


Directorate of Higher Education
Himachal Pradesh

Subject:- The Himachal Pradesh Education (Regulations of Transfer of
teachers & other Vocational Staff) Act, 2018.

Suggestions are invited from the Teachers and General public
on the subject "The Himachal Pradesh Education (Regulations of Transfer of
teachers & other Vocational Staff) Act, 2018."

Copy of proposed Act and categorization of Zones are enclosed.
Suggestions may be communicated on the departmental websites i.e.
dhe@rediffmail.com & dhe-sml-hp@gov.in within 07 days.


Addl. Director Hr. Education (S) 18/03/18
Himachal Pradesh

GOVERNMENT OF HIMACHAL PRADESH**DEPARTMENT OF EDUCATION****THE HIMACHAL PRADESH EDUCATION (REGULATION OF TRANSFER OF TEACHERS AND OTHER VOCATIONAL STAFF) ACT, 2018****STATEMENT OF OBJECTS AND REASONS**

It is considered necessary to regulate transfer of teachers and other vocational staff in order to ensure availability of teachers in educationally challenging areas and to ensure equitable demand based distribution of teachers and other vocational staff across the state. Introducing transparency and inclusivity by regulation of transfers will help protect the academic interest of students and to improve job satisfaction amongst employees.

The following considerations constitute the rationale for this Act:

1. Equitable opportunity for all teachers and other vocational staff to serve in stations in each of urban/rural/hard/difficult areas
2. Objective criteria for implementation of transfers, engendering values of transparency and accountability
3. Consideration for employees in exceptional circumstances that invite specific attention
4. Implementation via an online web-based portal that eliminates interference and assures a fair and transparent process
5. Stability for teachers in service by setting minimum years of service criteria for transfer eligibility

HIMACHAL PRADESH ACT NO..... OF 2018

(First Published in the on the , 2018)

THE HIMACHAL PRADESH EDUCATION (REGULATION OF TRANSFER OF TEACHERS AND OTHER VOCATIONAL STAFF) ACT, 2018

(Received the assent of the Governor on the of, 2018)

An Act to provide for regulation of transfer of teachers and other vocational staff so as to ensure the equitable demand-based distribution of teachers across the state, and for the matters connected therewith or incidental thereto;

Be it enacted by the Himachal Pradesh State Legislature in the ____ year of the Republic of India, as follows:-

1. Short title and commencement: -

(1) This Act may be called the Himachal Pradesh Education (Regulation of transfer of teachers and other vocational staff) Act, 2018.

(2) It shall be deemed to have come into force with effect from the _____.

2. Definitions: -In this Act, unless the context otherwise requires: -

I."appointment" means appointment by direct recruitment, by absorption or by promotion;

II."appointing authority" means the authority competent to make appointment to the post of a teacher;

III."college" means college belonging to the State Government and would include SCERT,GCTE etc;

IV."competent authority" means the authority competent to make orders of transfer of a teacher;

V."prescribed" means as may be notified in the official Gazette.

VI."promotion" means promotion to the next higher post and will also include placements, award under ACPS,CAS etc.

VII."school" means Primary, Middle, High School, Senior Secondary School and other training institutes belonging to the State Government as the case may be;

VIII."schedule" means the schedule appended to this Act;

IX."teacher" means a person appointed to a category of posts of a teacher by any nomenclature, in a Primary School, Middle School, High School, Senior Secondary School and Government College and includes the head master of Middle/High School, principals of Senior Secondary Schools and Government College, it would also include other vocational staff;

X."tenure" means period served on regular basis and would also include period on contractual basis or through any other means in the school or college;

XI."transfer" means posting of a teacher to a post in a place of working, including posting of a teacher from one place of working to a post in another place of working and includes transfer within or outside the unit of seniority in the same cadre.

3. Scope of the Act: - The Act and its provisions are applicable to the following categories of teachers appointed by the state government:

- I. Junior Lecturer Assistant,
- II. Senior Lecturer Assistant,
- III. Assistant Librarian,
- IV. Junior Basic Trained Teacher,
- V. Craft & Vernacular,
- VI. Trained Graduate Teacher,
- VII. Diploma Holder Physical Education Teacher,
- VIII. Coach,
- IX. Headmaster,
- X. Post Graduate Teacher,
- XI. Principal (School Cadre),
- XII. Librarian,
- XIII. Assistant & Associate Professor (College Cadre),
- XIV. Principal (College Cadre).

Teachers belonging to District cadre will primarily be transferred within a district unless otherwise decided by the Competent Authority, while those belonging to the State cadre can be transferred anywhere in the state, as per the provisions of this Act.

4. Transfer by counseling: - The transfer of a teacher under this Act shall be done through a process of computerized counseling conducted in such manner as may be prescribed.

5. Categorization of the Stations:- The state of Himachal Pradesh is categorized into the following categories of stations, i.e., Zones "A", "B", "C", "D" and "E" for the purpose of regulating the transfers of teachers. The School and College falling under various Zones will be as entered in the schedule.

