GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DIRECTORATE OF EDUCATION
(PRIVATE SCHOOL BRANCH)
OLD SECRETARIAT, DELHI-110054

No. F.DE.15 (1003)/PSB/2022/ 8542-8546 **Dated:** 20/10/22

Order

WHEREAS, **New Oxford Public School (School ID- 1002370) D-45A, D Block, Preet Vihar, Delhi-110092** (hereinafter referred to as " **the School**"), run by the DAV Collage Trust and Management Society (hereinafter referred to as "**Society**"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "**DoE**"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "**DSEAR, 1973**"). The school is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

AND WHEREAS, the manager of every recognized school is required to file a full statement of fees every year for the ensuing academic session under section 17(3) of the DSEAR, 1973 with the Directorate. Such a statement is required to indicate the estimated income of the school to be derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc. in terms of rule 177 (1) of the DSEAR, 1973.

AND WHEREAS, as per section 18(5) of the DSEAR, 1973 read with sections 17(3), 24 (1) and Rule 180 (3) of the above DSEAR, 1973, responsibility has been conferred upon the DoE to examine the audited financial statements, books of accounts and other records maintained by the school at least once in each financial year. Sections 18(5) and 24(1) and rule 180 (3) of DSEAR, 1973 have been reproduced as under:

Section 18(5): *'the managing committee of every recognized private school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such return shall be audited by such authority as may be prescribed'*

Section 24(1): 'every recognized school shall be inspected at least once in each financial year in such manner as may be prescribed'

Rule 180 (3): 'the account and other records maintained by an unaided private school shall be subject to examination by the auditors and inspecting officers authorized by the Director in this behalf and also by officers authorized by the Comptroller and Auditor-General of India'.

Thus, the Director (Education) has the authority to examine the full statement of fees filled under section 17(3) of the DSEA, 1973 and returns and documents submitted under section 18(5) of DSEA, 1973 read with rule 180 (1) of DSER, 1973.

AND WHEREAS, besides the above, the Director (Education) is also required to examine and evaluate the fee hike proposal submitted by the private unaided recognized schools which have been allotted land by the DDA/ other land-owning agencies with the condition in their allotment to seek prior approval from Director (Education) before any increase in fee.

AND WHEREAS, the Hon'ble Supreme Court in the judgment dated 27.04.2004 held in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under sections 17(3), 18(4) read along with rules 172, 173, 175 and 177, the DoE has the authority to regulate the fee and other charges, with the objective of preventing profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court, that the DoE in the aforesaid matter titled Modern School Vs. Union of India and Others in paras 27 and 28 in case of private unaided schools situated on the land allotted by DDA at concessional rates that:

"27....

(c) It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the schools have been complied with...

28. We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the schools... ....

.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."

AND WHEREAS, the Hon'ble High Court of Delhi vide its judgement dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and Others, has reiterated the aforesaid directions of the Hon'ble Supreme Court and has directed the DoE to ensure compliance of terms, if any, in the letter of allotment regarding the increase of the fee by recognized unaided schools to whom land has been allotted by DDA/ land owning agencies.

AND WHEREAS, accordingly, the DoE vide order No. F.DE.15 (40)/PSB/2019/4440-4412 dated 08.06.2022, directing all the private unaided recognized schools, running on the land allotted by DDA/other land-owning agencies on concessional rates or otherwise, with the condition to seek prior approval of DoE for increase in fee, to submit their proposals, if any, for prior sanction, for increase in fee for the academic session 2022-23.

AND WHEREAS, in pursuance to order dated 08.06.2022 of the DOE, the school submitted its proposal for enhancement of fee for the academic session **2022-23**. Accordingly, this order dispenses the proposal for enhancement of fee submitted by the school for the academic session **2022-23**.

AND WHEREAS, in order to ensure that the proposals submitted by the schools for fee increase are justified or not, this Directorate has deployed teams of expert Chartered Accountants at HQ level who have evaluated the fee increase proposals of the school very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by the DOE.

AND WHEREAS, in the process of examination of fee hike proposal filed by the aforesaid School for the academic session 2022-23, necessary records and explanations were also called from the school through email. Further, the school was also provided an opportunity of being heard on 20th September 2022 to present its justifications/ clarifications on fee increase proposal including audited financial statements and based on the discussion, school was further asked to submit necessary documents and clarification on various issues noted.

