staff in a home may consist of Officer-in-charge, Social Worker Workers, Child Welfare Officers, Counselor, Educator, Vocational Training Instructor, Medical Staff, Administrative staff, Care Takers, house father and house mother, child mentors, volunteers, store keeper, cook, helper, washer man, safai karamchari, gardener as required.

(4) The part-time staff, shall include Psychiatrist, Psychologist, Occupational therapist, and other professionals as may be required by time to time.

(5) The staff of the home shall be subject to control and overall supervision of the Officer-in charge who by order, shall determine their specific responsibilities and shall keep the concerned authority informed of such orders made by him from time to time.

(6) The duties and responsibilities of the staff under the Officer-in-charge shall be fixed in keeping with the statutory requirements of the Act.

(7) The Officer-in-charge and such other staff who may be required, shall live in the quarters provided for them within the premises of the home.

(8) The number of posts in each category of staff shall be fixed on the basis of capacity of the institution; and the staff shall be appointed in accordance with the educational qualifications, training and experience required for each category.

(9) The suggested staffing pattern for an institution with a capacity of 50 children could be as mentioned below:

Sl. No.	Staff/Personnel	No. of Posts
(1)	(2)	(3)
1	Officer-in-Charge (Superintendent)	1
2	Counsellor	2
3	Child Welfare Officer	3
4	House Mother or House Father	4
5	Educator	2(voluntary or part time)
6	Doctor	1
7	Paramedical staff	1

8	Store-keeper cum Accountant	1
9	Art & Craft cum Music Teacher	1 (part time)
10	PT Instructor cum Yoga Trainer	1 (part time)
11	Driver	1
12	Cook	2
13	Helper	2
14	Housekeeping	2
15	Gardener	1 (part time)
	Total	25

(10) The number of posts in the category of counsellor, Child Welfare officer, house father or house mother, educator, and vocational instructor shall proportionally increase with the increase in the capacity of the institution.

(11) In case of institutions housing infants, provision for *ayahs* and paramedical staff shall be made as per the need,

#### **105. Admission of babies or children of inmates of Special Home or Children's Home for Girls**

(1) A baby or a child of 3 years of age in care of its mother who is placed in an Observation Home or Special Home or Children's Home for Girls shall be admitted in that Home along with the mother, if the child cannot be placed with the relatives or otherwise properly provided for. Child born to such mother in an Observation Home or Children's Home / Special Home, after admission of the child into that home, may be allowed to remain with the mother in that home till the child attains the age of 3 years or till the date of discharge of mother, whichever is earlier.

(2) A baby or a child of an Observation Home, Children's Home or Special Home shall be allowed such diet and clothing as the Medical Officer of the Home may prescribe:

Provided that the Director of Odisha State Child Protection Society shall arrange for the admission of such children in any of the institutions which is willing to receive and provide necessary Care and Protection. In such case of transfers, the approval of the Child Welfare Committee shall be obtained.

#### **106. After Care Organization**

(1) The Government may establish and maintain After Care Organization by itself or through Non Governmental Organizations to provide for Care and Protection to the discharged children from Special Homes or Children's Homes to receive shelter facilities for a period not exceeding three years for the following purposes.

- (a) to pursue any higher course of study including any professional course.
- (b) to receive training on job oriented programmes.
- (c) to obtain specialized training to improve their skill in particular job oriented training programmes
- (d) to receive personality development or career development programmes to prepare themselves to face interviews.
- (e) to obtain training in spoken English and communication skills for better social integration.

(2) Children who have no parent/guardian alone are eligible for admission. Provided the children who have parent/guardian shall also be admitted for specific purposes of continuing their higher education or vocational training.

“Provided further that a child who has parent or guardian be admitted if it is found on pre-discharge enquiry that the atmosphere in his home is not conducive for his / her safety or, further development and placement in the Aftercare organization is in the best interest of the child.

(3) A child who has been discharged from the After Care Organization shall not be admitted again unless it is for specific purpose or under valid reasons. Such admission shall be made with the consent of the Director of Odisha State Child Protection Society

(4) A child who has been employed shall be ineligible to continue in the institution. The child can also leave the organization voluntarily and such discharge shall be satisfied that the child goes to a safe environment.

(4A) The admission of children in After Care Organizations may be authorized by the Director of Odisha State Child Protection Society for a period not exceeding 3 years on the basis of proposal received from the Superintendents or Officers-in-charge of the Homes or the child attains the age of 21` years which ever is earlier.

Provided that in specific cases where the child or juvenile is pursuing higher education, the Director of Odisha State Child Protection Society may authorize extension of stay for such further period as to enable him to complete his higher education.

(5) No person who is over and above the age of 21 years shall be allowed to continue in the After Care Organization.

“Provided that in cases where a child is pursuing a course in higher education he may be allowed to continue to stay in the After Care Organization till the end of such course, even if he has completed the age of 21 years”.

(6) After Care Organization shall have affordability, accountability and flexibility while sub-serving the interest of the discharged children from Special Home or Children` s Home.

### **107. Extension of After Care Programme**

The children who are pursuing higher studies either at the time of their discharge from a Special Home or a Children`s Home, or in the best interests of such children, even before such discharge, maybe sent to student`s hostels in educational institutions; and in all such cases the Government shall meet the expenditure on education, boarding and lodging in the said hostels till the completion of the course. This facility may be treated as an extension of the After Care programme.

## CHAPTER VI

### REGONINATION AND CERTIFICATION OF INSTITUTIONS

#### 108. Registration of residential care institutions under the Act

(1) The State Government run institutions and the institution run by voluntary Organizations and Non-Governmental Organizations that are providing care and protection to children in need of care and protection as defined in Section 2 (14) of the Act shall get registration under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015

(2) The District Collectors shall be the Registration authority of any place which is used for the purpose of providing residential facilities either as residential home or hostel or night shelters or by any name for the purpose of providing residential facilities.

(3) The District Collector shall constitute a committee consisting of officials from Social Welfare, Rural Development, District Child Protection Unit and Revenue, and academic from Universities and colleges that are specialized in Criminology, Sociology, and Social Works etc. The Constituted committee to enumerate the number of such organization in the district, the infrastructure available, the conditions of children and initiate licensing of such organizations to function as residential care givers. This committee shall also function as advisory Committee to license and the committee shall be reconstituted every year.

#### 109. Registration:

(1) No individual or organization registered as caregivers to children and women on residential basis or running and maintaining hostels for children or in any other name for the purpose of providing residential facilities shall function without proper authorization and license from the District Collector who shall be the registration Authority

(2) An organization that applies for such authorization or license as mentioned in sub-rule above shall get the provisional authorization or license within one month from the date of submission of application form along with the requisite documents. The provisional license is valid for a maximum period of six months

(3) The provisional authorization or license for running and maintaining residential facilities shall be either revived or cancelled based on the evaluation report prepared and submitted to the Registry (the District Collector) by the committee authorized for the purpose

(4) Licensing of NGOs shall be made initially for a period of five years and thereafter renew the license once in five years.

(5) Criteria for reorganization shall be that

- i. the NGO shall be a registered body either under the Society Registration Act or Trust Act or Company Act or any other law
- ii. shall have a proper governing body and functions properly
- iii. Was not blacklisted in any other state or district for violation of FCRA or issue of fund received either from Government or from any other sources
- iv. the accounts of the NGO have been properly audited and IT returns have been submitted regularly.
- v. The minimum standards of accommodation, toilet and bathing facilities, living spaces, and recreational facilities are ensured.
- vi. Shall not house boys and girls over and above the age of 12 years within the same premises.
- vii. Adequate water facilities including the safe drinking water has been provided

- viii. Children's profiles are maintained properly shall be made available for review by any competent authority.
- ix. The NGO shall be subjected to evaluation and inspection by the District Child Protection Unit, Area Child Protection Unit or any other competent authority authorized by the District level Advisory Board.
- x. Admission and disposal of children shall be entered into a register which is also subjected to scrutiny
- xi. Admission of children shall be intimated to the Child Welfare Committee with a copy marked to the District Child Protection unit and the local Police for information. The information shall contain the date and time, and place from where such children were taken charge.
- xii. Annual report on the admission and disposal of children shall be furnished to the District Child Protection unit for data formation.

## **102. Cancellation of authorization**

(1) The authorization of the running and maintaining of child care institution shall be withdrawn for any lapses, malfunction, misuse of funds, failure to ensure the personal safety and security of children and any other actions which hamper the best interest of children.

(2) Withdrawal of authorization shall be ordered by the District Collector in his capacity as the District magistrate on the recommendation of the District Child Protection Unit

(3) The District Child Protection Unit either upon the complaint received or the observation made by itself or by the direction of the Government, the Director of Odisha State Child Protection Society or the District Collector or the Child Welfare Committee or the Juvenile Justice Board or on the evaluation or inspection report or on the report of fact finds by any authorized body shall report the facts to the District Collector.

(4) The District Collector shall constitute a committee of enquiry and authorize the District Child Protection Officer to facilitate the committee to evaluate the organization and furnish the report.

(5) The District Collector in his capacity as the District Magistrate of the District shall show cause the organization to furnish its reply within 21 working days. On receipt of reply and on the basis of the report a final notice shall also be issued listing out the lapses and the reasons for rejection and provide an opportunity to be heard in person before the committee of enquiry. Subsequent to the personal hearing the appropriate order shall be issued.

(6) If the allegations or the complaints is found correct, the District Collector in his capacity as District Magistrate shall order the closure of the institution and remove the children immediately from the campus and place them in any other place of safety, which may be executed by the District Child Protection Unit in consultation with the Juvenile Justice Board or Child Welfare Committee as the case may be.

(7) The orders of the District Collector in his capacity as District magistrate to order the Closure of such institution shall be subjected to review by any other authority other than the Court of law

### **103. Recognition of fit person or fit facility institution**

(1) Any individual who is willing to receive temporarily a child in need of care and protection and provide such care, protection, safety or treatment for a period as may be prescribed by the competent authority, may be recognized as a "fit person" by the Juvenile Justice Board or the Child Welfare Committee as the case may be for the particular child upon the recommendation of the Probation Officer.

(2) The board or the committee shall upon the recommendation of the Probation Officer and consider the payment of maintenance charge is necessary, shall pass such orders towards the payment of maintenance charge, if the fit person is economically poor.

(3) Any institution, the management of which is willing to receive temporarily a child in need of care and protection and provide such care, protection and treatment for a period as may be necessary, may be identified by the competent authority in consultation with the District Child Protection Unit as a "fit facility institution".

(4) Any Association or body of individuals recognized under the relevant act and established for the Reception or Protection of children or the prevention of cruelty to children, which undertakes to bring up or to give facilities for bringing up any child entrusted to its care in conformity with the religion of his birth, may be included within the meaning of Fit Institution". Incorporate the same in fit institution

(5) A list of names and addresses of fit persons and fit facility institutions approved by the Competent Authority shall be kept in the office of the Juvenile Justice Board/Child Welfare Committee and shall be available to the authorities under the Act whenever necessary.

(6) After committal of a child by the competent authority to an institution recognized as a Fit Institution with collateral branches, the managers of such an Institution may send the child to any of the branches of the same institution located within the State, after giving intimation to the competent authority under whose orders the child was committed.

### **104. Procedure of recognition**

(1) Before giving recognition to any institution status, the competent authority shall hold enquiry, in respective any such reports and documents exists and shall recommend for recognition, after satisfying the credential of the institution.

(2) The Board or the Committee shall recognize such institution as a fit facility institution initially for a period of three years and extend such recognition for a further period of three years upon the satisfactory services of the organization or a suitable place

(3) The recognition granted to the institution are suitable place shall be withdrawn at any time and the children under its care shall be removed immediately if the organization fails to provide the required services or is found to have indulged in malpractices, exploiting or abusing children or using such children illegally for begging or any other acts any other recognized Institution.