6. Transfer Eligibility: - Every teacher completing five years tenure in a particular zone, whether independently in a district or cumulatively of more than one district, of the State shall be eligible for transfer, with a tenure of seven years being the maximum permissible tenure in any such zone.

Special Provision for Employees serving in Zone C, D and E: For teacher serving in stations located in Zone C, D or E of any district(s), the above provision is relaxed to a stay/tenure of 3 years as minimum requirement for transfer eligibility, and 5 years as maximum permissible stay/tenure in any such school/zone.

7. Vacant Post :-

- A) Actual Vacancy: A post not occupied by any teacher whether serving in regular capacity or by a temporary employed teacher like PTA (GIA), Guest Teacher etc.
- B) Anticipated Vacancy: Vacancy arising out of compulsory transfer and resultant vacancies arising during counseling.

8. Transfer process: -The transfer of teachers as under the purview of this act shall abide by the following:

- a) The transfer process shall be carried out by the observance of the following steps:
 - i. Rationalization of teacher posts,
 - ii. Preparation and notification of list of vacancies to be filled/blocked,
 - iii. Receipt of online-application for Transfers from teachers, along with preferences for choice of station,
 - iv. Verification of online-applications by Competent Authority,
 - v. Counseling as per point based system of allocation,
 - vi. Generation of transfer orders.
- b) All steps of the above process shall be carried out once in a year between the months of January to 15th of March.
- c) In case of Zone A and Zone B, if a teacher has completed seven years of stay then such zone shall not be made available to him/her while giving option of stations whether in online transfer drive or offline manual/ temporary allocation., unless employee has completed minimum years of service in all zonal category of stations available for that cadre. Zone C, Zone D and Zone E shall be made available to the teachers regardless of their stay in these zones as these zones comprise of hard/difficult/tribal areas that are educationally sensitive.
- d) It shall be ensured that all teachers serve a minimum of a single tenure in Zone C, D or E, during their total duration of service. It shall also be ensured that all teachers, if willing, serve a minimum of a single tenure in Zone A during their total duration of service.
- e) Teachers having 2 years or less in retirement shall not be transferred if they are not willing to participate in transfer drive.
- f) Teachers who have crossed 55 years of age can choose to be exempted from posting in "C","D" and "E" categories of stations except on promotion.
- g) Teachers suffering from a) 100% vision loss; or b) 100% locomotive disorder for any reason; or c) currently suffering from cancer; or d) having undergone bypass heart

surgery; or e) kidney transplant; or f) currently undergoing dialysis; shall be assigned full points, if they are willing to participate in a transfer drive. Otherwise, they shall not be transferred, if they are not willing to participate in a transfer drive. However, the certificate of cancer should not be more than six months old. Further, there will not be any bar to opt any zone/school for these categories of teachers.

- h) NCC (ANO) teacher will only be transferred to such school or college where NCC wing exists or is to be started.
- i) In any year, the Competent Authority reserves the right to set a limit on the number of transfers to be permitted within any cadre of employees, keeping in mind the distribution of demand for teachers in the state and other factors as deemed important.
- j) Quota of 1% inter-district transfers shall be made available to those female employees who are married, and have completed 13 years of Total Service and whose spouse is located in another district. For employees facing serious medical conditions, this rule may be relaxed to 5 years of Total Service after which this option may be availed. The 1% quota refers to a limit of 1% on the number of employees of District cadre being transferred out of a particular district.
- k) No transfer on mutual basis shall be permitted.
- l) Employees who do not opt to provide preferences for choice of station as part of their transfer application will be considered to have opted for a posting "Anywhere in State", and may be posted as per directions of the Competent Authority. In the circumstance that the posting of such employee is in Zone E area and is not opted for by any other teacher applying for transfers, the employee may be awarded an additional 10 points in the next transfer window in which the employee chooses to make an application.
- m) Every teacher will be responsible for the accuracy and regular updation of data in the Personnel Management Information System (PMIS) in respect of his credentials and service history. Otherwise the department shall be at liberty to post them at any station across the state having high deficiency of teachers.
- n) Competent Authority as decided by the Government shall be empowered to order transfers for teachers.

9. Point Based system of allocation: - The allocation of vacancies to eligible teachers as part of the transfer process shall be done through a points based system of allocation. The following parameters are to be considered as part of the system, that is to be implemented through an online web-based portal:

- a) Points shall be assigned on the basis of the table provided below:

S.No.	Parameter	Sub-Parameter	Maximum Points	Criteria
1	Category	Teachers belonging to Female/Third Gender	10	Teachers from these genders shall be given 5 points
		Widow/ divorced/ separated/ unmarried female teacher more than 40 years of age/ wife of serving Military personal/ Paramilitary personal.	10	All female of this category shall be given 10 points only
		Widower who has not re-married and has one or more minor children and/ or unmarried daughter(s)	5	Eligible widower shall be given 5 points only.
		Differently abled teacher.	20	40% to 60% disability = 10 points. Above 60% to 80% = 15 points Above 80%=20 points
		Disease of debilitating disorder	20	Self 10 Spouse 10
		Men/Women having Mentally challenged or 100% differently abled child	10	Maximum 10 points
		Employee whose spouse works as a Government employee	20	Teacher's spouse working in state govt., center Govt, PSUs created under Acts or Rules.
2	Performance	State Awardee /National Awardee teachers	5	Recognition of academic performance
		Teachers giving good result in the preceding board exam. (in case teacher teaches both more than one board year, then average class	5	For results, following shall be the criteria for entitlement of points as per

		performance to be considered)		pass percentage: 75% to 80 % = 1 point, 80% to 85% = 2 points, 85% to 90% = 3 points, 90% to 95% = 4 points, 95% to 100% = 5 points
3	Tenure/Service	Points to be assigned as per Zone of present and last two places of posting	30	Zone C: Length of tenure in Zone x 0.25 Zone D: Length of tenure in Zone x .5 Zone E: Length of tenure in Zone x 1

10. Eligibility for promotion: - Those teachers, who have not served full tenure in the zone D or E during their service period, will not be eligible for future promotion(s), provided posts of such subject or category have been created in the above zones.

11. Incentive to be given on posting in certain Zones :- Those teachers on completion of second full tenure in Zone E will be awarded one extra increment, provided , that area of working is not the teacher's or spouse's home Sub-Division.

12. Power to amend Schedule:- The Government may, if it is of opinion that it is expedient or necessary in the public interest so to do, by notification in the official gazette, add any school or college into the Schedule, further, the Government may also, if deem fit edit the entries of Zoning with respect to school and college entered in the schedule, by notification in the official gazette.

13. Penalties: - If any competent authority or any officer makes an order of posting or appointment or transfer in contravention of the provisions of this Act, such competent authority or officer as the case may be, shall be liable for disciplinary action under the disciplinary rules applicable to civil servants.

14. Clarification & Implementation: - In case of any doubt or difficulty in making out the true intention of the provisions of this Act, the Administrative Secretary of the department shall be competent authority to clarify such doubt or to remove such difficulty by issuing a reasoned order to this effect.

15. Cognizance of offences: - No Court shall take into cognizance of any offence under this Act.

16. Grievance Redressal: Within 30 days of issuance of transfer orders, any teacher aggrieved with the transfer order can represent to the competent authority after joining at new place of posting, on the grievance redressal forum to be provided by the department in this behalf. The representation shall be considered and decision shall be conveyed within 15 days by the competent authority.

17. The Act to override other laws: - The provisions of this Act shall have an overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

18. Power to remove difficulties: - If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order published in the official Gazette make provisions not inconsistent with the provisions of this Act as it appear to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

19. Protection of action taken in good faith: - No suit, prosecution or other legal proceeding shall lie against any officer of the Government for anything done in good faith or intended to be done under this Act.

20. Power to make rules: -

- a) The State Government may by notification and after previous publication, make rules to carry out the purposes of this Act.
- b) Any rule made under this Act may be made with prospective effect and when such a rule is made, the reasons for making the rule shall be specified in a statement to be laid before the State Legislature and subject to any modification made, every rule made under this Act shall have effect as if it is enacted under this Act.
- c) Every Rule made under this Act, shall be laid as soon as may be after it is made before the State Legislature.

21. Transitory provisions:- Any rule, notification, order or appointment, made or issued under the 'Comprehensive Guiding Principles 2013 for regulating the transfer of State Government Employees' or otherwise providing for or relating to any of the matters for

the furtherance of which this Act is enacted, before the commencement of this Act and in force on the date of commencement of this Act, to the extent they are not inconsistent with the provisions of this Act, shall continue to be in force and effective as if they are made or issued or appointed under the corresponding provisions of this Act unless and until superseded by anything done or any action taken or any rule, notification, order or appointment made under this Act.

Zone "A" -SOFT STATIONS: All stations situated within the radius of 15 kms from State headquarter or District headquarters connected with road, including stations where on foot journey is less than 2 kms. (Except in District Kinnaur and Lahaul&Spiti).

Zone "B" - RURAL AREAS:

- I. All stations situated within the radius of 20 kms from sub-divisional/tehsil headquarter.
- II. All stations beyond the radius of 15 kms from State headquarter and District headquarters including where bus service is not available and on foot journey is more than 3 kms.

Zone "C" - DIFFICULT/HARD AREAS: Where journey on foot is 5 kms and the climatic conditions are very harsh. Remote areas without facilities for communicating and not connected with road. This Zone may be further broken down into two Zones C1 and C2.

Zone "D" - TRIBAL AREAS: Tribal Areas may be further broken down into two Zones D1 and D2 as per proximity to District, Tehsil HQ.

Zone "E" - MOST DIFFICULT AREAS:

- I. Dodra Kawar of Rohroo sub-division
- II. Pandrah Bis Pragana, Munish Darkali and Gram Panchayat Kashapat, Gram Panchayats of Rampur Tehsil of District Shimla
- III. Pandrah Bis area of Nichar sub-division of Kinnaur district