AND WHEREAS, on receipt of clarification as well as documents uploaded on the web portal for fee increase and subsequent documents submitted by the school as a result of the personal hearing, were evaluated thoroughly by the team of Chartered Accountants. After evaluation of fee proposal of the school and its subsequent clarifications and submissions, following key suggestions for improvement were noted:

A. Financial Suggestions for Improvement

1. As per Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India states "*Accounting for defined benefit plans is complex because actuarial assumptions are required to measure the obligation and the expense and there is a possibility of actuarial gains and losses.*" Further, the Accounting Standard defines Plan Assets (the form of investments to be made against liability towards retirement benefits) as:

   a. Assets held by a long-term employee benefit fund; and
   b. Qualifying insurance policies

   Para 57 of Accounting Standard 15 - 'Employee Benefits' issued by the Institute of Chartered Accountants of India, *"An enterprise should determine the present value of defined benefit obligations and the fair value of any plan assets with sufficient regularity that the amounts recognised in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date."*

   An appropriate charge to the income and expenditure account for a year should be made through a provision for accruing liability. The accruing liability should be calculated according to actuarial valuation. However, if the school employs only a few persons say less than 50, it may calculate the accrued liability by reference to any other rational method. The ensuing amount of provision for liability should then be invested in *"Plan Assets"* as per AS-15 issued by ICAI.

   On review of the documents submitted by the school post personal hearing, it has been noted that the requirement of AS-15 for getting the actuarial valuation report is not applicable to the school as it has employed less than 50 staffs. However, the school has calculated liability of INR 97,343 as on 31.03.2022 towards leave encashment without making any investment in plan assets and no provision has been made towards gratuity liability.

   Gratuity and Leave Encashment is a statutory liability which the school is required to pay to their eligible employees on their retirement/resignation, as the case may be. However, over the number of years, the department has noticed that most of the schools have been recording liability for retirement benefits in their financial statements without making any investment in Plan Asset due to paucity of funds or otherwise. Accordingly, many schools keep the retirement benefit 'unfunded', which is not the true spirit of law, and it also defeats the objectives of maintaining of books of accounts as per Generally Accepted Accounting Principles (GAAP) as directed by the Hon'ble Supreme Court in its landmark judgment titled Modern School Vs. Union of India and Ors.

   Accordingly, the school is directed to invest an equivalent amount in plan assets in accordance with AS-15 and submit the compliance report within 30 days from the date of issue of this order. Further, school is also directed to maintain the provision for gratuity as per Accounting Standard- 15.

2. Clause 14 of this Directorate's Order No. F.DE./15 (56)/ Act/2009/778 dated 11.02.2009 states "Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with income generated from the investment made from this fund, will be kept in a separately maintained Development Fund Account."

Para 99 of Guidance Note-21 Accounting by Schools issued by the Institute of Chartered Accountants of India states "Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year."

Further, Para 102 of the Guidance Note-21 also states "In respect of funds, schools should disclose the following in the schedules/notes to accounts:

(a) In respect of each major fund, opening balance, additions during the period, deductions/utilization during the period and balance at the end;
(b) Assets, such as investments, and liabilities belonging to each fund separately;
(c) Restrictions, if any, on the utilization of each fund balance;
(d) Restrictions, if any, on the utilisation of specific assets."
(e) Also, as per para 67(ii) of the Guidance Note-21 "The financial statements should disclose, inter alia, the historical cost of fixed assets."

On review of audited financial statements of FY 2021-22, it has been noted that the school is not following para 99 of the GN 21 cited above. As the school has neither created the deferred income account upon purchase of assets out of the development fund nor transferred any amount from deferred income account to the credit of income and expenditure account equivalent to the depreciation charged on those assets. However, the school is transferring the amount equivalent to assets purchased from development fund to General fund account resulting overstatement of general fund balance.

Further, the school has maintained separate bank account for collection of development fee, however, the balance equivalent to development fund account as on 31st March 2022 is not maintained in the development fund bank account. Also, the school has not maintained the Depreciation Reserve fund for the assets purchased out of the development fund which is in contravention of aforesaid clause 14 of order dated 11.02.2009.

Therefore, the school is directed to comply with the directions regarding creation of development utilisation fund and Depreciation reserve fund and make necessary rectification entries in its books of accounts. Further, the school is directed to maintain equivalent balance in the separate bank account maintained for collection of development fee against the balance of development fund within 30 days from the date of issue of this order.

