

**STANDARD OPERATING PROCEDURE (SOP) FOR INTER – STATE/DISTRICT TRANSFER OF
CHILDREN IN NEED OF CARE & PROTECTION**

SECTION A

1. INTRODUCTION

- (a) This SOP has been formulated to take care of situations when a child in need of care and protection belonging to a State or district other than where he/she was rescued/found requires to be transferred and to clarify roles of all concerned and procedures in the process of such transfer across districts/States.
- (b) The procedures detailed in this document are based on guidelines and standards, provided in:
 - The Juvenile Justice (Care and Protection) Act 2000 and Amendment Act 2006 (JJ Act)
 - The Juvenile Justice (Care and Protection) Rules, 2007 / Central Model Rules, 2007
 - The Integrated Child Protection Scheme (ICPS)

2. OBJECTIVES

- (a) To ensure that a child is restored back safely to family or a familiar surrounding across districts / States
- (b) To clarify roles and procedures involved in such restoration
- (c) To put in place processes of transfer and rehabilitation, whereby the best interest of the child and his/her views are given paramount consideration

3. GUIDING PRINCIPLES

The SOP is based on the following principles:

- (a) A loving and caring family is the best place for the child.
- (b) The child has the right to be consulted and to have his/her opinion taken into account in any matter or procedure affecting him/her, in accordance with age and level of development.
- (c) Child protection is the primary responsibility of family, supported by community, government and civil society.
- (d) Institutionalisation of children should be a temporary measure and used only after all other options for rehabilitation and reintegration has been explored.

SECTION B: RELEVANT PROVISIONS IN JJ ACT & RULES AND ICPS FOR TRANSFER

1. JJ ACT: Sections –

- (a) 38: Transfer
- (b) 50: Sending a juvenile or child outside jurisdiction
- (c) 56: Power of competent authority to discharge and transfer juvenile or child
- (d) 57: Transfer between children's homes, under the Act, and juvenile homes of like nature in different parts of India

2. JJ CENTRAL MODEL RULES, 2007: Rules -

- (a) 65: Restoration and follow up
- (b) 78: Transfer
- (c) 79: Procedure for sending a juvenile or child outside the jurisdiction of a competent authority
- (d) 81(g): Role of District Child Protection Unit in transfer of children

3. ICPS: SCHEME ANNEXURES:

- (a) I – Guidelines for Extending Emergency outreach services through Childline (functions of support organisations & district sub centres: both support organisations in the urban model and district sub centres in the rural model of childline services, are to follow up on cases referred by a collaborative organization/those children who have been restored to their families in villages.
- (b) II – Guidelines for Open Shelters for Children in need in Urban and Semi-Urban areas: objectives of Open Shelters are reintegration of these children into families, alternative care and community and regular follow up to ensure that children do not return to vulnerable situations.
- (c) III – Guidelines for family based non-institutional care through Sponsorship, Foster care, Adoption and After Care: to rehabilitate orphaned, abandoned and surrendered children in a family environment, prevent children from becoming destitute/vulnerable and to restore children kept within institutions for economic reasons, to their families.
- (d) VII + Chapter IV- District Child Protection Unit/Society (1.3/v): functions of DCPU; including supporting CWC for inquiry and restoration of children.
- (e) XIII (section 7) – Minimum standards of care for institutions under the JJ Act, Amendment Act & ICPS.

SECTION C: TRANSFER OF CHILDREN

1. There are four kinds of transfers being focused on in this document:

- (a) Transfer of a child to another district within the state (Inter-district transfer)

- (b) Transfer of a child to another state (Inter-state transfer)
- (c) Inter-country transfer: Repatriation
- (d) Transfer of a child from one child care institution to another within the district

2. Situations under which transfer is to be considered: The CWC can consider transfer of a child in the following situations:

- (a) The family of the child has been traced and is willing and capable of taking care of the child
- (b) It is in the best interest of the child and brings her/him closer to her/his natural place of stay or other siblings
- (c) The child requires specialized services such as adoption or has special needs and the home/facility that the child is being transferred to, is better equipped to provide services for the same.

3. Transfer should not be considered only because:

- (a) The child has created problems or is difficult to manage in the existing institution
- (b) Is suffering from chronic or terminal illness (unless the transfer is required for better treatment of the disease.)
- (c) Has become physically or mentally affected /handicapped (unless the transfer is to a Home better equipped to handle such situations).

4. No child shall be transferred until:

- (a) The child has been suitably informed, counseled, prepared and convinced regarding the return to the home district. If the child expresses unwillingness, effort has to be taken to understand why this is so. The child should not be transferred until counseling/orientation about the proposed shift has been satisfactorily completed and the child's informed consent has been given.
- (b) The process of evidence giving and cross examination for a legal proceeding involving the child has been completed.

5. General Instructions:

- (a) If a child is to be transferred from one district to another district in the same or another State, the child must be handed over to the CWC of the child's home district in case of transfer within the State. In case of inter-State transfer, the child may be handed over to the CWC of the home district of the child, if convenient, otherwise to the capital city of the home State. This is to ensure that the child remains under the protective net of the CWC and appropriate decisions are taken keeping child's best interest in mind once the child arrives in her/his home district/State.