(4) The recognition shall be initially given for a period of one year in every case. During this period, if the services provided by the Fit Institution or Fit Person are found to be satisfactory the competent authority may extend the recognition for a further period of 3 years on application from the Fit person or Fit Institution and thereafter review the performance once in every 3 years and decide on grant of further recognition.

Provided further that if the Fit Person or Fit facility Institution recognized as such, fails to provide the required services or is found to have indulging in malpractices of any kind, the recognition granted shall be withdrawn forthwith by the competent authority at any time”.

### **105. Certification/recognition and transfer of institutions**

- (1) If the management of any organization desires that its organization may be certified or recognized under the Act, as Observation Home or Special Home or Children' s Home or Shelter Home or After Care Organization, the same shall make a written application together with a copy of the rules, bye-laws, articles of association, list of members of the society/association running the organization, office bearers and a statement showing the status and past record of social or public service of the organization and the society running the organization to the Department of Social Welfare/Odisha State Child protection Society. The Director of Social Welfare/Odisha State Child protection Society shall cause any of his sub-ordinate Officers to inspect the organization. The inspecting Officer shall, after verifying the provisions made in the organization for the boarding and lodging, general health, educational facilities, vocational training and treatment services, may grant certificate/recognition under section 43, 46, 47,48 and 50 as Shelter Home, After Care organization, Observation Home or Special Home or Children Home as the case may be, on the condition that the organization shall comply with the standards or services as laid down under the Act and rules framed there under from time to time and to ensure an all-round growth and development of children placed under its charge; while certifying or recognizing an institution, specific mention should be made about the age group and sex of the children to be maintained in the institution.
- (2) The State Government may transfer the management of any State run institution under this Act to a voluntary organization of repute who has the capacity to run such an institution and certify that the said voluntary organization as a fit institution to own the requisite responsibilities under a Memorandum of Understanding for a specified period of time.
- (3) The State Government may, if dissatisfied with the implementation of the rules by the management of the organization certified or recognized under the Act, at any time by notice served on the manager of the organization, declare that the certificate or recognition of the organization as the case may be, shall stand withdrawn, from a date specified in the notice and from the said date the organization shall cease to be an organization certified or recognized under section 43, 46, 47,48 and 50 of the Act, as the case may be.
- (4) The decision to withdraw the certificate or recognition of an organization may be taken on the basis of a thorough enquiry and investigation by such officer of the Department of Odisha State Child Protection Society as may be nominated for the purpose by the Director. On the report of the Officer so nominated, the Director of Odisha State Child Protection Society shall issue a notice to the management of the organization asking it to show cause as to why such withdrawal should not be ordered, within a period of 15 days from the date of receipt of the notice. On receiving the reply from the organization or if no reply is received within the time stipulated, the Director of Odisha State Child protection Society shall send his recommendations to the State Government and the State Government shall issue final orders in the matter as it may deem fit.
- (5) When an organization ceases to be an organization certified or recognized under sections 43, 46, 47,48 and 50 of the Act, the children kept therein shall under orders of the Director of Odisha State Child protection Society empowered in this behalf by the State Government either :-



- (a) Discharge absolutely or on such conditions as the officer may impose; or
- (b) Transfer to some other institution established, certified or recognized under Sections 43, 46, 47,48 and 50 of the Act, in accordance with the provisions of the Act and rules relating to discharge and transfer. Intimation of such discharge or transfer shall be given to the Board or the Committee, as the case may be.

#### **106. Grant in aid to certified or recognized institution**

(1)An institution certified or recognized under sections43, 46, 47,48 and 50 of the Act may, during the period of certification or recognition in force, apply for grant-in-aid from the State Government for maintenance of children received by them and for the expenses incurred on their education, treatment, vocational training, development and rehabilitation. The grant-in-aid may be admissible at such rates as shall be adequate to meet the prescribed norms and subject to such conditions as may be mutually agreed to by both the State Government and the institution concerned. Institutions certified or recognized for maintaining children with special needs shall be eligible for grant-in-aid at a rate of at least 50% more than that fixed for institution maintaining normal children.

(2)In case of transfer of management of Government run homes under section 43, 46, 47, 48 and 50 of the Act to voluntary organization, the same budget which the government was spending on that home, shall be given to the voluntary organizations as grant-in-aid under the memorandum of understanding signed between both parties describing other role and obligations.

#### **107. Admission of outsiders**

No stranger shall be admitted to the premises of any of the institution, established under the Act, except with the permission of the officer in charge.

#### **108. Identity photos**

On admission to home established under the Act, every child shall be photographed and three copies of the photograph shall be obtained. One photograph shall be kept in the case file of the child, one shall be fixed with the index card and the third shall be kept in an album serially. The negative shall be kept in another album.

#### **109. Police officers to be in plain clothes**

While dealing with children under the provisions of the Act or under these rules, except at the time of arrest, the Police Officer shall wear plain clothes and not the police uniform.

#### **110. Procedure for sending a child outside the jurisdiction of the competent authority**

(1) In the case of child whose ordinary place of residence lies outside the jurisdiction of the competent authority and if the competent authority deems it necessary to take action under section 95 and 96 of the Act, it shall direct a Probation Officer to make enquiries as to the fitness and willingness of the relative or other person to receive the child at the ordinary place of residence and whether such relative or other fit person can exercise proper care and control over the child.

(2) Any child who is a foreign national and who has lost contact with the family shall also be entitled for protection. The child shall be repatriated, at the earliest, to the country in co-ordination with the Ministry of External Affairs and respective Embassies or High Commission.

(3) On being satisfied on the report of the Probation Officer the competent authority may send the child to the relative or fit person, on execution of a bond by the said relative or fit person.

(4) A copy of the order passed by the Competent Authority under **Section 95 or 96** shall be sent to:-

(a) the Probation Officer who was directed to submit a report under sub rule (1);

(b) the Probation Officer, if any, having jurisdiction over the place where the child is to be sent;

(c) the Competent Authority having jurisdiction over the place where the child is to be sent; and

(d) the relative or the person who is to receive the child.

(5) Any breach of a bond given under sub-rule (3) shall render the child liable to be brought before the Competent Authority who may, pass an order directing the child to be sent back to the institution from where he was discharged.

(6) During the pendency of the orders under sub-rule (3), the child shall be sent by the Competent Authority to an Observation Home/Children's Home.

(7) In the case of a child where the Competent Authority deems it expedient to send the child back to his ordinary place of residence under Section 95 or 96 the Competent Authority shall inform the relative or the fit person who is to receive the child accordingly and shall invite the said relative or fit person to come to the home to take charge of the child on such date as may be specified by the Competent Authority.

(8) The Competent Authority inviting the said relative or fit person under sub rule (7) may also direct, if necessary, the payment to be made by the Officer-in-Charge of the institution of the actual expenses of the relative or fit person's journey both ways by the appropriate class and the child's journey from the institution to his ordinary place of residence, at the time of sending the child.

(9) If the relative or the fit person fails to come to take charge of the child on the Specified date, proper escort shall take the child to his ordinary place of residence. In the case of a girl, at least one escort shall be a female.

### **111. Openness & transparency**

(1) All the institutions established under the Act shall be open to visitors, with the permission of the Officer-in-charge of such institutions, particularly to the representatives of local self Government, voluntary organizations, social workers, researchers, medicos, academicians, prominent personalities, media and any other person, as the Officer-in-charge of such institutions considers appropriate keeping in view the security, welfare and the interest of the child.

(2) The Officer-in-charge of such institutions shall maintain a Visitor's book. The Advisory/ Inspecting Authority shall consider the remarks of the Visitors.

(3) While visiting an institution, the Visitors will not say or do anything that undermines the authority of the Officer-in-charge of such institutions or is in contravention of law or rules or impinges on the human dignity of the child.

## CHAPTER VII

### INSTITUTIONAL MANAGEMENT

#### 112. Articles found on search inspection

The Officer-in-Charge shall see that every child received in the Home is searched, that his personal effects are inspected and that any money or valuables found with, or on, the possession of the child shall be kept in the safe custody of the Officer-in-Charge. Girls shall be searched only by a female member of the staff and with due regard to decency.

#### 113. Personal property register

(1) A register of money and valuable and other articles found with, or on, the possession of a child received therein shall be maintained in Form XXIII appended to these rules.

(2) On a child being received in the Home, the money, valuables and other articles found with him or on his possession on search and inspection and taken possession of shall be entered in the register and the entries relating thereto shall be read over to child in the presence of a witness. The signature shall be obtained from the witness in token of the correctness of such entries. All such entries shall be countersigned by the Superintendent/Officer-in-Charge of the institution.

#### 114. Medical

(1) Medical Officer Every Children's home or Special Home shall have a recognized full-time Medical Officer/Part-Time Medical Officer who shall be a Registered Medical Practitioner and ensure that-

- (a) Regular facilities are available for the medical treatment of inmates.
- (b) Arrangements are made for the immunization coverage; and
- (c) A system is evolved for the removal of serious cases to the nearest Civil Hospital or treatment Centers.

(2) Immediate action Shall be taken in respect of children who is suffering from leprosy, is mentally unsound or is addicted to a drug or affected by HIV/AIDS, etc.

(3) A child is known or suspected to be suffering from an infectious disease shall forthwith be removed to a Government hospital and if this is not practicable shall be isolated from other children. If any infectious disease breaks out in an institution and subsequently a child is admitted, he shall so far as practicable be kept separate from those who are known or suspected to be suffering from the infectious disease.

(4) No surgical treatment shall be carried out on a child without the previous consent of his parent or guardian, unless either the parent or guardian cannot be found and the condition of the juvenile is such that any delay would in the opinion of the Medical Officer involve unnecessary suffering or injury to the health of the child.

(5) A health chart on each child in the institution shall be maintained on the basis of his quarterly medical check-up.

## **115. Duties of the Medical Officer**

(1) It shall be the duties of the Medical Officer to attend to the health and cleanliness of the children the treatment of the sick, the sanitation of the home, the supervision of the food and all other matters connected directly or indirectly with the health of the staff and children of the home.

(2) The Medical Officer shall attend on the subordinates, home officials and their families residing in the home premises. The Medical Officer of a Government Children/Special Home shall also record details of the treatment given in a register which shall be periodically examined by the District Medical Officer.

(3) Remarks of Medical Officer.- At each visit the Medical Officer shall enter his/her remarks in a register

(4) Medical Officer of Government Children/Special Home.- The Civil Assistant Surgeon, attached to each Government Children/Special Home, shall be the Medical Officer thereof. He/she shall be in professional, matters, be under the control of the Joint Director of the Medical services of the District in which the home is situated but in all other respects he shall be immediately under the control of the Superintendent.

(5) Medical Officer to correspond through Superintendent.- The Medical Officer shall ordinarily correspond with the Director through the Superintendent.

(6) Medical Officer to examine candidates for Employment.- The Medical officer shall examine all candidates for employment in the home and all home officials who may be sent to him/her by the Superintendent for the purpose and shall certify in writing regarding their physical capacity and state of health.

(7) Medical Officer to be present at Director's Inspection.- The Medical Officer shall accompany the Director during his/her inspection of the home on parade or on any other day when required by the Superintendent.

(8) Medical Officer to Act as Superintendent.- (1) During the absence of the Superintendent on short leave (other than casual leave) or during a vacancy in the post of Superintendent for a short period for other reasons, the powers conferred on him shall be exercised or the duties imposed on him performed as the case may be, by the Medical Officer.

(9) Duties of Pharmacists.- In a Children or Special Home when there is a Pharmacist, he/she shall obey the lawful orders of the Medical Officers, if any, in all matters connected with the Medical work of the Home and of the Superintendent in other matters.

## **116. Medical Care and Assistance to child**

(1) Every child admitted in an institution shall be medically examined, as soon as possible, after such admission.

(2) Every child shall be provided with adequate medical care, both preventive and remedial, including dental, ophthalmic and mental health care as well as pharmaceutical products and special diet as medically advised on grounds of illness or ill health. All such medical care shall, where possible, be provided to children through the appropriate health facilities and services of the community in which the institution located in order to prevent stigmatization of the children and promote their self respect and integration into the community.