3. The Department vide its Order No.F.No.PS/DE/2020/55 dated 18.04.2020 and Order No.F.No.PS/DE/2020/3224-3231 dated 28.08.2020 had issued guidelines regarding the chargeability of fees during the pandemic COVID 2019. The department in both the above-mentioned orders directed to the management of all the private schools not to collect any fee except the tuition fee irrespective of the fact whether running on the private land or government land allotted by DDA/other land-owning agencies and not to increase any fee in FY 2020-21 till further direction.

   The department in pursuance of the order dated 31.05.2021 in WPC 7526/2020 of Single Bench of the Hon'ble High Court of Delhi and interim order dated 07.06.2021 in LPA 184/2021 of the Division Bench of Hon'ble High Court of Delhi and to prevent the profiteering and commercialization, again directed to the management of all the petitioners private unaided recognized schools through its Order No. F. No. DE.15 (114) /PSB /2021 /2165-2174 dated 01.07.2021:

   (i) "*To collect annual school fee (only all permitted heads of fees) from their students as fixed under the DSEAR, 1973 for the academic year 2020-21, but by providing deduction of 15% on that amount in lieu of* ***unutilized facilities*** *by the students during the relevant period of academic year 2020-21*". And if the school has collected the fee in excess to the direction issued by the Hon'ble Court, the same shall be refunded to the parents or adjusted in the subsequent month of fee or refund to the parents.

   (ii) The amount so payable by the concerned students be paid in six equal monthly instalments w.e.f. 10.06.2021.

On review of fee receipts provided by the school for the FY 2020-21 and FY 2021-22, it has been noted that the school has collected tuition fee, annual fee and development fee in both the years and has not provide any discount as per the direction issued by the department.

Further, during personal hearing, the school explained that it has not collected development fee and smart class fee during FY 2020-21. From review of fee receipts submitted by the school, development fee and smart class fee has been calculated and compared with the figures reported by the school in income and expenditure account and balance sheet (development fee being a capital items) of FY 2020-21. The review indicated substantial difference between the income calculated and income reported in the audited financial statements. This indicates that the school has not been reporting income as per the fee receipts provided to the students leading to questionability on the reliability of the audited financial statements. Further, from review of the audited financial statements, it cannot be concluded whether the school has been following cash basis of accounting or accrual basis of accounting because the school has not provided movement details of fee received in advance and fee receivable. Therefore, the audited financial statements submitted by the school cannot be relied upon. Difference in income reported by the school is provided below.

Class	FY: 2020-21								
	As per Fee Receipts					As per Audited Financial Statements		Difference	
	Development Fee	Smart Class fees	Total no. of students	Total Development Fees	Total Smart Class Fees	Total Development Fees	Total Smart Class Fees	Development Fees	Smart Class Fees
Nursery and KG	175	90	41	86,100	44,280	-	-	86,100	44,280
I TO V	165	90	339	6,71,220	3,66,120	-	-	6,71,220	3,66,120
VI-VII	170	95	108	2,20,320	1,23,120	-	-	2,20,320	1,23,120
VIII	170	105	61	1,24,440	76,860	-	-	1,24,440	76,860
Total			**549**	**11,02,080**	**6,10,380**	-	-	**11,02,080**	**6,10,380**

B. Other Suggestions for Improvement

1. The Directorate vide its order No. F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 directed that the school shall provide 25% reservation to children belonging to EWS category. Even as per the land allotment letter, the school is required to provide free ship to the students belonging to weaker section. However, as per the information provided by the school for FY 2019-20 to FY 2021-22, it has been noted that the school was not complying with the abovementioned DOE's Order and condition mentioned in the land allotment letter which provides for granting of free ship to the extent of 25% to the children belonging to EWS category. Therefore, DDE District may be requested to look into this matter and ensure compliance with the above requirements. The details of total students and EWS students for the FY 2019-20 to 2021-22 are tabulated below:

Particulars	FY 2019-20	FY 2020-21	FY 2021-22
EWS	56	68	78
Total Strength	638	617	619
% of EWS students to total strength	**8.78%**	**11%**	**12.6%**

2. The school has prepared a Fixed Assets Register (FAR) that only captures date, bill number, supplier name, asset name, quantity and amount. The FAR should also include details such as manufacturer's serial number, location, depreciation, asset identification number, etc. to facilitate identification of asset and document the complete details of assets at one place.

