
CCS View on the Draft National Education Policy 2019

Recommendations on School Education Reforms

New Delhi, India

June 2019



Improving accountability government school functioning

1. Challenge: Stakes for performance are not high enough

- *Current Draft:* The government school system currently lacks credible and effective performance accountability. One part of the correction lies in improving performance appraisal process. On this front, the Draft Policy promises periodic (annual or higher frequency) performance appraisal of teachers, on hard and soft indicators. While such a process is necessary, it is far from sufficient.
- *CCS Recommends:* A higher-stakes accountability system needs to be built by adopting financing as a lever for performance. A financing framework where funding follows students, and/or a model of funding public schools based on learning achievements is critical. Financing tools such as Direct Benefit Transfers, scholarships and vouchers, are readily available for application and guaranteed to engender accountability, ought to be incorporated in the Policy. In addition, tying the financing of government schools to their performance on the School Quality Assessment Framework is critical.

2. Challenge: Autonomy for government schools is very limited

- *Current Draft:* Decentralisation of management, efficient resource management, and speedier and ongoing rationalisation are upsides in the proposed Draft. While the school complex has been made the basic unit of governance and some autonomy enhancing ideas have been put in place, funding is to continue flowing through the old allocative channels, and spending decisions are dictated by scheme guidelines.
- *CCS Recommends:* To truly empower School Complexes, operational decisions on the use of funds (particularly teacher hiring) should also be devolved. All teacher hiring should be at the level of the school complex, and all operational decisions should be entrusted to the local management. School budgeting should be explicitly on a per-child basis, and the local school management, particularly the school leader/principal should be given freedom to spend based on local needs, subject to accounting guidelines and a clear audit framework.

Implementing the philosophy of Regulatory Neutrality

3. Challenge: Regulatory creep could dilute the intent of the Policy

- *Current Draft:* The Draft Policy rightly emphasises on a principles/outcomes-based regulatory and accreditation regime for all schools. The Draft Policy recommends that State School Regulatory Authority (SSRA) be responsible for school regulation based on very few basic parameters (namely, safety, security, basic infrastructure, the number of teachers across subjects and grades, probity, and sound processes

of governance), to bring down significantly the heavy load of regulatory mandates currently borne by schools.

- *CCS Recommends:* Regulatory bodies may dilute the spirit of the Policy by taking an expansive view of ‘minimum’. We recommend that jurisdiction of the regulator be clearly outlined in the law that forms it. In addition, the Policy should foresee the possibility of regulatory creep and state in clear terms that all rule-making rest on the proportionality standard of review. The proportionality principle demands that any proposed rule meet four criteria: legitimate purpose articulated in advance, demonstrated linkage between means and ends, least coercive means applied, and balancing between autonomy and control.

4. Challenge: License to Start a School could create an inhibiting environment

- *Current Draft:* The Draft advocates for equal treatment under the regulatory regime for public and private, and introduces a License to Start a School based on the School Quality Assessment Framework.
- *CCS Recommends:* The introduction of the term ‘license’ is disconcerting. It could create an inhibiting framework instead of a permitting one, particularly for innovative edupreneurs. The norm of ‘school recognition’ instead of licensing fits the recent Indian regulatory approach better. In addition, If the regulatory regime is minimal and principles-based, it could level the playing field. However, if private schools are made to comply with public school operations (including teacher salaries), it will result in increased private school fees, further deter entry and curtail autonomy. Mid term appraisal of the Eleventh five-year plan expressly advocated for reforms such as dismantling entry barriers and revision of land norms.

5. Challenge: Missed opportunity to deal with commercialisation creatively

- *Current Draft:* The committee has taken a strong view on preventing commercialisation and exploitation of parents. It has rightly recognised the information asymmetries that prevail in the current environment, declared intent to protect the interests of parents and children. For this, it has articulated a clear view on disallowing schools to be registered as for-profit enterprises. Ironically, it has pegged the standard for financial probity expected of non-government schools to disclosures demanded of Section 8 entities.
- *CCS Recommends:* Doubling down on preventing for-profit institutions will deter capable and transparent players from entering the market. There is no explicit rationale for not letting business entities register as commercial enterprises and offer education service. A middle ground could have been an explicit allowance for schools to be opened as Section 8 (Companies Act) operating entities. The standard that courts have applied to discern what is ‘for-profit’ education, is whether surplus is withdrawn from the operating entity. Section 8 of the Companies Act has

been set up for exactly such a purpose. It has emerged as a vehicle for social-enterprises and impact start-ups. Mid term appraisal of the Eleventh five-year plan, particularly for higher education suggested a pragmatic reconsideration of ‘not for profit’ requirement (p.143).

Executing the separation of functions in K-12

6. Challenge: Involving SMCs in the accountability hierarchy may be counter-productive

- *Current Draft:* Uncoupling running and management of public schools from the regulation of all schools based on neutral and equal standards is an excellent move. In the case of public schools, the governance chain proposed by NEP looks like $SMC \Rightarrow SCMC \Rightarrow DEC \Rightarrow DSE \Rightarrow SEC(RjSA)$. In the case of private schools the governance chain proposed by NEP looks like $Management \Rightarrow SMC \Rightarrow SSRA \Rightarrow SEC(RjSA)$.
- *CCS Recommends:* The policy needs to clarify (or ask that states, at the time of execution, clarify) the responsibilities and powers of each body in the hierarchy. It is difficult to monitor accountability from bodies that are voluntary or sit outside the hierarchy, such as SMCs. The lessons from the current functioning of SMCs have not been taken into account while proposing an expansion of their application. Instead of burdening parents with school oversight, it may be better to devolve funding decisions to schools, and monitor spending based on student enrolment and outcomes.

7. Challenge: Reporting lines of SSRA violate the doctrine of separation of powers

- *Current Draft:* The SSRA is to regulate and accredit all schools included government schools on the same minimum standards. The SSRA is to report to the CM who is to head the SEC/RjSA.
- *CCS Recommends:* Regulators typically report to a legislative body given that they also hold delegated legislative powers. In the case of SSRA, reporting should be to the state Legislative Assembly. The policy should recommend that states think deeply through agency design options in building the SSRA based on an evidence-based examination of how other independent sector regulators are set up. In addition, within SSRA there ought to be a clear internal separation of powers between rule writing, enforcement and dispute management within the regulatory framework.

8. Challenge: Unclear delineation of roles b/w MHRD and RSA, and DSE and RjSA

- *Current Draft:* At present central MHRD and state DSE hold policy-making responsibilities in addition to government school financing and management. The Draft Policy proposes that these functions be decoupled to RSA (at the centre) and RjSA (at the state).
- *CCS Recommends:* The document does not provide clarity on what MHRD or state DSE will not do. It also does not provide justification for the formation of the top-level bodies, including RSA (at the centre) and RjSA (at the state). It needs to articulate what falls in the ambit of policy-making, and what does not. The policy should also incorporate a clear separation of financing functions into a body whose primary responsibility to make high level spending commitments based on value for money calculations.

9. Challenge: Assessments are delinked from accountability and public finance

- *Current Draft:* Assessments are to be redesigned and a modular Board Examinations approach is to be instituted. A National Testing Agency is to be set up. For a periodic ‘health check-up’ of the overall system, a sample-based National Achievement Survey (NAS) will continue and states will be encouraged to conduct census-based State Assessment Survey (SAS) to be used only for developmental purposes.
- *CCS Recommends:* The thinking on assessment is fairly detailed in one sense, but stops short of detailing how assessments will affect accountability and value for public spending considerations. The document should be more explicit about tying accountability of public school funding to outcomes, and define periodic ‘health check-up’ explicitly. In particular, how the mandates of the National and State Testing Agencies, MHRD, RSA, RjSA, SSRA and DSE will dovetail needs to be clarified.

Other observations and recommendations

10. Revisiting RTE

The document makes multiple references to amending the RTE to revise down the one-size-fits-all input requirements for schools, to rethink 12(1)(c) because it has not been successful and has become open to corruption and malpractice, and to include ECCE -grade 12. In particular, Section 12(1)(c) of the Act should be reviewed with urgency, making the clause voluntary and using timely reimbursements to incentivise its adoption.

11. More recognition for parent and child school choice needed

Where choice and autonomy are prized in higher education, in school education the approach is still top-down. Parents are the least recognised stakeholders in the new policy.

- There are no references to DBT/vouchers as a way to increase access to quality schooling. The education cess levied (first under 2%+1% model for primary and secondary and higher education, and more recently as a 4% health and education cess) is collected under the Prarambhik Shiksha Kosh and the Madhyamik and Uchatar Shiksha Kosh. The Comptroller and Auditor General of India have made repeated observations on the underutilisation of the cess proceeds. This presents an opportunity to strengthen the hands of parents who are incurring significant out of pocket expenditure on remedial education and/or private schooling. This collection should be converted into targeted per child scholarships using the mechanism of Direct Benefit Transfer.
- The formulaic approach to language education should be reconsidered as it does not take into account what parents may view as aspirational or appropriate for their child. Either schools must be given the freedom to opt-in to languages that will be taught in their school, or parents must have an option to opt-out from learning a particular language (perhaps only for board examination purposes).

12. SMCs for private schools could have adverse consequences

The Draft Policy argues that parents ought to be the ‘de facto regulators’ of the school system, particularly by playing an active role in School Management Committees. Not just does such a move burden parents, it will likely also curtail school autonomy, particularly given the lack of clarity on what School Development Plan review will entail. This move also conflicts with Article 19(1)(g) of the Constitution. It will likely deter new edupreneurs from starting schools and may deter schools from prizing inclusion and diversity.

13. Autonomy of private boards could be impinged

The Draft Policy recommends that Boards of Assessment have no regulatory or affiliation role. However, many private Boards provide accreditation, pedagogical know-how, and training in addition to conducting assessments. While reducing the scope for state boards to enforce regulatory criteria is a step in the right direction, it may be unwise to curtail the autonomy of private boards to set their own affiliation criteria for direct and voluntary engagement with schools.