(3) Referral of serious cases to the nearest Government hospital or treatment centre shall be done.

(4) Upon the observation of the Medical Officer children, who require specialized drug abuse prevention and rehabilitation programme, shall be referred to an appropriate centre administered by qualified personnel. These programmes shall be adapted to the age, sex and other requirements of the Juvenile or child concerned.

(5) The Institutions for girls shall have provision for the services of visiting Gynecologist, whenever required”.

### **117. Complaint cell**

(1). There shall be a Complaint Cell in each of the institution consisting of the following:

Officer-in-Charge of the institution	-	Chairperson
Four representatives of the staff	-	Members
One member from the District Advisory Committee	-	Members
Two representatives from the Balasabha	-	Members
Two representatives from academic institutions or experts in the field of children affairs		Members

(2) The cell shall place one or more complaint boxes within the campus. The Complaint Cell shall review any complaint against the staff or against the child. The Complaint Cell will be opening the complaint boxes once in fortnight and initiate appropriate action. The boxes shall be opened on the 1st and 3rd Wednesday in the presence of all the members of the cell and appropriate action should be initiated by the cell which will be reviewed by the cell. Each complaint shall be recorded in the complaint register.

### **118. Escape**

(1) In the event of an escape, the Officer-in-Charge of Observation Home/Special Home or Place of safety shall adopt the following proceedings:-

- (i) The staff of the institution can make search of the child at places like Railway Stations, Bus Stand, other places etc.. Staff need not wait for the formal orders/instructions to be issued. The available immediate Superior Officer shall direct such action in the absence of the Officer-in-Charge of the institutions.
- (ii) Search parties should report the fact immediately on return from search operation.
- (iii) The Officer-in-Charge of the institution shall hold an enquiry on the incident and a report shall be sent to the Director of Odisha State Child protection Society and other controlling authorities within twenty-four hours of the incidence. The report shall be sent either by a mail, fax, special messenger etc., as the case may be.
- (iv) A communication shall be sent to the parents or guardian immediately about such escapes.
- (v) A complaint shall be lodged in the Police Station along with the details and description of the child, identification marks, photograph, the details of parents' address, crime for which he had been placed in the institution etc., immediately.
- (vi) The Officer-in-Charge of the institution shall specify the security lapses, if any, noticed at the time of enquiry.

(vii) The Officer-in-Charge of the institution shall initiate suitable action against the staff if lapses on their part while discharging their duties have been established.

(viii) All the staff who is dealing with children is accountable for the safety of children.

### **119. Run away children from children's home**

(1) In case of children running away from Children Home, search of the child shall be done and a report to parents/guardian shall also be sent. In case of a child who runs away from the institution for more than two occasions, such child shall be reproduced before the Child Welfare Committee for review and alternate means of rehabilitation.

(2) In case of frequent running away of children from an institution, the Monitoring Committee shall study the factors causing such incidence and shall recommend appropriate remedial measures.

### **120. Emergencies**

(1) Whenever there is an out-break of an epidemic in an institution, the Officer-in-charge of the institution shall immediately arrange for the medical treatment of the inmates in consultation with the District Medical authority or the Health Officer from the Local Body.

(2) A report shall be sent to the Director of Odisha State Child Protection Society immediately and in any case within 12 hours of the prevalence of the epidemic either by e-mail or fax or by special messenger.

(3) Whenever a child suffers from any infectious disease he / she shall be kept in a separate block or a Medical unit to prevent the spreading of the disease to other inmates.

(4) In case of any accident, attempt to suicide or violence etc., the Officer-in-charge of the institution shall arrange for immediate medical assistance other by removing the children involved to the nearest medical institution or by bringing Medical Officers to the Institution.

### **121. Children affected by conflict, commotion or natural calamity**

(1) The State Government shall ensure that swift, adequate and appropriate measures are taken for the rescue, immediate assistance safety and long-term rehabilitation of children who are victims of any armed conflict, civil commotion or natural calamity.

(2) In addition to the existing infrastructure, the State Government may in times of such emergencies set up as many temporary Shelter Homes as necessary with the assistance of voluntary organizations. If such voluntary agencies are not already certified under the Act, it shall be the responsibility of the Voluntary organizations to get such certification or recognition from the State Government and the State Government shall extend all possible assistance in this respect to ensure participation of such organizations.

(3) All physical and mental health needs of the children who have been victims of such disasters shall be attended to immediately. Medical Assistance shall be made available and appropriate linkages shall be made with Local Government Hospitals, Private Clinics and Medical Associations and Specialized treatment wherever necessary shall be provided.

(4) To ensure the well-being of the children, the State Government may constitute additional and temporary Child Welfare Committees as required.

(5) Such committees may be constituted by appointing members from the panel of names already selected by the Selection Committees earlier at the time of constitution of the regular Committees.

(6) Giving due consideration to the dynamics associated with a conflict or other such disturbances, the State Government may direct the members of the temporary as well as the regular Committees to visit the temporary shelter Homes or relief sites instead of asking affected children to be produced before them.

(7) The affected children must be informed of their own situation as well as the details of their family, if known, the progress in resettlement and any other issue that may be relevant to them.

(8) There shall be no discrimination in dealing with the affected children, on the basis of their caste, religion, language, ethnic origin, gender or any other status.

(9) Family and Community – based reintegration shall be given priority. However, with due regard to the root cause and special circumstances of the case, exception may be made with reasons recorded in writing.

(10) The competent authorities shall respect and ensure respect for relevant rules of international humanitarian law applicable in situations of armed conflict.

(11) An assessment of the needs of the child shall be done by a Psychologist or trained Social Worker as soon as possible. Every effort will be made to understand report and respond to the deep psychological impact on such children and the authorities shall strive to receive and deal with the children in a child-friendly manner and in a congenial atmosphere.

(12) Special care shall be taken to ensure that the legal rights of the children affected by such disturbing situations are secured and action taken under the relevant laws. The Legal Services Authority shall be approached for necessary support services

(13) In case of death of any child's parents due to the disaster or conflict, the State Government shall ensure that the child's property rights and rights to compensation are secured and such assets and monies protected till the child attains adulthood. The child shall be kept informed of all his rights and assets and protected against exploitation by family members / community members or any other person / organization.

(14) Every effort shall be made to trace the child's family / extended family within the shortest time possible. If the children are orphaned and have no extended family, then keeping in mind, the principle of best interest of the child, alternative foster or adoptive families may be identified, preferably from within the child's community.

Provided that no child shall be taken away from his community or locality for a period of at least 6 months after any natural calamity or disaster so as to facilitate his re-integration within the community and also to prevent any likely trafficking.

Provided further that if any child is taken out of his own locality or community for the purpose of institutional care or foster care or adoption, such child shall be produced before the concerned Child Welfare Committee for placement.

(15) In all such situations of conflict, disaster and disturbance, special care shall be taken to protect girl children from abuse, exploitation and trafficking.

(16) The following issues shall be addressed at the time of re-settlement.

(a) Condition in the home environment and the desirability of the child continuing to stay in the home environment considering the present state of the disaster, conflict, or disturbance.

(b) If the family is unable to take care of the child due to financial constraints, sponsorship or assistance through other Government Welfare Schemes may be considered.

## **122. Accidents and other emergencies**

(1). The Officer-in-Charge of the institution shall ensure the following measures to prevent accidents and other untoward incidents.

- (a) Decent maintenance of the buildings and premises.
- (b) Provision and maintenance of First Aid Kit
- (c) Installation and maintenance of adequate number of fire extinguishers in the kitchen, dormitories, store rooms etc.,
- (d) Periodical review of electrical installations.
- (e) Proper custody of tools and equipments and their periodical inspection.
- (f) Timely attendance to care and welfare requirements of children.
- (g) Good environmental and institutional sanitation and hygiene.
- (h) Segregation of children suffering from contagious diseases.
- (i) Proper storage and inspection of articles of food stuffs
- (j) Stand - by arrangements for water storage and emergency lighting.
- (k) Provision of emergency medical services, whenever necessary

(2) The Officer-in-Charge of the institution shall maintain an accident Register.

## **123. Communications**

- (i) As soon as a child is admitted in the Observation Home, a letter shall be sent to the parents/ guardian.
- (ii) In the case of admission of children in Special Home's/Children's Home/Shelter Homes, a letter shall be sent to the parents/guardian within 24 hours of the admission.
- (iii) In case of emergency or in special circumstances, the Officer-in-Charge of the institution shall arrange for a communication by telegram, fax, and e-mail or through Police wireless to the parents.
- (iv) Every month, the child shall be issued inland letters for sending communication to the parents/guardians. The maximum of the letters shall not exceed three in a month.
- (v) Correspondence and communications between the child in the Observation Home/Special Home and the parent/guardian, relations etc., can be scrutinized by an officer specially designated for the purpose.
- (vi) Communication and correspondence between the children in the Children Home and parents/guardians shall not be subjected to strict scrutiny unless the activities or the antecedents of the parents of the child or the child warrant such scrutiny. Gist of every such communication shall be recorded in the continuation sheet and added to the profile of the child.



#### **124. Notification to parents on emergency**

(1) The superintendent of the child care institution should immediately notify the family or guardian of the child concerned, or other designated person, in case of death, illness requiring transfer of the child to an outside medical facility, or a condition requiring clinical care within the home for more than 48 hours. Notification shall also be given to the consulate authorities of the State of which a foreign child is a citizen.

(2) The Medical Officer shall report to the Officer-in-Charge about the happening of the natural death of a child and see that the body is decently removed to the mortuary.

(3) In case of natural death or due to illness of child in an Observation Home or Special Home the Officer-in-Charge shall obtain a report of the Medical Officer stating the cause of death. A written intimation about the death shall be given immediately to the nearest Police Station, Juvenile Justice Board and the authority concerned.

(4) The parents or guardians of the deceased child shall be contacted and the Officer-in-Charge shall wait for 24 hours for the arrival of relatives. After the inquest is held, the body should be disposed of in accordance with the known religion of the child.

#### **125. Notification of illness, injury and death of family members**

(1) A child shall be informed at the earliest possible of the death, serious illness or injury of any immediate family member and shall be provided with the opportunity to attend the funeral of the family member or go to the bedside of a critically ill family member.

(2) If an allegation or complaint of abuse or an inmate, either physical or sexual or in any other manner, (including custodial rape) is brought to the notice of the Officer-in-charge of an institution other than an Observation Home, a Reception Unit in a Children's Home (including a Shelter Home functioning as a Reception Unit), the Officer-in-charge shall immediately report the matter to the Officer-in-charge of police station having jurisdiction to take necessary further action as per Law. The Officer-in-charge of the institution shall also conduct a detailed internal enquiry and the institution is suspected to be involved, the appropriate authority shall initiate immediate disciplinary action against the said functionary.

(3) In similar cases in an Observation Home or a Reception Unit of a Children's Home (including a Shelter Home functioning as a Reception Unit), the Officer - in- charge shall immediately report the matter to the Juvenile Justice Board / Child Welfare Committee as the case may be.

(4) If an allegation or complaint of abuse of a child during his period of stay in an institution is brought to the notice of the Officer-in-charge even after the child has left the institution the Officer-in-charge shall take action as laid down under sub-rule (i) above:

Provided that in case of a child who has left an Observation Home on bail or one who has left the Reception Unit of a Children's Home as a temporary measure, the Officer-in-charge shall take action as laid down in sub-rule (iii) above.

#### **126. Authorized visits for children**

(1) Visitors to children will be restricted to parents, family members, guardian whose names have already been approved at the time of admission.

(2) Such authorized visitors shall be allowed to visit the children twice a month preferably on 1st and 3rd Saturdays.

(3) Interviews on holidays shall be permitted with the special permission of the Officer-in-Charge of the institution.

(4) The Officer-in-Charge who conducts the interview shall, in the continuation sheet record the, out-come of the interviews, name and relationship of the person who meets the child, address if any etc., for further follow-up.