- (b) Once the child has consented/agreed to the transfer, it should be ensured that the transfer be effected in the minimum possible time.
- (c) It is important that the CWCs, both sending and in the Home district/State, record their orders and the reasons for giving the order in a systematic and detailed manner in the Roznama/Daily diary. These orders should be signed by at least two members including the Chairperson.
- (d) CWCs should ensure that all the other records and documents are also maintained, with the case docket of the child, by the Probation Officer/Social Welfare Officer/representative of DCPU, in the centralised records of the CWCs and copies of the same should be available with the respective District Child Protection Units.

SECTION D: STEPS IN TRANSFER

1. TRANSFER OF A CHILD TO ANOTHER DISTRICT WITHIN THE STATE

1.1 . Procedure to be followed by sending CWC

- (a) After discussion with the child, the final report of the Probationary Officer/Child Welfare Officers/ concerned officer from the DCPU (PO/CWO/) detailing whereabouts of child's family or probable address etc. and recommending transfer is placed before the CWC.
- (b) The CWC will talk to the child to verify details provided and also to ascertain the child's willingness to return to the Home district. If the child expresses any reservations, the CWC should direct PO/CWO/staff of DCPU that the child be given more time and counseling, to help in clarifying any issues that the child may have regarding the return.
- (c) If the child expresses willingness for the transfer:
 - The CWC in the Home district is to be contacted for inquiry into and confirmation of the address / details given by the child. The telephone numbers of CWCs of other districts are to be made available by the District Child Protection Unit, for the CWC and the Superintendent of the Home
 - The CWC will send the case details of the child to the CWC in the home district through the DCPU
 - The sending CWC should request the Home district CWC to reply within 15 days of receiving the information, so that there is no unnecessary delay for the child.
- (d) Once the CWC in the Home district confirms that the address / details given by the child have been verified/ located, the sending CWC shall prepare a detailed transfer order in the format prescribed in the JJ Act, duly signed by two members.

- (e) The CWC should give an escort order to SJPU to undertake the escort within 15 days. A copy of this order shall also be given to the superintendent of the home where the child is currently placed. A girl child will have to be accompanied by a woman officer.
- (f) Where SJPU is not available, as a last resort, the CWC may direct the Staff of the Home/or staff of DCPU/ DWCD to accompany the child to her/his home district.
- (g) Until the escort is made available, the child will remain in the Shelter Home/Children's Home in safe custody.
- (h) Expenditure for travel etc. shall be borne by the DCPU of the sending district.
- (i) Documents that have to be sent along with the child would include:
 - Age documents
 - Belongings of the child
 - Medical report
 - Educational records
 - Copy of the case file, including final report of the PO/CWO/staff of DCPU, and any other documents such as the Individual care plan, if already prepared
 - Certificates of participation in different trainings, competitions, technical courses
- (j) In the case of children rescued from labour, the labour department must be involved in the rescue and production of the child has to be done before the CWC. The CWC must direct the Labour Department to furnish a Rescue Certificate and this is to be transferred along with the other documents at the time of restoration of the child.
- (k) For a child rescued from trafficking for Commercial sexual exploitation: If the child is a foreigner, it would be necessary for the child to be produced before the JJB too, which must declare the child as a victim and in need of care and protection. The DCPU shall inform the State Government and Superintendent of police, District Intelligence Branch/Deputy Commissioner, Special Branch, so that the process of family tracing can begin.

1.2 Procedure to be followed by Receiving CWC/CWC in Home District:

- (a) On receiving the request for verification of child's details by the sending CWC, the CWC in the home district would verify that the child belongs to that district and communicate the same to the sending CWC within 15 days.
- (b) The home district CWC shall make preparations to receive the child, including a safe place for the child to stay in for a short period.

- (c) Once the child is received by the CWC in the Home district and placed in the identified shelter, examination of documents sent with the child for completeness will be done and a receiving order signed and given to the escort/s.
- (d) Thereafter the CWC will process for restoration/rehabilitation/reintegration, in coordination with the DCPU, as laid down in the JJ Act and Rules for children in need of Care and Protection.
- (e) Once restored/reintegrated, consistent and periodic follow up must be maintained for three years by the CWC through the DCPU.

D2. INTER STATE TRANSFER: In case of inter-state transfer, the same procedure as for transfer within the State will be followed except that in this case, the receiving CWC could be either the CWC of the home district of the child or the CWC of the capital city of that State, as convenient to the sending district.

- (a) In case the child is received by the CWC of the capital city of the home State, it would approach the CWC of the home district to verify details provided by the child. In case it is established that the child belongs to the State, the CWC of the capital city will inform the sending CWC and prepare to receive the child.
- (b) After the child is received by the CWC in the capital city of the State and in case the child belongs to another district, the process for inter district transfer as detailed in D1 above, should be followed.
- (c) In the case of children rescued from labour, the State Resident Labour Commissioner and Labour Department in receiving district should be coordinated with for inquiry into family whereabouts and subsequent restoration to family if found suitable. Rehabilitation should include educational rehabilitation in special schools under National Child Labour Project if available in the Home district or special bridge course centres under SSA in other districts and economic measures for their families through linkages with other Schemes.

D3. TRANSFER OF A CHILD FROM ONE CHILD CARE INSTITUTION TO ANOTHER WITHIN THE DISTRICT:

There should be a clear transfer order justifying decision, enclosing documents mentioned above in D1 and based on the individual care plan and counseling/medical reports. In case the transfer is being done for treatment purpose only, tentative date of return to the sending home should also be clearly indicated based on doctor's recommendation.

D4. INTER-COUNTRY TRANSFER: REPATRIATION – Being finalized in consultation with MEA.