

**Advisory on Amendments in Rule 91, 92 and 98
in Delhi Juvenile Justice Rules 2009**

**(Updated as per meeting of Supervision Committee with Hon'ble Justice
Rajiv Shakdher, Hon'ble Justice Indermeet Kaur on 30.09.2013)**

Prepared By:

Supervision Committee for Observation Homes

(Constituted by Hon'ble Delhi High Court)

Chapter	Existing	Proposed
Rule 91	<p>91. Selection Committee and its composition. The State Government shall constitute a Selection Committee by notification in the official gazette, for a period of five years, consisting of the following five members, namely:</p> <p>(a) a retired judge of High Court or retired Secretary to the Govt. of NCT of Delhi as the Chairperson;</p> <p>(b) one representative from the concerned Department of State Government not below the rank of Director as the Member Secretary;</p> <p>(c) one representative from a reputed non-governmental organization, working in the area of child welfare but not running any children institution;</p> <p>(d) a representative from academic bodies concerned with social work, psychology, sociology,</p>	<p>91. (1) Constitution of the Selection cum Oversight Committee - The State Government shall constitute a Selection cum Oversight Committee for a period of three years by notification in the official gazette consisting of the following seven members, namely:</p> <p>(a) a retired judge of High Court as the Chairperson;</p> <p>(b) One representative from the Department of Women and Child Development of Government of NCT of Delhi, not below the rank of Director as the Member Secretary;</p> <p>(c) Two representatives from two different reputed non-governmental organizations working in the area of child development or child protection for a minimum period of seven years but not running or managing any children's institution;</p> <p>(d) Two representatives from academic bodies/Universities preferably from the faculty of social work, psychology, sociology, child development, health, education, law, and with special knowledge/</p>

	<p>child development, education, law, criminology and with experience of working on children's issues; and</p> <p>(e) a representative of the National or State Human Rights Commission or, National or Delhi Commission for Protection of Child Rights or, National or Delhi Commission for Women.</p>	<p>experience of working on children's issues for a minimum period of seven years; and</p> <p>(e) A representative of the State Commission for Protection of Child Rights.</p>
	<p>Add Sub Rule (2)</p>	<p>(2) The quorum for the meeting of the Selection cum Oversight Committee shall not be less than four Members, including the Chairperson and the Member Secretary.</p> <p>(a) The Member Secretary of the Selection cum Oversight Committee shall be responsible for convening the meetings of the Selection cum Oversight Committee at such times as may be necessary for facilitating and carrying out the functions of the Selection Committee.</p> <p>(b) The Member Secretary shall maintain the minutes of the selection process and all other meetings of the Selection cum Oversight Committee.</p> <p>(c) The Member Secretary shall pay such sitting fees and travel allowances to the Chairperson and non-official members of the Selection cum Oversight Committee as may be fixed by the State Government from time to time.</p> <p>(d) All communications relating to the working and discharge of the functions of the Selection cum Oversight Committee shall be addressed to the Office of the Member Secretary, who shall place the same before the Selection cum Oversight Committee.</p>

Rule 92	<p>92. Functions of the Selection Committee. (1)</p> <p>(a) In making appointment of members of the Board or Committee, the Selection Committee shall take into consideration the applications received in this regard in response to a public advertisement to this effect by the State Government; and</p> <p>(b) the Selection Committee shall select and recommend a panel of names to the State Government for appointment as members of the Board or Committee from amongst the applications received.</p>	<p>(1) Selection of Chairperson/Members of the Committee/Board -</p> <p>(a) The Member Secretary of the Selection cum Oversight Committee shall initiate the process of filling up a vacancy six months prior to the incumbent demitting office.</p> <p>Provided that if a vacancy arises on account of resignation or death of the Chairperson of the Committee or a Member of the Board or Committee the Member Secretary of the Selection cum Oversight Committee shall immediately initiate the process for filling up such vacancy.</p> <p>(b) For selection of members of the Board or Chairperson and Members of the Committee the State government through the Member Secretary of the Selection cum Oversight Committee shall call for applications through public advertisement in the local news papers and official website of Department of Women & Child Development.</p> <p>(c) Any serving Chairperson/Member of the Board/Committee as the case may be, whose tenure is nearing completion, may apply for another tenure in pursuance to (a), provided that such extension shall not be beyond a period of two terms.</p> <p>(d) The Member Secretary shall screen all the applications received and place the applications which fulfil the basic eligibility requirements before the Selection cum Oversight Committee.</p> <p>(e) The Selection cum Oversight Committee shall evaluate the candidates on the basis of qualifications, experience and other attributes necessary for functioning as Chairperson/Members of Board/Committee and the evaluation process shall set out a pen picture of each candidate.</p>
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Rule 92	(2) In the event of any complaint against a member of the Board or	(2) Misconduct or Complaint against the Chairperson/Member of the Committee/Board:

	<p>Committee, the Selection Committee shall hold necessary inquiry and recommend termination of appointment of such member to State Government, if required.</p> <p>(3) (a) The Selection Committee, at the time of recommending names for appointment as member of Board or Committee shall also prepare a panel of names for each Board or Committee to fill in vacancies, which may arise during the tenure of the Board or Committee.</p> <p>(b) In the event of a vacancy in the Board or Committee, the District Child Protection Unit shall inform the State Child Protection Unit or State Government for filling up such vacancy.</p> <p>(c) The State Government shall fill the vacancies on the basis of the panel of names recommended by the Selection Committee.</p>	<p>(a) All complaints against the Chairperson/Member of the Committee or Member of the Board as the case may be, shall be addressed to the Member Secretary of the Selection cum Oversight Committee or forwarded to the Member Secretary by the State Government.</p> <p>(b) The Member Secretary shall communicate the complaints to the Chairperson and Members of the Selection cum Oversight Committee at the earliest and if the Chairperson and / or any Member, within a period of fifteen days, opines that there is a need to consider the complaint, the Member Secretary shall put up the said complaint before the Selection cum Oversight Committee.</p> <p>(c) The Selection cum Oversight Committee shall then issue a show-cause notice to the person against whom a complaint is received.</p> <p>(d) Where the Selection cum Oversight Committee does not receive a satisfactory reply to the show-cause notice issued, it shall commence an inquiry into the complaint.</p> <p>(e) The Chairperson of the Selection cum Oversight Committee shall appoint one of the Members of the Selection cum Oversight Committee as inquiry officer to conduct an inquiry into the complaint against the Chairperson/Member of the Committee or a Member of the Board as the case may.</p> <p>(f) In conducting an inquiry into a complaint, the inquiry officer shall -</p> <p>(i) provide the concerned party(ies) an opportunity to be heard in person;</p> <p>(ii) complete the inquiry within a period of two months, provided that where that is not possible, for reasons to be recorded in writing, the period of inquiry shall be reviewed and may be</p>
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		<p>extended by the Chairperson of the Selection cum Oversight Committee;</p> <p>(iii) prepare a report and may recommend suitable action, including issuing censure and/or termination of appointment of such Member/Chairperson;</p> <p>Provided that issuance of censure third time will automatically lead to termination.</p> <p>(g) The report of the inquiry officer appointed under sub-rule (2) (e) of Rule 92 along with the recommendations shall be placed before the Chairperson and Members of the Selection Committee.</p> <p>(h) The Member Secretary shall provide a copy of the report of the inquiry officer to the Chairperson/Member of the Committee or a Member of the Board as the case may be, against whom the complaint is made who may make a representation against the same to the Selection cum Oversight Committee within a period of fifteen days from the date of receipt of the copy of the report.</p> <p>(i) If the Selection cum Oversight Committee deems it necessary, it may give an opportunity of hearing to the Chairperson/Member of the Committee or a Member of the Board against whom the complaint is made.</p> <p>(j) If the Selection cum Oversight Committee agrees with the findings of the inquiry officer, it shall make recommendations for suitable action to be taken against the Member of the Board or Chairperson/ Member of the Committee as the case may be to the State Government;</p> <p>(k) In the event of failure to arrive at a consensus within the Selection cum Oversight Committee on the findings of the inquiry officer, it shall forward</p>
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		the report of the inquiry officer along with the objections to the State Government to take suitable action.
Rule 98	<p>Rule 98. Disposal of records of Documents</p> <p>The records or documents in respect of a juvenile or a child or a juvenile in conflict with law shall be kept in a safe place for a period of seven years and no longer, and thereafter be destroyed by the Officer-in-Charge or Board or Committee, as the case be.</p>	<p>Rule 98. Non-Disclosure of Identity, Removal of disqualification and stigma, maintenance of records:</p> <p>(1) All the records of the juvenile or child such as case reports, reports of the probation officer, Counsellor and social worker, medical records, orders of the Board or the Committee or the Court, as the case may be, regarding the case, shall be confidential. Such information may be given to appropriate third parties by a written order or directions of the competent authority subject to such conditions as may be deemed fit by the competent authority for the purposes of:</p> <p>i) record keeping, monitoring or research, or ii) any other purpose mandated by law.</p> <p><i>Explanation: For the purposes of this sub-rule 'appropriate third parties' shall include the complainant and or the victim, authorized officials of the government and researchers affiliated to any recognized educational institution duly authorized by the Head of the institution and any other researcher showing sufficient public interest in the issue and having sufficient experience of doing research work.</i></p> <p>[2] Records of juveniles in conflict with law except for the record relating to determination of age shall not be used in adult proceedings in subsequent cases involving the same juvenile.</p> <p>[3] Information which may lead to the identification of the juvenile shall not be published, either by private agents or state agencies.</p>

		<p>[4] Whenever a person is asked to furnish information about the pendency of a criminal case or whether s/he has been convicted for any offence in any form for any purpose, this question will be deemed to be limited to information relating to pendency of the criminal case or conviction of the person for an offence which s/he may have committed after attaining the age of 18 years.</p> <p>[5] Notwithstanding anything contained in any other law, having applicability at the relevant time, non-disclosure of any information relating to violation of a law by a juvenile or a child law in any forum, as the case may be, shall neither amount to an offence nor concealment of truth or fact.</p> <p>[6] No person in possession of any information or document or record pertaining to a child or juvenile or juvenile in conflict with law shall make disclosure of the same in any manner, except:</p> <ul style="list-style-type: none">a) where it is in the interest of the child; orb) where it is called upon to do so by the order of the competent authority; orc) where it is in furtherance of the object of the Act. <p>[7] No person or agency or institution in possession of any such information in any manner, shall attach or cause to be attached any disqualification, harm, prejudice, presumption or stigma to a child or juvenile or juvenile in conflict with law for the reason of having been dealt with under the provisions of the Act.</p> <p>[8] Violation of sub rule 6, shall be cognizable by the Board or Committee or any court, as the case may be, having jurisdiction over the area where such violation has occurred.</p>
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