(5) An interview register should be maintained in which all the relevant columns should be filled in without omission.

(6) The Officer-in-Charge of the institution shall scrutinize the interview register on the subsequent day.

(7) The Officer-in-Charge of the institution reserves right to reject the request of interview and such rejection shall be recorded in his own handwriting.

(8) A Defence counsel appearing for a juvenile in conflict with law before a Juvenile Justice Board may be permitted to visit the said juvenile in an Observation Home provided he / she carries a Letter of Authorization from the Juvenile Justice Board to undertake such a visit. Such a Letter of Authorization should be in the proforma given in Form XXXI. The meeting between the counsel and the child shall take place in the presence of the Officer-in-charge of the Home or his/her representative. Similar visits by Defence Counsels to children in the Special Homes may also be permitted provided they carry a Letter of Authorization from the Juvenile Justice Board or any Court of Law that exercises the power of the Juvenile Justice Board.

## **127. Duties and responsibilities of Officer-in-Charge of an institution**

(1) The Officer-in-Charge of the institutions shall be the controlling authority in so far as the administrative activities pertaining to the institution as a whole. All the staff in the institution is his subordinates for the purpose of administration.

(2) The Officer-in-Charge shall be responsible for the following:

- (i) To ensure the Rights of child in all possible manner within the frame of rules and regulations
- (ii) He shall exercise control over the staff and shall issue instructions for the smooth and effective functioning of the institutions training in accordance with the aptitude and need base of the children, control over budget and accounts, Financial management of the institution, propose plan and non-plan schemes for the further development of the institution
- (iii) The Officer-in-Charge of the institution shall be the custodian of important confidential documents, deeds, agreements, Personal files of staff, Valuable articles of children etc.,
- (iv) The Officer in charge shall be responsible for safe drinking water, proper sanitary and hygienic conditions in the institution, proper health care of children/juveniles etc.,
- (v) The Officer in charge shall pay surprise visits at least once in fortnight during night and ensure that the institutional management is in control and vigil during night

- (vi) The Officer in charge shall nurture a congenial relationship among inmates and convene the meetings of various Committees and conduct the proceedings and supervise that the decisions of the Committees are implemented effectively.
- (vii) The Officer in charge shall conduct meeting with family members of children whenever such opportunities are available and encourage the parents to interact with the children and the staff to ensure that the interests of the children are honoured.
- (viii) He will be responsible for evolving a rehabilitation plan for every child.

### **128. Key Duties of child welfare officer**

The general duties, functions and responsibilities of Child Welfare Officer shall be as follows:

- (a) Making profile of the child through personal interview and from the family, social agencies and other sources like the report of Probation Officers, other specialists .
- (b) Clarifying problems of the child and helping them to overcome the difficulties in institutional life.
- (c) Participating in the orientation, classification, education, vocational and rehabilitation programmes .
- (d) Establishing co-operation and understanding between the child and the staff;
- (e) Assisting the child to maintain contacts with family and create a linkage between the community and the child.
- (f) Participating in the pre-discharge programme and helping the child to establish contacts with organization that can provide emotional and social support to child after their release.

### **129. Key Duties of Care Takers or House Parents**

The general duties, functions and responsibilities of care takers shall be as follows:

- (a) Handling children with love and affection;
- (b) Taking proper care and welfare of children;
- (c) Regulate the children to follow the rules and regulations of the institutions;
- (d) Maintenance of sanitation and hygiene;
- (e) Implementing daily routine in an effective manner;
- (f) Looking after the security and safety arrangements of the home;
- (g) Escorting children whenever they go out of the home;
- (h) Present at the time of serving food to children;
- (i) Any other duties and responsibilities assigned by the Superintendent;

### **130. Order Book**

(1) The Officer-in-Charge of an institution shall maintain an order book in which he shall pass orders to be carried out by any of the staff in the institution. The orders of the Superintendent shall be carried out immediately by the staff of the institution.

(2) The copy of the order passed by the Officer-in-Charge shall be displayed in the notice board besides communicates to the concerned staff members.

### **131. Maintenance of registers**

(1) The Officer-in-Charge shall maintain in the office such registers and forms as may be prescribed by the Act and Rules.

(2) Registers to be maintained by the Non-Governmental Organization:- The Governing body of a Children's Home / Special Home run by a Non-Governmental Organization shall see that the following registers are maintained properly:-

- a. Register of admission and discharge;
- b. Medical Attendant's Register;
- c. Health Register of Juvenile/ Children;
- d. Register of contingent expenditure in respect of Government grants;
- e. Diet roll and Ration Stock Book;
- f. Register of clothing and bedding;
- g. Register of punishments;
- h. History of discharged children/juveniles;
- i. Register of correspondence between children/juveniles and their parents;
- j. Acquaintance roll;

### **132. Meetings**

The Officer-in-Charge shall convene the meeting of Heads of branches once in a fortnight and discuss the issues to be settled within the purview of the Superintendent. A similar meeting of the staff will also be convened once in a month to facilitate the staff to air their grievances and such opportunities will enhance the inter-personnel relationship among the staff. A minute's book shall be maintained for this purpose and every resolution or discussion shall be given due consideration and process.

### **133. Journals**

The Officer-in-Charge of the institution shall maintain a journal on a daily basis. The entries in the journal shall be of the events, taking place on a particular day and action initiated on the part of the individual. The Journal of the Officers in the institution shall be reviewed once in fortnight by the officer in-charge of the institution. The Officer-in-Charge of the institution shall furnish his monthly journal to the Head of the Department for scrutiny.

### **134. Monthly Diary**

The Child Welfare Officer, Social Worker etc and the Care takers shall also maintain monthly diary and their diaries shall be scrutinized by the respective Officer-in-charge of the institution".

## CHAPTER VIII

### SPECIAL JUVENILE POLICE UNIT

#### **135. Special Juvenile police unit**

- (1) The Special Juvenile Police Unit shall comprise of Deputy Superintendent of Police, Inspectors and Sub-Inspectors of Police and necessary police Constables with adequate training and orientation in all the districts and also in select cities to tackle the issues relating to child in conflict with law and to protect the vulnerable children.
- (2) The Special Juvenile Police Shall be designated as "Police Station" or Special Investigating agency for the purpose of investigation of cases involving children as offenders, cases of crime against children.
- (3) The State Government shall establish Special Juvenile Police Units and shall function as Juvenile or Child Assessment centre in addition to the normal police duties and functions to be performed in relation to children.
- (4) Every Special Juvenile Police Unit shall also be provided with two Social Workers with post graduation in Community Social Work / Psychiatric Social Work who shall constitute as the Juvenile Assessment team assist the Special Juvenile Police Unit in the assessment, screening and taking appropriate decisions of adjudication process of children infringing criminal laws.
- (5) The Social Workers shall also do assessment, screening and recommendations in respect of cases child victims of crime such as abuse, exploitation and sexual abuse.
- (6) In every Police Station at least one Police Officer not below the rank of an Assistant Sub-Inspector of Police shall be as Child Welfare Officer (Police) who shall be given appropriate training and orientation on Child Rights, Juvenile Justice System, Probation and allied services, psychology of child and adolescent etc.,
- (7) Every appointed Child Welfare Officer (Police) shall be the member of a District Special Juvenile Police Unit to facilitate the co-ordination and networking among the Police, Probation Officer, Non Governmental Organizations, Judiciary, etc.,

#### **136. Functions of police**

1. Formulate Juvenile Assessment Center in each district to intervene from the day of apprehension and work in close coordination with the Special Juvenile Police Unit.
2. Formulate the data on children in conflict with law who have been languished in Observation Homes and those who were/are in bail.
3. Need assessment based on the strength of offenders and families.
4. Mapping of areas based on the data in relation to Children/juveniles' crime and delinquency
5. Ensure the services and schemes of the Government and NGOs are linked to the needs of juveniles and their families to reduce recidivism considerably
6. Ensure the inter coordination and networking amongst stakeholders towards their obligations for the effective juvenile justice system in operation
7. On apprehension, the child shall be given all possible assistance to enable him to fulfill his right to call any person of his choice over the phone or otherwise.
8. All officers dealing with children alleged to be in conflict with law, in particular of those who first receive and interview such children shall, as their prime responsibility, take on the role of a 'friend of the child'. In this capacity, such officers

shall make a genuine attempt to build a positive enabling relationship with the child even if the said child has allegedly committed a serious offence.

9. The child shall be placed with Special Juvenile Police Unit which should receive, assess and interview in a child -friendly manner.
10. Officers of the Special Juvenile Police Unit shall be administered by such officers who have specially trained.
11. Children should have access to materials for their leisure and recreation during these processes.
12. Police shall work out a mechanism to formulate volunteers to serve as special police officer. Promote the Volunteers from NGOs and students from academic institutions on field projects to function as social workers in helping a child in the Special Juvenile Police Unit. They shall provide supportive network in every police station to help the child welfare officer to handle a child in conflict with law or a child in need of care and protection including a victim child, and such other issues relating to missing children

### **137. Procedure to be followed at the first stage of production**

Police should ensure the following while handling a child in conflict with law or a child in need of care and protection

- i. A juvenile in conflict with law or a child in need of care and protection shall be handled by a designated police officer or by the special juvenile police unit.
- ii. Handcuff of a child is totally prohibited.
- iii. A child shall be entrusted under the care of Special Juvenile Police Unit for investigative procedure.
- iv. The rights to presume innocence, right to represent by a friend or a social worker during interrogation, right to privacy and confidentiality shall be ensured.
- v. A child shall not be kept in police station including the all women police station during transit period for investigation. In such circumstances, the child shall be kept in the nearest observation home or the place of safety as ordered by the board.
- vi. Procedure in the case of taking finger prints or photos on juveniles should be at the highly confidential in nature and should not be made available for publication in media.
- vii. The police officer who takes charge of the juvenile shall intimate to the probation officer and also to the family of the juvenile as contemplated under section 13 of the Act of 2015.
- viii. Police shall normally prevent in taking charge of a juvenile in conflict with law, particularly a female juvenile between sunset and sunrise. Provided that in case of taking charge is inevitable, instead of keeping the juvenile in the police station or lock-up, shall arrange to keep the juvenile in a place of safety or in an Observation Home or in a fit facility institution or under the care of a fit person after recording the fact.
- ix. The Police shall inform the juvenile/child promptly the charges leveled against him/her or the purpose for which he or she has been taken charge in a language and the manner in which the juvenile is familiar.

- x. The juvenile shall also be given all possible assistance and support, enabling him or her to call any person of his or her choice including an Advocate over phone or otherwise for proper support and assistance.
- xi. The juvenile shall not be compelled to confess or give testimony. Any form of torture or harassment shall not be used in order to extract information from him/her.
- xii. A quick assessment shall be made at the place of first contact and the details of these shall be recorded. Such assessment shall be taken into account the heterogeneity of the juvenile and thereby provide individualized attention and due regard to the circumstances of the case of the juvenile.
- xiii. The female juvenile shall be subjected to search by a female staff only and such person shall be escorted to any place by accompanying female staff.
- xiv. The juvenile shall be treated with decency and dignity while doing investigation, enquiry, search etc.,
- xv. Police shall also release a juvenile on bail and such release shall be promptly intimated to the Probation Officer and the Juvenile Justice Board for follow-up. The discretionary power of releasing a person on bail shall be used very cautiously and such release shall not hamper the best interest of the juvenile and the community.
- xvi. Police shall not release a juvenile on bail mechanically; rather such release shall be subjected to supervision by a probation officer who shall be consulted before the bail is granted.
- xvii. If a juvenile is not released on bail by the police officer, such juvenile shall be produced within 24 hours of taking charge, excluding the journey time before a member of Juvenile Justice Board who shall order the placement of the juvenile in an Observation Home or a place of safety. The placement order shall be in the format prescribed for the purpose. It is not necessary that the juvenile shall be produced only before the Principal Magistrate.

### **138. Police investigation and reporting**

1. Police shall do assessment with the help of social workers attached to the Special Juvenile Police Unit who shall prepare a technical report on the basis of assessment enabling the police to either release the child on bail or refer to the Juvenile Justice Board for adjudication.
2. Police is free to adopt the investigation procedure as laid down in Criminal Code Procedure including finger printing, line up for identification, search and recovery of weapon used for committing the crime or the stolen properties etc. Such investigation procedure shall in conformity to the dignity, self respect and decorum of the juvenile as enshrined in United Nations Convention on the Rights of Child and the principles of human rights.
3. Police is not entitled to seek the police custody of a juvenile for investigation. All such investigations shall be made in the premises of the observation home or in the place of safety.
4. Police is free to use the services of Probation Officers or the volunteers during investigation.
5. The designated Child Welfare Officer or the special juvenile police unit shall encourage the committed and willing personnel to perform the duties of a counselor or social worker or child welfare officer (police) to assist the police on a voluntary basis. Such volunteers shall be designated as Special Police Officer who shall assist the police as facilitator and not as investigating officer.

6. Police shall approach the Juvenile Justice Board for appropriate orders for taking out him or her to various destinations to recover the weapon used for committing the crime or gets back the disposed stolen properties. In such issues, the Juvenile Justice Board shall pass an appropriate order authorizing the police to take charge of the juvenile from the observation home or a place of safety and handle them in plain clothes and with dignity and respect during journey. Female shall be accompanied by female escorts.
7. Provided that such juvenile on journey shall not be kept in police lock up or jail but shall be kept in an observation home or a place of safety or a fit institution available in the respective district or the state.
8. The officer in charge of the observation home or the place of safety or the fit institution shall facilitate such stay on the written request from the police who have accompanied the juvenile.
9. Police shall complete the investigation of a case involved by a juvenile within three months and produced the investigation report to the Juvenile Justice Board for adjudication. If the police fail to complete the investigation within three months, the Juvenile Justice Board is free to adjudicate the disposition without a report from the Police unless the police seek extension of time and such time is/was granted.

### **139. Procedure in the case of offence committed by juveniles along with adults**

If an offence is committed by a juvenile(s) along with adults, the police shall split the case and initiate separate enquiry against the juvenile. The juvenile shall be produced before the Juvenile Justice Board with the duplicate or Xerox copy of the FIR and such other documents furnished before the regular court. Such documents and the copy of FIR shall be dully certified and countersigned by the investigating officer of the particular case.

### **140. Production of the juvenile before the Board**

(1)The police shall strictly adhere to the guidelines of the Supreme Court of India while dealing with a child in conflict with law or a child in need of Care and Protection.

(2) The police shall also ensure that the provision of the Convention on the Rights of the child have been strictly adhered to and all action initiated on the part of the police is in the best interest of the child.

(3)Whenever a child is in conflict with law is produced before the Juvenile Justice Board, the police should furnish the following details to the Juvenile Justice Board:

- (a) Date and time of taking charge of child, address of the child, offence said to have been committed and the place where the child was kept till such time the child was produced before the Juvenile Justice Board.
- (b) Copy of the intimation letter sent to the Probation Officer or parents/guardian of the child.
- (c) Details of the property or articles recovered from the child at the time taking charge.

### **141. Procedure to deal with abandoned children**

(1) Whenever intimation is received by the police about the existence of an abandoned infant, the police shall with the assistance of Non Governmental Organizations or a reputed Social Worker shall take charge of the infant and arrange to provide immediate medical assistance and care. Subsequently place the child in a Foundling Home or in a Pediatric Unit



of a Govt. Hospital. If such facilities do not exist, the child can be handed over to a fit person or fit institution. In this aspect the police shall immediately send a report to the Child Welfare Committee, provide the address of the organization or individual in whose possession the child is placed.

(2) Whenever intimation is received from a Non Governmental Organization about the possession of an infant child under their care, the police shall make an FIR or record in the Police diary. A report shall be sent to the Child Welfare Committee about the action taken in this aspect. Without making a report to the Child Welfare Committee, the police cannot close a file.

(3) The Police shall keep a watch over the organizations that are functioning in their respective jurisdiction and satisfy that the organizations are not unlicensed NGO or indulging child abuse and trafficking, illegal adoption etc.

(4) Whenever intimation is received by the police about the abandonment of an infant, the police shall with the assistance of social worker of NGO which is licensed to promote either in-country or inter-country adoption shall take charge of the infant. Such child/infant shall be handed over to the licensed NGO with a direction to provide immediate medical and other such care instantly and subsequently produce the child before the Child Welfare Committee for receiving placement order.

(5) During the rescue, the police have to take the photograph of the infant using the digital camera with time setting and the photo shall be submitted to the Child Welfare Committee along with its report. If no such licensed NGO is available, the rescued infant/child shall be placed in a pediatric ward of the Government hospital or under the care of a fit person or fit institution. Immediately an intimation shall be sent to the Child Welfare Committee which shall pass necessary orders for the placement of the child in the nearby licensed NGO which is available either within the district or in the neighboring district.

(6) The police shall enter such initiatives in the Community Service Register (herein after CSR register as in Tamil Nadu) or in the Police diary and intimate to Child welfare committee immediately. Investigation or enquiry shall also be conducted to probe the abandonment and file a status report to Child Welfare Committee as action taken report.

(7) If the Police Receive any intimation from an NGO regarding the receipt of an infant through any other sources, the Police shall enter into the CSR Register and initiate enquiry immediately and file a status report to CWC. Police shall not complete the enquiry process without intimating the CWC. In the process, the Police shall ensure that the NGO which receives the Child/Infant produce the child before the CWC and obtain the Placement order for keeping the child in the institution.

(8) Police shall also verify the reported cases of missing children from other districts also and satisfy that the child in the NGO care is not the child as reported missing in any of the district

(9) Police shall produce any person less than 18 years of age who is in difficult circumstances and is need of care and protection before CWC for appropriate intervention within 24 hours of taking charge, excluding the journey time.

(10) Provided Police shall refer such child to shelter homes or discipline centre or restore a child to the care of parents, if child is a missing child or a run-away child who deserves to go back to family, such disposition shall be informed to CWC.

### **143. Special Juvenile Police Unit as a place of safety**

(1) The Special Juvenile Police Unit shall be the place of safety for the purpose of keeping a child for the purpose of interviewing a child in conflict with law or during the period of transit for the purpose of recovering the disposed stolen articles or to take possession of weapons used for committing crime. Such Police Unit should not function in any of the Police Station.

(2) The atmosphere of the Special Juvenile Police Unit shall be child friendly. Such Unit shall be provided with play materials and recreational facilities.

### **144. Procedure in the abused children or victims of sexual exploitation**

(1) (a) A person who is rescued from the commercial sex work or within the premises of a brothel is under eighteen years of age, such person shall be produced before the Child Welfare Committee as a child in need of care and protection.

(2) The rescue child could not be viewed as offender but shall be viewed as victim and therefore such child shall not be produced before any other court or the Juvenile Justice Board.

(b) A special police officer who is conferred with the powers to deal with the cases under Immoral Traffic (Prevention) Act, 1956 upon rescue of a person under eighteen years of age shall refer the person to the special juvenile police unit or to the designated Child Welfare Officer (Police) for production before the Child Welfare Committee, considering the person as a victim and a child in need of care and protection.

(b) If the child is rescued during night hours and if it is not possible to produce the person before the Child Welfare Committee, the person shall be kept in the children's home or a place of safety or in a fit institution. But, the person shall not be sent to any of the rescue shelter or an institution which is meant for the rescued persons to be kept under the provisions of the Immoral Traffic (Prevention) Act, 1956. The person shall be produced before the Child Welfare Committee on the next day without delay.

(c) Police should ensure that the rescued child and the perpetrators of crime and the organizers of brothel shall be transported in the same vehicle

(2) Procedure in the case of a person under 18 years of age is alleged to have been kidnapped; a person under eighteen years of age is alleged to have been kidnapped by a person who may be an adult, the police office on taking charge of the kidnapped person shall produce the person before the Child Welfare Committee as a child in need of care and protection and not before a regular court.

Provided the case against the person who has kidnapped her shall be dealt with in accordance with the procedure in a regular court. The regular court has no jurisdiction over the person except to examine her as a witness. If the person so produced before the regular court, upon conclusion that the person is under 18 years of age shall refer to the Child Welfare Committee which shall take appropriate action in accordance with the procedure, after due process and enquiry.

(3) Police shall produce any person less than 18 years of age who is in difficult circumstances and is need of care and protection before Child Welfare Committee for appropriate intervention within 24 hours of taking charge, excluding the journey time.

Provided Police shall refer such child to shelter homes or restore a child to the care of parents, if child is a missing child or a run-away child who deserves to go back to family, such disposition shall be informed to Child Welfare Committee.

#### **145. Crime against children**

(1) If a child is apprehended from begging or under employment in hazardous industries or in bondage or as domestic help on a residential basis shall be examined with the help of social workers attached to the Special Juvenile Police Unit and the statement of the child shall be recorded using audio-video electronic mean.

(2) If any external injuries are noticed the injuries shall be photographed using digital colour photo with the date and time of photo taken.

(3) If the injuries are older, the periodicity and the depth of such injury shall be examined medically and medical report shall be obtained. Police shall either approach the medical institution directly or with the help of Child Welfare Committee shall ensure the medical and forensic evidences documented.

(4) The Special Juvenile Police Unit shall on the basis of investigation, medical and forensic evidences shall in consultation with the Prosecutor file the charge sheet before the competent court which has jurisdiction over the adult offender.

(5) Police shall not file charge sheet or initiating the criminal case in the Juvenile Justice Board which is exclusively constituted to handle the enquires against children in conflict with law

#### **146. Child Sexual abuse of children**

1. In the reported cases of child sexual abuse upon information, the police officer shall take possession of the child and arrange for the medical opinion or for safe placement in accordance with the nature of offence and intimate the same to the Special Court which is the designated "Children Court" under the National Commission for the Child Protection. If no such designated court is made in a district, the Court of Session is the Special Court.
2. Police should record the statement under Section 161 CrPC using the audio-video electronic mean by a female police officer in the presence of a support person with whom the child has a confident.
3. The place of recording the statement shall not a police station and such place shall be comfortable to the child and should ensure the right to privacy and confidentiality.

4. Police should also ensure the recording of statement under 164 CrPC and such statement shall also be recorded using the audio-video electronic mean.
5. Police should also ensure that the accused should not get in contact either directly or through any means of communication including through third party. Police should caution the medical authorities, child welfare committee, personnel being engaged as support person to help the child during enquiry and investigation to strictly adhere to the provision.
6. Police could use the services of translators and interpreters while dealing with the children speaking other language or deaf and dumb or mentally challenged children.
7. Police could approach the Child Welfare Committee to provide a support person to the child to facilitate the child to communicate and it is the option of the child to consider it or to have a known person of the child's choice to act as a support person.
8. Special Court has to take cognizance of the case within 30 days and to dispose enquiry within a year. Police has to ensure the time limit is strictly followed.
9. If the Child Welfare Committee upon enquiry of a child in need of care and protection and establishes the commission of sexual offences on a child, the police shall register a case upon intimation or direction from the Committee and follow the procedures established under the POCSO Act, 2012

#### **147. The Prohibition of Child Marriage Act, 2006**

1. A female under 18 years of age and a male person under 21 years of age could be considered as child or minor as per the Prohibition of Child Marriage Act, 2006.
2. Child marriage is an offence punishable with rigorous imprisonment, which may extend to 2 years or with fine up to Rs. 1 lakh, or both
3. A male above 18 years of age marrying a child or Whoever performs, conducts or directs or abets any child marriage or any person having charge of the child, including the parent or guardian or any member of an organization or association promoting, permitting, participating in a child marriage and failed to prevent such child marriage could be punished under law.
4. Offences under the Act are cognizable and non-bailable
5. Though the Act does not give any authority to the police to intervene, provided invoking the powers under Section 154 of Criminal Code Procedure, police could file

a petition before the Judicial Court for granting injunction not to celebrate the marriage.

6. The Act empowers the Child Marriage Prohibition Officer to be conferred with the power of police to move the court under section 4,5 and 13. In such issues, the Police could also inform the officer to act and provide necessary supports and guidance.

**148. Child trafficking**

(1) Trafficking of children involves the purpose and intent. Therefore even with the consent the child is taken away from the place of origin to any other place for any purpose could be viewed as the violation of child rights under human rights perspective and therefore shall be brought before the committee as a child in need of care and protection and action against the traffickers shall be processed in the regular court of law.

(2) Whenever the police receives report from the Child Welfare Committee or otherwise, shall enquire the child and ascertain that the child was/is a trafficked child, police shall not produce the child before the child Welfare Committee as a child in need of care and protection as found without ostensible means of livelihood. The facts shall be reported and action has to be initiated for child victims of trafficking

## CHAPTER -IX

### PROBATION SERVICES

#### 149. Duties of Probation Officer

(1) The State Government shall appoint as many Probation Officers as possible in every District to handle the children related issues. The Government shall also authorize any person or an Officer to perform duties and functions as Probation Officer and conferred on them with the powers and duties as per the Probation of Offenders Act, 1958 (Central Act 20 of 1958). The Probation Officer shall perform the following duties and responsibilities in respect of Children who have been dealt with under the provisions of the Juvenile Justice (Care and Protection of children) Act, 2015 (Central Act 2 of 2016), namely:-

(2) The probation officer attached to the board or the child welfare committee shall be the officer of the board or the committee for the purpose of intake process.

(3) The probation officer shall have the following judicial functions

1. Intake process to assist or facilitate the board or the committee to take appropriate decision during initial hearing
2. Social enquiry report
3. Supervision of a child who is released on probation upon conditions prescribed by the competent authority for the promise made by the child and also by the family for the good behaviour

#### 150. Social enquiry report:

(1) The probation officer shall upon the receipt of report from the Police on the apprehension of a child in conflict with law or on the direction of the Juvenile Justice Board or the Children's Court or the Child Welfare Committee as the case may be, prepare a social enquiry report taking into consideration of the following factors.

1. Information on the offence (s) - Present
2. Any other case is pending disposition
3. Previous record relating to deviance and including any disposition made
4. Family history including the relationship with the family members
5. Child's history (Social behaviour)
6. Home and neighbourhood
7. School or work record
8. Interest and activities
9. Community agencies familiarized or associated with the family and the child
10. Agencies or individual likely to involve in the treatment process
11. Assets and liabilities and summary

(2) The social enquiry report shall be the individual care plan in respect of the child and shall be on the following lines

- a) The conditions to be proposed should be defined clearly in the report
- b) The specific roles and responsibilities of borrowing agencies and their accountability should also be defined
- c) The probable time limit for each agencies shall also be projected subject to variation on a later date after review
- d) It target the personality and behaviour of the client
- e) Restitution or compensation to victim should also be defined

#### 151. Supervision of children released on probation

- (1) Probation Officer shall monitor and evaluate the good behaviour of a person released on probation and satisfy that the conditions prescribed in the supervision order are being adopted properly
- (2) A monthly report shall be sent to the competent authority the board or the committee as the case may be, which shall review and advice the probation officer regarding the follow-up
- (3) Any violation of conditions by the probationer shall be brought to the notice of the competent authority who shall review, fix hearing if require and modify the earlier order
- (4) Probation officer shall conduct enquiry in relation to institutionalized children regarding their premature release or their absolute discharge and furnish report to the officer in-charge of the institution.
- (5) Probation Officer shall not be entrusted with duties and functions that are not child centered.
- (6) Probation Officer shall maintain a diary in which he shall enter his day to day activities and such diary shall be evolved by an Officer in the district or in the Headquarter organization who have working knowledge in probation and related works.
- (7) Probation Officer shall furnish his or her report within fortnight to the competent authority as soon as the child is admitted in the reception unit attached to Children homes in the case of children in need of care and protection.
- (8) In the case of child in conflict with the law the social enquiry report shall be sent to the board within fortnight from the date of receipt of intimation from the police. Probation officer need not wait for the formal direction from the board for social enquiry report

#### 150. Appointment of Voluntary Probation Officers

- (1) Supervision of a child placed within the community after releasing the child in probation is the primary function of probation officer. The supervision of the person within the community under the surveillance for the promise of good behavior, such supervision shall also be done by persons authorized to perform the functions as probation officer formulating Voluntary probation Services
- (2) The State Government shall authorize the District and Sessions Judge to prepare a directory of willing and committed persons to serve as Voluntary Probation Officers within the district
- (3) The District Child protection Officer shall call for the list of application from persons who could spare sufficient times to serve as Voluntary Probation Officer and such applications shall be forward to the District and Sessions Judge for consideration.
- (4) Screening of application shall be made by the Principle Magistrate of the Juvenile Justice Board comprising of a screening committee consisting of the District Child Protection Officer, nominee from the District Collector and also from the District/City Police chief.
- (5) The District and Sessions shall issue orders, appointing the Voluntary Probation Officers for two years and could be renewed for subsequently upon the satisfactory work performance.
- (6) The District and Sessions Judge is free to work out any mechanisms before finalizing the selection of voluntary probation officers.

## **CHAPTER X**

### **REHABILITATION AND SOCIAL REINTEGRATION**

#### **151. Adoption**

(1) Adoption is the transfer of rights and responsibilities of a child from its birth parents to adoptive parents. In case of a child whose biological parents are unknown may also be placed on adoption in accordance with the procedure as laid down in Chapter VIII of the Juvenile Justice (Care and Protection of Children) Act, 2015 (Central Act 2 of 2016)

(2) If both contracting parties are Hindus and a child is given in Adoption in accordance with the provisions of Hindu Adoption and Maintenance Act of 1956, the procedures laid down in the Juvenile Justice (Care and Protection of Children) Act, 2015 shall not apply.

(3) An abandoned child or a surrender child and such surrender deal executed is validated by the Committee after the period of two months from the date of execution of the surrender deed shall be adopted by any individual irrespective of his or her faith.

(4) Such children shall be adopted by any person only after the child is certified by the Child Welfare Committee as legally free for adoption after due process of enquiry.

(5) The Court that has been defined under Section 2 (23) of the Act for the purpose of processing the placement of a child in adoption shall entertain applications, only after the child is certified as legally free for adoption and also follow such procedures as per the provisions laid down in chapter -VII of Juvenile Justice (Care and Protection of Children) Act, 2015 and guidelines being formulated by CARA from time to time.

#### **152. Determination of age of the child in Adoption**

(1) The Court that pronounced the adoption of a child by adoptive parents either within India or from any other Country, the age of the child shall be declared in the adoption order and shall also pronounced that the Municipal authorities shall issue birth certificate incorporating the names of adoptive parents

(2) The Passport authorities shall also accepts the age of the child as pronounced by the Court and the adoptive parents as parents for the purpose of issuing passport in favour of the child

#### **153. Adoption agencies**

(1) The Children's Homes established under the Act, shall be recognized as agencies for the purpose of placement of children in adoption. The State Government shall issue specific orders authorizing such institutions to undertake the placement of eligible children in adoption. All other institutions licensed/ recognized by the State Government to do adoption shall be deemed to have obtained recognition under this Act to do adoption, provided they obtain "Fit facility Institution" Certificate from the Child Welfare Committee.



(2) The authorized Children's Homes or authorized State-run Orphanages shall be the placement agencies for the placement of children coming under the purview of the Act, on adoption.

(3) The process of placement of children on adoption shall be done by professionally trained social workers appointed or authorized by the State Government for this purpose.

#### **154. Adoption Resource Agency**

Adoption Resource Agency formed as per the guidelines of Government of India shall be the Adoption Resource Agency for the purpose of in-country adoption. All the Children's Homes which are approved to process adoption shall become the member of the Adoption Resource Agency.

#### **155. Rehabilitation support cell for adoption and foster care**

(1) The State Government shall authorize the District Child Protection Unit to under take the following

- (i) Screening of applications received and identification of prospective parents for adoption.
- (ii) Disseminating information on Adoption to community.
- (iii) Convene a meeting of the Children's Homes and State run orphanages periodically once in three months and encourage the non-institutional rehabilitative measures for adoption, Foster Care etc., The minutes shall be communicated to the Director of Social Defence for evaluation and further guidance.

#### **156. Role of Children's Home as placement agencies**

(1) The identified and recognized Children's Homes as placement agencies shall perform the following duties and responsibilities:-

- (a) Receiving of applications, screening and identification of prospective adoptive parents.
- (b) Conduct a Home study of the prospective adoptive parents upon identification.
- (c) Matching a child with the prospective adoptive parents and place the child on temporary Foster Care for a maximum period of six months.
- (d) Regular follow-up during Foster Care period and report preparations.
- (e) Liaison with Child Welfare Committee to obtain the certificate in respect of an abandoned child
- (f) Coordination with Adoption Coordinating Agency.
- (g) Maintenance of records relating to adoption.
- (h) Profile of children.
- (i) Follow-up for three years after adoption.

(2) Pre-placement counseling for adoptive parents:- The placement agency shall arrange for pre-placement counseling and empower them on the perspective of Adoption and the entitlement of adoptive child.

#### **157. Guidelines for the preparation of Home Study Report**

(1) The following shall be the criteria for the preparation of Home Study Report:-

- (a) Social status and family background.
- (b) Description of Home.
- (c) Standard of living as it appears in the Home.
- (d) Current relationship between husband and wife.
- (e) Current relationship between the parents and children ( children if any).
- (f) The relationship and bondage exist between the already adopted child and the members of family
- (g) Current relationship among the couple and the other family members including the members of extended families.
- (h) Employment status of the couple.
- (i) Health details such as clinical test, health conditions, past illness etc., (Medical evidences).
- (j) Socio-economic status of the couple.
- (k) Reasons for wanting to adopt a child.
- (l) Attitude of grand-parents and relatives towards adoption.
- (m) Anticipated plans for the adoptive child.
- (n) Legal status of the prospective adoptive parents. ;

(2) The follow-up of children placed within the country will be as follows:-

- (a) During the pre-placement under Foster Care there shall be a regular monitoring and evaluation of the child's upbringing. A professionally trained social worker shall visit the family once in a month regularly for this purpose
- (b) The follow-up report shall be made available to the recognized placement agency and the Adoption Coordinating Agency.
- (c) The agency should see that legal adoption is effected within a year of pre-placement thereby safeguarding the interest of the child/infant. In case it is not possible to complete the legal adoption process during such period of one year, the agency shall obtain specific orders from the concerned court for extension of time. Such extension shall be granted for a maximum period of 3 months on any one occasion subject to a total maximum period of 1 year
- (d) Even after legal adoption, the agency should make a follow-up for a period of three years.
- (e) Post-adoptive counselling should be provided by the agency to the adoptive parents.
- (f) After the completion of legal adoption a report shall be sent by the placement agency to the District Child Protection Unit.

### **158. Records**

- (1) The following records and registers should be maintained by every recognized Children's Homes.
  - (a) Admission registers which should the date and time of admission and disposal.
  - (b) Profile of children shall be maintained to each child
  - (c) Register of prospective adoptive parents with details.
  - (d) Follow-up register and report in respect of children placed with adoptive family prior to legal placement
  - (e) Follow-up register and progress reports in respect of children placed in adoption legally.

- (f) Quarterly reports in the prescribed format to the State Adoption Cell and the Adoption Coordinating agency
- (g) The annual reports of the placement agency together with the necessary details and statistics in the format prescribed by CARA/State Government shall be forwarded to the Director of Social Welfare, the Adoption Coordinating Agency and the Court.
- (h) Audited statement of accounts.

### **159. Adoption procedure**

(1) The competent court shall ensure the licensed Agency should furnish the following documents with their petition for adoption order:-

- (a) License Certificate issued by the Government
- (b) Registration Certificate.
- (c) Surrender Deed (if any)
- (d) Abandonment Certificate issued by the Child Welfare Committee (if any)
- (e) Authorization letter from the authorized signatory of the agency, authorizing the Social Worker to file the petitions before the Juvenile Justice Board.
- (f) Child Study Report and Medical Report.
- (g) Home Study Report about the prospective parents done by a Social Worker or Voluntary Co-coordinating Agency or any other licenced adoption agency.
- (h) Income certificate of the prospective adoptive parents.
- (i) Property certificate of the prospective adoptive parents.
- (j) Job certificate of the prospective adoptive parents.
- (k) Health certificate of the prospective adoptive parents.
- (l) Marriage certificate or evidence of marriage of the adoptive parents.
- (m) Three referral letters from respectable people of the society.
- (n) A letter of consent for adoption.
- (o) Photos of the child/infant and the adoptive parents duly attested by the Chief Executive of the Agency

(2)The prospective adoptive parents along with the placement agency shall file a joint petition before the Court with all the relevant documents. In case of single parent the person shall alone file a petition.

(3) The concerned institution or agency which offers the child/infant for adoption shall be the co-petitioner.

(4) As far as possible the time taken for passing an adoption order shall not exceed three months from the date of filling. The order shall also include provision for a periodic follow-up report either by the Probation officer / Case Worker or Adoption Agency to ensure the well being of the child/infant. The period of such follow-up shall be not less than three years or such other period as the Court may direct. The follow-up shall be made once in six months during the first year and once in a year for the remaining 2 years.

(5)The Court shall undertake a process of enquiry which will include interviewing the prospective parents, verifying the documents and the report of the Adoption Coordinating Agency. If the Court is satisfied that the placement is in the best interest of the child, it will pass a final order giving permanent custody to the adoptive parent/parents.

(6) The Court shall fix the date of birth, on the report of the Medical experts. The Court shall direct the appropriate authority to issue a birth certificate incorporating the date of birth, date of adoption and the names of adoptive parents.

(7) As far as possible the time taken for passing an adoption order shall not exceed three months from the date of filing. The order shall also include provision for a periodic follow up report either by the probation officer/case worker or adoption agency to ensure the well being of the child. The period of such follow up shall be not less than three years or such other period as the Court may direct. The follow-up shall be made once in six months.

## **160. Prevention of illegal trafficking of children for adoption**

(1) To prevent the illegal trafficking of children for adoption and similar purposes, the Municipal Corporation or Municipalities or Town Panchayat or village Panchayat shall monitor the functioning of Non Governmental Organizations engaged in child-care activities within their jurisdiction. There shall be a city level child Protection Committee and Area Child Protection Committee to prevent the child trafficking and abuse and neglect.

(2) The Village Level Child Protection mechanism constituted by Government in every Village Panchayat shall be the Area Child Protection Committee for the purpose

## **161. Foster Care**

(1) Most often due to non-availability of paper work for destitute children and due to delays in the formulation or process of obtaining a destitute certificate from a Competent Authority, children are landed in orphanages and institutions till they become major. This indefinite stay in their formative ages in closed institutions may have adverse effect on the overall development of the child. Any aspect of child's rehabilitation should be considered as an issue of justice to the child and in the best interest of the child.

(2) Foster Care is preferred as an alternative to institutional care as the family environment offers love, care and attention which is helpful for overall growth and development of the child, besides the child having an opportunity to live in the community.

- (i) Foster Care can be either long term, short term, or in group.
- (ii) Foster Care is just the bringing up or taking the responsibility of a child until the age of 18 years or till the child is able to return home whenever family circumstances are considered conducive or the child is placed in adoption, whichever is earlier. There is no legal bond. But, Foster Care is based on the bonds of love, security and affection for the child.
- (iii) Twins and siblings shall not be separated by a foster care placement except under extraordinary circumstances. If for some reasons they are separated, arrangements shall be made for them to remain in contact.
- (iv) In all matters of foster family care, the prospective foster parents and where appropriate, the child and his / her biological parents shall be involved.

## **162. Objectives of Foster Care**

(1) Family is a fundamental instrumental foundation of a larger social structure. All other institutions depend on it, on its contribution. Families importance lies on the following structure:-

- (a) for most individuals, it serves as a basic socializing agent for the acquisition or internalization of beliefs and attitudes.

- (b) it constitutes the chief sources for the realization of personal satisfaction.
- (c) it also serves as a basic instrument for social control.
- (d) it creates a link between continuity and change. In view of this, children shall be provided with opportunities to live in a family environment. Children whose environments are not suited to live in their biological families due to various circumstances can be placed in foster care.

### **163. Criteria for foster family**

- (1) The following criteria shall be applied for selection of families for foster care
  - (a) Foster parent(s) should have stable emotional adjustment within the family;
  - (b) Foster parent(s) have an income to meet their needs.
  - (c) Medical reports of all the members of the family residing in the premises should be obtained including checks on HIV, TB and Hepatitis B to determine that they are medically fit parents;
  - (d) The foster parents should be physically, mentally and emotionally stable;
  - (e) The foster parents should be willing to follow rules laid down including regular visits to pediatrician, maintenance of child health, record etc. ;
  - (f) The foster parents should be willing to attend training/orientation programmes;

### **164 . Maintenance grant**

(1) Normally foster care is a voluntary offer to help a child to receive the family based interventions. But, there are reasons for placing children in foster care under extended families or relatives whose support shall give the feeling of safe and security to the child. If such family could opt for the programme with financial support, it is necessary to help them financially.

(2) Every month the foster parent who has been recognized as such by the Child Welfare Committee shall be given Rs.2000/- p.m. or an amount being fixed from time to time in respect of a child towards her/his maintenance by the District Child Protection Unit.

### **165. Target Group**

(1) Children from dysfunctional families or from institutions or the children whose biological parents are either incapacitated or in a state of crisis and unable to provide the Care and Protection to the child shall be eligible for foster care support services.

(2) The probation officer while recommending the case for foster care should file a detailed report on the foster family. The extended family or the local residents of the child who wishes to take charge of the child under foster care shall be explored after intensive home study conducted by the Probation Officer

(3)Foster Care is a boon to children without roots growing up in orphanages and Child Welfare Institutions to find an opportunity to lead a family life.

(4)Children who cannot be placed on adoption due to various reasons can be considered for Foster Care.

(5)Foster Care can be either short term or long term depending upon the needs.

(6)De-institutionalization of children and placing them in Foster Care can be made with the concurrence of Child Welfare Committee.

## **166. Role of District Child protection Unit**

- (1) Every district Child protection Unit shall disperse the grant to the family in the form of ECS system after bank account is opened
- (2) Periodical review every month and make a report to the Child Welfare Committee
- (3) Ensure the child is given education and has not been employed
- (4) The child is being taken care adequately in relation to education, recreation and emotional needs
- (5) Maintain records and case files, follow-up reports etc., in the prescribed format.
- (6) Submit periodical reports with the details of accounts, disbursement of assistance to Foster Care family, child development details etc.,

## **167. Agreement to be executed by foster parents**

- (1) The amount to be paid to the Foster parents for the maintenance of a child shall be Rs.2000/- p.m. or an amount which is being prescribed from time to time. The amount shall be paid to the foster family by the District Child Protection Unit
- (2) The Foster parents should enter into an agreement with the District Child Protection Unit to ensure the following during the period of Foster Care.
  - (i) That the child should be sent to school for continuing the education.
  - (ii) That the child should be treated with decency and dignity.
  - (iii) That the child should not be abused.
  - (iv) That they should accept that Probation Officer or personnel from the District Child Protection Unit shall pay periodical visits to ensure that the conditions are observed.
  - (v) That the minimum needs of children are met without denial.
  - (vi) Any other conditions that may be imposed in respect of individual cases.
  - (vii) That the Foster parents are fully aware that in case of violation of conditions or abuse of children, the child will be withdrawn from their custody. In case of physical or sexual abuse of children, criminal proceedings will be initiated against the foster parent(s).
  - (viii) That the biological parents shall be free to visit their children during their stay with Foster parents.

## **168. Role of State Government**

(1) The State Government shall allocate sufficient fund to implement the scheme. The Director of Odisha State Child protection Society shall be the nodal authority for the effective implementation of the scheme.

(2) The duties of nodal authority shall be as follows:

- (i) Releasing fund to the implementing agencies.
- (ii) Monitoring and evaluation of the performance of the scheme and the implementing agencies.
- (iii) Awareness creation, co-ordination and networking, training of functionaries etc.,

## **169. Sponsorship**

(1) The State Government may allow individuals, institutions, corporate sectors, financial institutions, industries etc., to sponsor or support the following without expecting any gain in return.

- (i) Any child or his family shall be supported under sponsorship for higher education, to withdraw children from child labour/bonded labour.
- (ii) Any activity pertaining to improve the behaviour of children, through personality development Programme
- (iii) Cultural programmes, picnics, holiday camps, medical assistances, immunization programmes, special medical assistance, etc., Inter school sports activities, creative arts and competition seminars for children involving eminent personalities etc.,
- (iv) Any activity pertaining to the job oriented training programmes, establishment of vocational rehabilitation centres, community college etc.,
- (v) Establishment of libraries, sports activities, horticulture/sericulture, creative arts and competitions etc., or any other developmental programme.
- (vi) Improving infrastructures and amenities, construction or alteration of building etc.,

(2) The Director of Odisha State Child Protection Society shall permit the Officer-in-Charge of an institution or the District Child protection Unit to accept any sponsorship under intimation to the Headquarter organization.

(3) No cash dealing shall be entertained. Materials of any kind, cheques, Demand drafts etc., shall be accepted.

(4) The District Child Protection Unit and the Odisha State Child Protection Society shall also receive financial support from individuals, corporate, companies and funding organizations towards the implementation of sponsorship programme

## **170. Target group for the benefit of Sponsorship**

- (1) A child from any one of the following criteria shall receive the sponsorship support not exceeding Rs.2000/- per month or an amount being fixed by Government from time to time
  - a. The child is a single parent child and the mother is either widow or divorce
  - b. The child's mother expired and the father neglected the child and such child is under the care of extended family
  - c. The child has parents and such parents are incapacitated to look after the child because of prolonged illness or disabilities

## **171. Sanctioning Authority**

- (1) The District Collector shall be the competent authority to authorize the payment of sponsorship to a child after obtaining a detailed report from the probation officer.
- (2) The District Collector shall constitute a sanctioning committee to ensure transparency and openness

## **172. Role of District Child protection Unit**

1. Every district Child protection Unit shall disperse the grant to the family in the form of ECS system after bank account is opened
2. Periodical review every month and make a report to the District Collector and the State Child Protection Society

3. Ensure the child is given education and has not been employed
4. The child is being taken care adequately in relation to education, recreation and emotional needs
5. Maintain records and case files, follow-up reports etc., in the prescribed format.
6. Submit periodical reports with the details of accounts, disbursement of assistance to family, child development details etc.,

### **173. Agreement to be executed by foster parents**

(1)The amount to be paid under Sponsorship for the maintenance of a child shall be Rs.2000/- p.m. or an amount which is being prescribed from time to time. The amount shall be paid by the District Child Protection Unit

(2)The parents should enter into an agreement with the District Child Protection Unit to ensure the following during the period of Foster Care.

- (i) That the child should be sent to school for continuing the education.
- (ii) That the child should be treated with decency and dignity.
- (iii) That the child should not be abused.
- (iv) That they should accept that Probation Officer or personnel from the District Child Protection Unit shall pay periodical visits to ensure that the conditions are observed.
- (v) That the minimum needs of children are met without denial.
- (vi) Any other conditions that may be imposed in respect of individual cases.
- (vii) That the parents are fully aware that in case of violation of conditions or abuse of children, the child will be withdrawn from their custody. In case of physical or sexual abuse of children, criminal proceedings will be initiated against the foster parent(s).



## CHAPTER-XI

### MISCELLANEOUS

#### **174. Inspection**

(1) Inspection is the process of assessment on the effective implementation of programmes and policies, adoption of the rules and regulation enshrined in Acts and State Rules and carry out the executive instructions or standing orders issued from time to time. Standing orders and executive instructions should not outside the preview of the provisions enshrined in the Act and the Rules. Such inspections shall not be a fault finding mission; rather a guiding mechanisms to address the deficiencies and gaps.

(2) Inspection shall be the fact finding and propose solutions. The other one is the financial auditing, social accountability of personnel to adopt the rules and regulations and ensure the adoption of human right principles in so far the children and the staff are concerned. The Act spells out the accountabilities of various stakeholders like police, judicial personnel, residential care givers, professionals like probation officers, social workers, psychologists etc. Therefore, inspection includes the monitoring and evaluation of the sub-systems that are interlinked with the administration of Juvenile Justice.

(3) The Commissioner of Police or the Superintendent of Police shall review the works of every police station in relation to service deliveries to children in conflict with law and also the children in need of care and protection.

(4) The issues of children have to be dealt with by the designated officer in every police station and ensure that the special juvenile police units in the city or in the district investigate the matters of children related issues.

(5) The Executive Magistrates and the Probation Officer shall conduct cursory inspections of police stations and ensure that children are not kept in police stations especially during night hours. Such Officers shall send a report regarding their visits to the District Collector and the Police Commissioner or the Superintendent of Police for necessary follow-up.

(6)The District Collector in his capacity as the District Magistrate and the Chairperson of the District Child Protection Unit shall constitute a committee consisting of at least a minimum of three and not more than five persons to inspect the residential service providers including the government run institutions and make a report to him. The Director of Odisha State Child Protection Society shall also authorize any of his or her sub-ordinate officers including the Programme Managers of the Society to conduct inspections of government run institutions and the institutions that receive grant-in-aid from the department.

(7)The inspection committees 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 etc.

(8)The team shall also make suggestions for improvement and development of the institution.

(9)The inspection shall be carried out at least once in every three months.

(10)The inspection visit shall be carried out by not less than three members.

(11)The team shall interact with the children during the visits to the institution, to determine their well-being and uninhibited feed back. The team shall also see that personal file is

maintained in respect of every child in the prescribed format and is being up dated periodically.

(12) The follow up action on the findings and suggestion of the professionals and their regular visits to such institutions shall also be considered during inspection.

(13) The committee shall also meet the children and their opinions, views and their expectations shall also be heard and documented.

(14) The action taken report, findings and suggestions from the Inspection Committee shall be communicated to the District Collector, the Director of Odisha State Child Protection Society and a copy marked to the District Child Protection Officer for follow -up and necessary action

(15) Inspection shall also be carried out by the District Sessions judge in relation to the functioning of Juvenile Justice Board

(16) Inspection shall also be carried out by the Chief Judicial Magistrate in relation to the functioning of Child Welfare Committee and Juvenile Justice Board

### **175. Evaluation of the functioning of structure**

(1) The Central Government shall upon intimation to the State Government depute any individual or organizations that are specialized in human right and child protection advocacy and awareness campaign or an academic institution for annual review of matters concerning the implementation of the Act.

(2) Such review shall also be made by the State Government with specific focus on the functioning of Juvenile Justice Boards, Child Welfare Committees, and Police in relation to children related services including the complaints of missing children and the functioning of Special Juvenile Police Units, Probation Services and the management of residential care institutions involving the National Law University Odisha.

(3) The review shall also be made regarding the roles and responsibilities of District Child Protection Units and the Village and Block level Child Protection mechanism to ensure the administration of juvenile justice and child rights and child protection strategies effectively.

(4) The students from the National law University shall support the Juvenile Justice Boards, Child Welfare Committees, Special Juvenile Police Units as volunteers

### **176. Training Academy**

Training forms the integral part of Human Resource Management in an organization. Training is essential to Personnel in the Department of on Juvenile justice practices in conformity to the International standards set forth in International Instruments such as UNDHR, UNCRC, Beijing Rules, Riyadh Guidelines, Optional protocol on Children and so on. The national Law University shall be the nodal organization for training and orientation to Juvenile Justice Functionaries and the allied agencies

### **177. Child Protection Unit**

(1) The State Government shall establish State Child Protection Unit headed by Indian Administrative Officer and shall be declared as the State Child Protection Unit for the purpose of implementing Child Protection strategies and the administration of Juvenile Justice in the State.

(2) The State Government shall authorize such other officers and personnel for the administration of the State Unit as are necessary from time to time.

(3) **District Child Protection Unit:** The State Government shall also establish District Child Protection Unit headed by an Office in the cadre of an Assistant Director and called him or her as District Child Protection Officer.

(4) The District Child Protection Unit shall coordinate and implement all child rights and protection activities at district level.

(5) Activate the proper implementation of Juvenile Justice (Care and Protection of Children) Act, 2015 and other such legislative provisions that are either directly or indirectly related to children.

(6) Ensure the policies and programmes relating to prevention of trafficking of children, administration of Juvenile Justice and Child protection are implemented properly.

(7) Ensure the Village level Child Protection mechanism constituted by the Government to function as Area specific Child Protection Units at the village level and ensure the effective net works at the villages.

(8) Create a frame work of multi-agency responsibilities with identify roles of partners

(9) Identify families at risk and children in need of care and protection and facilitates their developmental needs through net working with other government departments

(10) Periodic and regular mapping of all child related services at district for creating a resource directory and making the information available to the Committees and Boards from time to time;

(11) Supporting State Adoption Resource Agency in implementation of Adoption related programmes including the monitoring of institutions that are promoting in-country and inter-country adoption.

(12) Network and coordinate with all government departments to build inter-sectoral linkages on child protection issues, with the Departments of Health, Education, Social Welfare, Urban Basic Services, Backward Classes & Minorities, Youth Services, Police, Judiciary, Labour, State AIDS Control Society, Revenue administration etc.,

(13) Network and coordinate with civil society organizations working under the Act;

(14) Develop parameters and tools for effective monitoring and supervision of agencies and institutions.

(15) Supervise and monitor all institutions or agencies providing residential facilities to children in district using the social auditing concept involving the academic bodies, Village Level Watchdog Committees

(16) Facilitate the review of the functions of Childline Services, adoption related issues, prevention of human trafficking etc. during the meeting of the District Advisory Board

(17) Evolve mechanisms to register, regulate and monitor the NGO functions that are providing care and protection to children in difficult circumstances and prevent the existence of unlicensed NGOs.

(18) Organize training, orientation and capacity building programmes of stakeholders, and community education programmes on child protection issues.

(19) Facilitate the establishment of Juvenile Guidance Bureau in the district, which shall be the apex body to the District Child Protection Unit to provide meaningful professional services to children in the residential care institutions and extend such services to any children in schools and the community.

(20) District level mapping and data collection, research and documentation on Child Protection.

(21) The District Child Protection Officer shall be appointed either by transfer from any other service or by direct recruitment through a selection process. Selection process shall be made through written examination and followed by personal interview. Syllabus for the examinations and the number of papers for the written examination shall be designed in consultation with experts in the field of child protection.

(22) The District Child Protection Officer and such other personnel to the unit shall be given one month intensive training on various issues relating to child protection covering the following issues

- i. Global, Regional, National and local level situations on children related issues.
- ii. International instruments on children related issues, legislative obligations under the Juvenile Justice (Care and Protection of Children) Act, 2000 and subsequently amended in 2006 and such other special legislations.
- iii. Counselling and guidance service, case work methods, interviews etc.
- iv. Research methodology and documentation. Paper clippings, articles in magazines, news papers, and reports shall be collected and preserved.
- v. Intersectional coordination and networking and principles of management.

(23) The District Child protection Unit shall be provided with adequate staff to look after the administration and professional services

### **178. Juvenile Guidance Bureau**

(1) In each district there shall be a Juvenile Guidance Bureau, which shall be under the administrative control of the District Child Protection Unit. The Juvenile Guidance Bureau shall be the "Resource Center" The Counsellor and Social Workers of the District Child Protection shall be the professionals to carry out the functions and responsibilities of the Bureau under the over all control and supervision of the District Child Protection Officer. A person with clinical Psychology background from a reputed institution and did his PG through regular steam shall be considered for appointment as Psychologist. Similarly, the appointment of two Social Workers with the background of Psychiatric social work and community social work shall be considered

(2) The Bureau shall perform the following duties and functions:-

- i) Interviewing children in residential care and prepare a case study. Case work method shall be adopted.
- ii) Prepare a case history of all children under the purview of JJB and CWC
- iii) Assess any children with behaviour problems or emotional problems referred by school authorities or Medical institutions, residential care givers, individual or by any other authority and propose necessary intervention strategies.
- iv) Educate children on their personal safety

- v) Personality assessment of children and propose necessary remedial measures.
- vi) Help the probation officers, adjudication agencies, and the institutional authorities in the strategies of interventions for the proper rehabilitation of children.
- vii) Application of Behaviour therapy, counseling and guidance services, life skill programmes and carrier guidance programmes.
- viii) Coordination and networking with academic institutions and serve as placement centers for the students.
- ix) Promote the students to perform case works with children under their supervision.
- x) Fortnight clinical conference and documentation

### **179. Juvenile Justice Fund**

(1) The State Government shall create a fund at state level under section 61 of the Act to be called the 'Juvenile Justice Fund' ( hereinafter in this rule referred to as Fund) for the welfare and rehabilitation of the child dealt with under the provisions of the Act. Besides voluntary donation, the Central Government shall also make contribution to the Fund constituted by the State Government.

(2) The Fund shall be applied:-

- (a) to implement programmes for the welfare and rehabilitation of children ;
- (b) to pay grant-in-aid to non-governmental organizations;
- (c) to meet the expenses of honorarium to be paid to translators or interpreters or support persons to help children
- (d) to do all other things that are incidental and conducive to the above purposes.

(3) The management and administration of the Fund, will be under the control of the Director of Odisha State Child Protection Society

(4) The assets of the Fund shall include all such grants and contributions, recurring or non-recurring, from the Central and State Governments or any other statutory or non-statutory bodies set up by the Central or State Government as well as the voluntary donations from any individual or organization.

(5) Withdrawals shall be made by cheques which shall be signed by the Secretary-Treasurer in the case of amounts not exceeding Rs.1,000 (Rupees one thousand) and signed duly by the secretary -treasurer and other member of the board of management.

(6)Regular accounts shall be kept on all money and properties and all incomes and expenditure of the Fund and shall be audited by notified firm of Chartered Accountants or any other recognized authorities as may be appointed by the Board. The auditors shall also certify that the expenditure from the funds shall be kept by the Secretary-Treasurer. All contracts and other assurances shall be in the name of the board of management and signed on their behalf by the Secretary-Treasurer and one member of the board of the management authorized by it for the purpose.

(7)The Board of Management shall invest the proceeds of sale or other disposal of the property as well as any money or property not immediately required to be used to serve the objective of the Fund in any one or more of the modes of investment for the time being

authorized by law for the investment of trust moneys as the Board of Management may think proper.

(8)The Board of Management may delegate to one or more of the members such of its powers, which in its opinion are merely a procedural arrangement.

### **180. Disposal of records/documents**

(1) The records/documents in respect of juvenile/child should be kept in a safe place for a period of 7 years and thereafter be destroyed with the concurrence of the Director of Odisha State Child Protection Society.

(2) Police shall not preserve any documents relating to children particularly finger prints, photographs etc. beyond the permissible appeal period in respect of children who have not committed heinous crimes.

### **181. Repeal and saving**

(1) The Odisha Juvenile Justice (Care and Protection of Children) Rules, 2009, as in force within the State of Odisha `shall stand repealed immediately on the publication of these Rules :

(2) Provided that any action taken, order issued, by-laws made under the provisions of the rules hereby repealed shall, in so far as it is not in consistent with the provisions of these rules, be deemed to have been taken, issued or made under the provisions of these rules.