   Further, the physical verification of fixed assets is normally conducted to confirm certain criteria like existence, quantity, and condition of the fixed assets. However, School does not get its fixed assets physically verified on regular basis. Which indicates that the school does not have adequate internal control over the existence and has not ensured safeguarding of fixed assets.

   Accordingly, the school is directed to prepare/update the fixed assets register with the above details and to get the physical verification of its fixed assets on regular basis to strengthen the internal control system of the fixed assets and submit the compliance report within 30 days from the date of issue of this order. Compliance of the above shall be verified at the time of evaluation of proposal for enhancement of fee for subsequent year.

3. According to the Directorate of Education Order No F. DE.-15/Act-I/WPC-4109/Part/13/7905-7913 dated 16.04.2016, In exercise of the powers confirmed by Clause (xviii) of Rule 50 and Rule 180 of the Delhi School Education Rules, 1973, the Director specified that the format of return and documents to be submitted by schools under Rule 180 read with Appendix-II of the Delhi School Education Rules, 1973 shall be as per format specified by the Institute of Chartered Accountant of India, established under Chartered Accountant Act 1949 (38 of 1949) in Guidance Note on Accounting by the Schools (2005).

   Further, Para 58(i) of the abovementioned Guidance Note states that "A school should charge depreciation according to the written down value method at the rates recommended in Appendix I to the Guidance Note- 21."

   On review of audited Financial Statements for the FY 2021-22, it has been noted that the depreciation on fixed assets have been provided on written down value method at the rates prescribed in the Income Tax Rules, 1962. Therefore, school is directed to provide depreciation on assets in accordance with the guidance note cited above.

4. Clause 19 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 states *"The tuition fee shall be so determined as to cover the standard cost of establishment including provisions for DA, bonus, etc., and all terminal, benefits as also the expenditure of revenue nature concerning the curricular activities."*

   Clause 21 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 states *"No annual charges shall be levied unless they are determined by the Managing Committee to cover all revenue expenditure, not included in the tuition fee and 'overheads' and expenses on play-grounds, sports equipment, cultural and other co-curricular activities as distinct from the curricular activities of the school."*

   Clause 22 of Order No. F.DE /15(56)/ Act/2009/778 dated 1.02.2009 states *"Earmarked levies will be calculated and collected on 'no-profit no loss' basis and spent only for the purpose for which they are being charged."*

   Clause 6 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999 states *"Earmarked levies shall be charged from the user student only."*

   Rule 176 states *"Collections for specific purposes to be spent for that purpose' of the DSER, 1973 states "Income derived from collections for specific purposes shall be spent only for such purpose."*

   Sub-rule 3 of Rule 177 of DSER, 1973 states *"Funds collected for specific purposes, like sports, co-curricular activities, subscriptions for excursions or subscriptions for magazines, and annual charges, by whatever name called, shall be spent solely for the exclusive benefit of the students at the concerned school and shall not be included in the savings referred to in sub-rule (2)." Further, Sub-rule 4 of the said rule states "The collections referred to in sub-rule (3) shall be administered in the same manner as the monies standing to the credit of the Pupils Fund as administered."*

   Also, earmarked levies collected from students are form of restricted funds, which, according to Guidance Note-21 'Accounting by Schools' issued by the Institute of Chartered Accountants of

India, are required to be credited to a separate fund account when the amount is received and reflected separately in the Balance Sheet.

Further, the Guidance Note-21 lays down the concept of fund-based accounting for restricted funds, whereby upon incurrence of expenditure, the same is charged to the Income and Expenditure Account and a corresponding amount is transferred from the concerned restricted fund account to the credit of the Income and Expenditure Account.

From the information provided by the school post personal hearing, it has been noted that school charges earmarked levies in the form of Multimedia Fees from the students but has not maintained fund-based accounting.

In view of the above the earmarked levies are to be collected only from the user students availing the services, and if any service/facility has been extended to all the students at the school, a separate charge cannot be levied towards these services by the school as the same would get covered either from tuition fee (expenses on curricular activities) or annual charges (expenses other than those covered under tuition fee). Accordingly, charging earmarked levies in the name of multi-media/smart class fee from all the students loses its character of earmarked levy. Thus, the school is directed not to charge such fee as earmarked levy with immediate effect and should incur the expenses relating to these from tuition fee and/or annual charges.

