

**THE PUNJAB RIGHT TO EDUCATION FOR CHILDREN WITH DISABILITIES,
ACT, 2020
(xxxxx of 2020)**

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TEXT

[TO BE INTRODUCED IN THE PROVINCIAL ASSEMBLY OF THE PUNJAB]

A

BILL

- i. To provide for the education of children with disabilities;
- ii. To recognize the right of children with disabilities to education with a view to realize this right without discrimination;
- iii. To ensure an inclusive, equitable and quality education system at all levels and lifelong learning opportunities;
- iv. To ensure equity in education in terms of access, learning outcomes, language, socio-economic status, regional location and gender;
- v. To enhance the prospect for social inclusion and economic empowerment;
- vi. To define disability guided by internationally accepted standards, research and practices;
- vii. To penalize for the violation of educational rights of children with disabilities;
- viii. To introduce conducive learning environment for children with disabilities;
- ix. To enhance the prospects for development of infants and toddlers with disabilities in order to minimize the need for special education and maximize the individual's long-term potential for independent living;
- x. To remove barriers to participation and learning for CWDs;
- xi. To introduce changes in education system in order to respond to the diverse needs of the students;
- xii. To improve access, governance and educational standards;

Whereas it is expedient to put in place legal and institutional framework for the free and compulsory primary, secondary and tertiary education and its ancillary matters for children with disabilities

Now, therefore, in pursuance of the Islamic principles, Article-25-A of Constitution of Islamic Republic of Pakistan, Convention on the rights of Child, Convention on the Rights of Children with Disabilities ratified on the 25th day of October, 2011, and in exercise of all powers enabling him in that behalf, the Governor of the Punjab is pleased to make and promulgate the following law:

It is hereby enacted as follows:-

**CHAPTER I
PRELIMINARY**

1. Short title and commencement- (i) This Act may be called the **Punjab Right to Education for Children with Disabilities, Act, 2020.**

(2) It shall extend to the whole of the Punjab

(3) It shall come into force at once

2. Definitions: - In this Act, unless there is anything contrary to the subject or context:-

- (a) "Access" means meaningful and effective access to various physical and intangible means including but not limited to personal, social, economic and cultural aspects of life, made suitable to fulfill special needs of children with disabilities;
- (b) "Education" means combination of curricular and co-curricular activities aimed at the development of human potential and sense of dignity and self-respect, talents, creativity, as well as mental and physical abilities, to the fullest potential;
- (c) "Educational institution" means a school, college, university or any other institution at which education or training is provided and includes private institutions;
- (d) "Barrier" means physical, social, psychological; communication, information, legal or attitudinal hurdles in the way to access to infrastructure and services meant for general public;
- (e) "Disability" means physical, attitudinal or environmental barriers that hinder full and effective participation in society on an equal basis in relation to others;
- (f) "Disability aid", in relation to children with a disability, means equipment (including a palliative or therapeutic device) that is used by the children; and provides assistance to alleviate the effect of disability.
- (g) "Education provider" means an educational authority; or an educational institution; or an organisation whose purpose is to develop or accredit curricula or training courses used by other education providers referred to in section 2(c);
- (h) "Language" includes spoken and signed languages and other forms of non spoken languages;
- (i) "Children with disabilities" include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.
- (j) "Reasonable accommodation" means necessary and appropriate modification and adjustments; in physical and educational environment, to ensure that children with disabilities enjoy human rights and fundamental freedoms on equal basis;

CHAPTER II

RIGHT TO EDUCATION FOR CHILDREN WITH DISABILITIES

3. Right to free and compulsory education (1) The Government shall ensure provision of free education from primary to higher secondary level (age 5-16) as well as higher education to children with disabilities. Flexible support; based on long-term planning shall be provided to the students with special needs in all educational provisions including special and inclusive.

(2) The Government shall prescribe academic calendar for the students enrolled in the special education institutions in the province.

(3) For the purpose of subsection (1), a child or parent shall not be liable to pay any kind of fee or charges or expenses for completing the education.

4. Accessible and equitable educational opportunities

The Government shall ensure that all children with disabilities are given full access to all modes and means of education, including but not limited to, vocational training, online education, distance learning, and adult education. Equitable learning opportunities will be provided through provision of relevant services and removing barriers to learning. Relevant training will also be provided for stakeholders on issues being faced by children with disabilities.

5. Right to admission/non-discrimination (1) Children with disabilities shall not be denied admission into any educational institution, whether state-owned or private, on the ground of their disabilities.

(2) It shall be illegal for an institution and its staff members to discriminate against or abuse or otherwise violate the rights of children with a disability at his place of education for which both the institution and such violating person shall be punished.

(3) Special measures will be taken to prevent violence, abuse and bullying against students with disabilities by teachers, other staff, and fellow students.

(4) Discrimination against individuals with disabilities of all ages and in all areas of public service is, by law prohibited to create a conducive learning environment.

6. Special education facilities

The Government shall take necessary measures to offer support and special education services to students with mild and moderate learning problems in mainstream schools. Only the students with severe learning problems will be offered full time special education services. Special educational institutions will cater for special needs of children with severe disabilities. The general education institutions will be reasonably equipped and staffed to provide appropriate facilities for inclusive education to children with mild and moderate special needs.

7. Introduction to Braille and sign language

Braille will be introduced as an optional subject in all boards and universities of the province so that purpose of inclusion, mainstreaming and employment of the visually impaired is comfortably resolved.

8. Disability classification

Disability classification will be expanded to include Learning and other disabilities as per internationally recognized classification.

9. Accommodation

Reasonable and appropriate accommodations based on individual needs shall be provided to children with disabilities e.g. extended time for exams, wheelchair accessibility to campus buildings, accessible campus housing, personal note-takers or transcribers, extra time, audio books

- 10. Early intervention** (1) Government will make arrangements to identify, locate, and evaluate all children with disabilities, without regard to the severity of their disability, to determine their eligibility and need for special education and related services.

2. Early stimulation and development programs will be devised for infants and toddlers with disabilities and developmental delays to promote their more normal, holistic and fullest possible individual development in order to overcome the consequences of disability at an early stage.

11. Individualized educational plan:

Each child with a disability who is deemed eligible will receive an individualized education program (IEP) describing his or her specific educational and service needs, with parental participation on the IEP team. Individualized family service plans (IFSPs) will also be used for infants and toddlers.

CHAPTER III DUTIES OF THE GOVERNMENT, LOCAL AUTHORITY AND PARENTS

- 12. Provision of budget** (1) The Government or the local authority, as the case may be, shall provide sufficient funds to the special education institutions for carrying out the purpose of this Act.

(2) The Government may approach the Federal Government to provide as grants-in-aid such percentage of expenditure for special education as may be determined with mutual consent.

- 13. Establishment of special education institutions** (1) The Government shall establish special education institutions across the province to provide education to the children with severe disabilities. However, the special children with mild to moderate disabilities shall be provided education by the School Education Department as part of 'inclusive education'.

(2) The Government shall encourage enterprises, private sector and civil society to establish, maintain and run special education institutions for carrying out purposes of this Act. The Government may grant exemption or rebate in taxes or may offer incentives to the private sector for establishing such institutions.

14. Provision of incentives

The Government shall provide the following incentives to the children with special educational needs and disabilities:

- a. Monthly stipend at a rate to be prescribed by the Government from time to time but not less than Rs. 1000 per month per child;
- b. free text books, Braille books and material in accessible format;
- c. free pick and drop facility;
- d. free uniforms (thrice in a year);
- e. hostel facility along with meals free of cost;
- f. assistive devices free of cost.

15. Registration of special children

Every child having a disability shall be registered by NADRA within one year of the birth or within six month of the disability if occurred at the later stage.

- 16. Duties of parents/ guardians** (1) A parent or guardian, as the case may be, shall admit or cause to be admitted the special child for education in the institution allocated for the child.

(2) a parent or guardian, as the case may be, shall cause the child to attend an institute until the said child has completed the education contemplated for him.

(3) if a parent or guardian, as the case may be, fails to keep the child in a school, he may not be entitled to any subsidy or poverty targeted support of the Government.

17. Management of institutions

The Government or the local authority shall establish a school management body of a public school consisting of its representatives, teachers, parents of children admitted to the school and confer on it the prescribed powers in relation to the school.

18. Continued professional development of staff

The Government shall take concrete steps for Continued Professional development of staff working in the special education institutions.

19. Accessible infrastructure

The Government shall take all necessary measure to make the environment accessible in terms of physical infrastructure to facilitate the children with disabilities.

20. Establishment of Special Education Foundation (SEF)

The Government shall establish Special Education Foundation to enroll out of school children in collaboration with the private sector.

CHAPTER IV

RESPONSIBILITIES OF SCHOOLS AND TEACHERS

21. Shared decision-making

The management of special education institutions shall collaborate with parents and students with disabilities in the design and implementation of special education services. The parents' (and, whenever appropriate, the student's) input shall be taken into account while framing Individualized Educational Plan, its goals and objectives.

22. Responsibilities of special education institutions

For purposes of this act, a school/ institution;

- (a) shall provide free education to the children with Special Education Needs and Disabilities admitted there in;
- (b) shall not require a parent or guardian to purchase text books, Braille books, uniforms or other material from the market and shall not charge any fee or fund from the special students;
- (c) shall provide all necessary information pertaining to the students to the Government or any other prescribed authority as and when required;
- (d) shall provide conducive environment for the children with special educational needs and disabilities.

23. Responsibilities of teachers-(1) The incharge of a school shall effectively carry out his functions and shall enforce discipline amongst the teachers and the students.

- (2) A teacher including the incharge shall:
 - (a) maintain regularity and punctuality in attending the school, classes, curricular and co-curricular activities;
 - (b) complete the curriculum within the specified time;
 - (c) assess the learning abilities of every child and impart additional instructions, if required;
 - (d) try for all round development of the child;
 - (e) build up child's knowledge, potential and talent;
 - (f) adopt learning through activities, discovery and exploration in a child-friendly and child-centered manner;
 - (g) keep the child free of fear, trauma and anxiety and help the child to express his views freely;
 - (h) hold regular meetings with parents and share with them the relevant information about the child; and
 - (i) perform such other duties as may be prescribed.

(3) A teacher who fails to perform the duties specified in subsection (1) in a satisfactory manner shall be liable to disciplinary action under the relevant service laws or terms of service contract.

24. Admission, expulsion and corporal punishment- (1) Subject to such exceptions as may be prescribed, a school shall admit children at the commencement of every academic year.

- (2) An educational institution shall not transfer or expel a child admitted in

the school till the completion of the prescribed education until:

- (a) arrangement is made for transfer of the child to any other school in the prescribed manner;
- (b) a reasoned judgment has been passed by the disciplinary committee of the school that further retention of the child in such school shall be detrimental to the discipline of the school; or
- (c) the child or parent fails to fulfill any prescribed condition including non-payment of fee of a private school.

(3) If a child is expelled from a school under subsection (2), the incharge of the school shall immediately inform the local government and to such officer as the Government may authorize to receive such communication.

(4) The teacher or incharge of a school shall ensure that a child studying in the school is not subjected to corporal punishment or harassment.

(5) A person who contravenes any provision of this section shall be guilty of gross misconduct and shall be liable to disciplinary action under the law or contract of service of such person.

25. Proof of age for admission- (1) For purposes of admission to an educational institution, the age of a child shall be determined on the basis of the birth certificate or such other document as may be prescribed but a child shall not be denied admission in a school for lack of proof of age.

(2) If a child is admitted in a school without producing the birth certificate, the incharge of the school shall send, in writing, the particulars of the child to the local authority responsible for birth registration of the child.

CHAPTER V

PROTECTION OF RIGHT OF CHILDREN

26. Safeguarding rights- (1) The Government;

- (a) Shall take all necessary measures for effective implementation of this Act and protect rights of the children with disabilities as envisaged in the Convention on the Rights of the Child (CRC) and Convention on the Rights of the Children with Disabilities (CRPD) through campaigns and educational awareness;
- (b) shall protect all children from neglect, harm and abuse;
- (c) shall inquire into the complaints relating to the child abuses and take appropriate action.

(2) Any person having any grievance relating to the rights of a child to education may make a written complaint to the Government or to the prescribed authority.

(3) On receipt of a complaint under subsection (2), the Government or the prescribed authority shall decide the matter within the period of thirty days after affording a reasonable opportunity of being heard to the parties.

(4) Any order passed under this section shall be final and the administration of the school shall implement such order.

CHAPTER VI

MISCELLANEOUS

27. Inspections and directions.— (1) In addition to the routine quality assurance of the educational institutes and education of different levels, the prescribed authority shall inspect or cause to be inspected a school for purposes of ascertaining that this Act and the rules have been and are being complied with.

(2) The Government may issue such guidelines and give such directions to a local authority, as it deems fit, for effective implementation of this Act.

(3) An educational institutes shall provide such information as the Government or the prescribed authority may require.

28. Residuary penalty and liability of corporations.— (1) Unless otherwise provided, if a person contravenes any order made under this Act, he shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both.

(2) If the person contravening an order made under this Act or any penal provision of the Act is a Company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

29. Prosecution and compounding of the offences.— (1) No Court shall take cognizance of any offence under this Act except on a complaint in writing made by the prescribed authority.

(2) An offence under this Act shall be liable and compoundable.

(3) An officer so authorized by the prescribed authority may, in the prescribed manner, compound any offence punishable under this Act on payment, within such time as may be specified in the order, of specified sum of money which shall not exceed fifty percent of the amount of the maximum fine to which the person would have been liable if he had been convicted of the offence.

30. Summary trial. — (1) Notwithstanding anything contained in the Code of Criminal Procedure 1898 (*V of 1898*) but subject to subsection (3), the Court shall summarily try an offence punishable under this Act on the basis of a complaint submitted by the authorized officer of the prescribed authority and may impose punishment of imprisonment for a term not exceeding six months or fine not exceeding fifty thousand rupees.

(2) The Court shall conduct the summary trial of an offence under the Act in accordance with the provisions of Chapter XXII of the Code of Criminal Procedure 1898 (*V of 1898*) relating to the summary trials.

(3) If the Court is of opinion that the nature of the offence does justify summary trial, it may conduct proceedings in accordance with the provisions of Chapter XX of the Code of Criminal Procedure 1898 (*V of 1898*).

31. Protection of action taken in good faith.— No suit or other legal proceeding shall lie against the Government, the prescribed authority, a local authority or any other person, in respect of anything which is in good faith done under this Act, the rules or any order made under the Act.

32. Power to make rules.— (1) The Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for any of the following matters:

- (a) manner of maintenance of records of children;
- (b) criteria for determination of disadvantaged children or payment of vouchers;
- (c) the area or limits for establishment of a neighborhood school;
- (d) extended period for admission of a child and the manner of completing study by the child if admitted after the extended period;
- (e) academic calendar;
- (f) duties to be performed by the teachers;
- (g) the manner of redressing grievances of teachers, students or any other person;
- (h) the manner of giving opportunity of hearing under this Act;
- (i) maintenance and audit of accounts.

33. Act to override other laws.— Notwithstanding anything contained in any other law, this Act shall have overriding effect and all such other laws shall be brought in conformity with the scheme and the objectives of this Act within a period of five years.

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