The school is also directed to maintain separate fund account depicting clearly the amount collected, amount utilised and balance amount for each earmarked levy collected from students. Unintentional surplus/deficit, if any, generated from earmarked levies must be utilized or adjusted against earmarked fees collected from the users in the subsequent year. Further, the school should evaluate costs incurred against each earmarked levy and propose the revised fee structure for earmarked levies in the subsequent proposal of fee increase by ensuring that the proposed levies are calculated on no-profit no-loss basis and not to include fee collected from all students as earmarked levies.

The act of the school of charging unwarranted fee or any other amount/fee under head other than the prescribed head of fee and accumulation of surplus fund thereof tantamount to profiteering and commercialization of education as well as charging of capitation fee in other form.

5. Appendix-III (Part-I-General instructions and accounting principles) of Guidance Note-21 states that "*accounting policies should be applied consistently from one financial year to the next. Any change in the accounting policies which has a material effect in the current period or which is reasonably expected to have a material effect in later periods should be disclosed........*"

   Para 58(i) of the abovementioned Guidance Note states that "A school should charge depreciation according to the written down value method at the rates recommended in Appendix I to the Guidance Note- 21."

   Further, para 67(ii) states that the financial statements should disclose, inter alia, the historical cost of fixed assets.

   However, on review of audited financial statement for the FY 2021-22, it has been noted that the school has neither charged depreciation in the income and expenditure account nor has created depreciation reserve fund account in the liability side of the balance sheet. Further, the school has shown the assets at Gross value during FY 2021-22 without giving any effect to the previous year depreciation, hence the school is not showing actual gross value of fixed assets in the balance sheet. Hence, the practice followed by the school is in contravention of the Guidance Note- 21. Therefore, the school is directed to make the necessary rectification entries in its books of account and create depreciation reserve fund account.

AND WHEREAS, fund position of the school cannot be ascertained as the audited financial statement submitted by the school is not reliable due to the following reasons:

- the school has not been reporting income as per the fee receipts provided to the students
- the school has not provided movement details of fee received in advance and fee receivable
- it is not clear whether the school is following cash basis of accounting or accrual basis of accounting.

AND WHEREAS, in the light of provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of expert Chartered Accountants that since the fund position of the school cannot be ascertained as the audited financial statement submitted by the school is not reliable, the fee increase proposal of the school may not be accepted.

AND WHEREAS, recommendations of the team of expert Chartered Accountants along with relevant material were put before the Director of Education for consideration and who after considering all the material on the record, found that since the audited financial statement submitted by the school is not reliable therefore, Directorate has rejected the proposal of fee increase submitted by the said school for academic session 2022-23 with the direction to DDE (District) to process necessary action against the School as per the provisions of DSEA & R, 1973 as well as direction of Hon'ble Court.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that since the audited financial statement submitted by the school is not reliable. Therefore, Director (Education) has rejected the proposal submitted by the school to increase the fee for the academic session 2022-23.

Accordingly, it is hereby conveyed that the proposal for fee hike of **New Oxford Public School, D-45A, D Block, Preet Vihar, Delhi- 110092 (School ID: 1002370)** filed by the school in response to the Order No. F.DE.15 (40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is rejected by the Director (Education) with the above conclusions and suggestions.

Further, the management of said school is hereby directed under section 24(3) of DSEA, 1973 to comply with the following directions:

1. Not to increase any fee/charges during FY 2022-23. In case, the school has already charged increased fee during FY 2022-23, the school should make necessary adjustments from future fee/refund the amount of excess fee collected, if any, as per the convenience of the parents.

2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.

3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions of section 24(4) of Delhi School Education Act, 1973 and Delhi School Education Rules, 1973.

This is issued with the prior approval of the Competent Authority

(Yogesh Pal Singh)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
New Oxford Public School (School ID: 1002370)
D-45A, D Block, Preet Vihar, Delhi- 110092

No. F.DE.15 (1003)/PSB/2022/ 8542-8546 Dated: 20/10/22

Copy to:

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (East) ensure the compliance of the above order by the school management.
4. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
5. Guard file.

(Yogesh Pal Singh)
Deputy Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi