



केंद्रीय दत्तक-ग्रहण संसाधन प्राधिकरण
CENTRAL ADOPTION RESOURCE AUTHORITY
महिला एवं बाल विकास मंत्रालय, भारत सरकार
MINISTRY OF WOMEN & CHILD DEVELOPMENT,
GOVERNMENT OF INDIA

IDENTIFYING CHILDREN HAVING NO VISITATION AND HAVING UNFIT GUARDIANS/PARENTS

[For information of all SAAs, CCIs, DCPUs, CWCs and SARAs
in the State]



Background

Article 15(3), clauses (e) and (f) of Article 39, Article 45, and Article 47 of the Constitution of India indeed outline several provisions related to the welfare and protection of children, ensuring that their basic needs and human rights are met. These constitutional provisions collectively emphasize the State's responsibility to ensure the holistic development, well-being, and protection of children.

2. Further, the Juvenile Justice (Care and Protection of Children) Act 2015 (amended in 2021) reiterates the rights of a child to family vide principles of participation, best interest, family responsibility and institutionalisation as a measure of last resort. Section 29 of the JJ Act provides that Child Welfare Committee (CWC) shall have the authority to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection, as well as to provide for their basic needs and protection.

3. Adoption Regulations 2022 and Model Foster Care Guidelines provide systematic and child centric approach to place a child in need of care and protection in adoption, foster care as well as foster care leading to foster adoption.

4. Hon'ble Supreme Court of India in the matter of W.P.C No(s).1003/2021 on 20-11-2023 directed States/UTs to carry out identification drive every two months to identify children in the orphan, abandoned and surrendered(OAS) category and identify children languishing in Child Care Institutions(CCIs)* and those not reaching CCIs and ensure their registration online. The children may be classified into five categories, i.e. orphan, abandoned, surrendered, unfit guardian and children with no visitations.

5. Finding children who have no visitation or whose parents are unfit takes a thorough approach, which usually entails cooperation amongst several stakeholders such as the Police, CWC, DCPU, SAA, and CCI, among others.

6. There are situations where a child's guardian may be considered unfit or incapacitated to care for the child's safety and well-being and the CWC has to keep in mind all the above circumstances. The stakeholders concerned shall assist the CWC in identifying the children. This assistance may involve services like social investigation report (SIR) preparation, following up with the biological family, counselling, and any other duty that the CWC assigns.

7. Children under these circumstances may require alternative care arrangements or interventions to ensure their safety, well-being, and proper upbringing. In such cases, the CWC plays a critical role in evaluating the situation, considering all relevant factors, and taking decisions that prioritize the safety, well-being, and best interests of the children. This may involve determining alternative care arrangements, such as placing the child in a suitable foster care family or facilitating adoption if deemed appropriate and beneficial for the child's development and future prospects.

8. In the entire exercise, counselling serves as a crucial support mechanism, helping parents or guardians understand the situation, explore available options, and make informed decisions regarding the child's welfare. Thus counselling has to be mandatorily provided to parent/guardian concerned and also to older children residing in CCIs to prepare them for alternative care like foster care and adoption.

Broad classification of children

9. The five categories of children where they may find themselves in need of care and protection affecting their family dynamics or guardianship arrangements are stated below:

- (a) “orphan” means a child— (i) who is without biological or adoptive parents or legal guardian; or (ii) whose legal guardian is not willing to take, or capable of taking care of the child[Section 2(42) of the JJ Act 2015 (amended in 2021)].
- (b) “abandoned child” means a child deserted by his biological or adoptive parents or guardians, who has been declared as abandoned by the Committee after due inquiry[Section 2(1) of the JJ Act 2015(amended in 2021)].
- (c) “surrendered child” means a child, who is relinquished by the parent or guardian to the Committee, on account of physical, emotional, and social factors beyond their control, and declared as such by the Committee[Section 2(60) of the JJ Act 2015(amended in 2021)].
- (d) “No visitation” means where children are having no guardians and those who are not in contact with their guardians for several years” [Rule 17 (x) of the JJ Rules 2022].
- (e) “Children having Unfit Guardian”-
 - i. who is mentally ill or mentally or physically challenged or suffering from terminal or incurable disease, having no one to support or look after or having parents or guardians unfit to take care, if found so by the Board or the Committee [Section 2(14) (iv)] of the JJ Act, 2015];
 - ii. who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board, to care for and protect the safety and well-being of the child [Section [2(14) (v) of the JJ Act, 2015];
 - iii. “children having unfit guardian” means whose parent or guardian is unable or unwilling for parenting, unable or unwilling to take care of the child and severe cases of substance abuse, known to have abused or neglected the child, having criminal record, in need of care themselves, mentally unsound etc. Children of all such parents shall be classified under this category.

Procedure to be followed in case of Children with No Visitation

10. A holistic approach addressing the complex issues surrounding such children is reflected in the procedure, which is contingent upon the particular context, jurisdiction, and legal frameworks in place. Assessment, intervention, support, and advocacy for the child's best interests and well-being are prioritised in all the steps mentioned below:-

- a) Case workers or child welfare officers at Child Care Institutions (CCIs) shall report potential cases of no visitation to the District Child Protection Unit (DCPU) and CWC through Individual Care Plans (ICPs) with updated status.
- b) Lack of visitation for one year raises concerns and it requires closer scrutiny to determine if the child's welfare is being compromised.
- c) The Child Welfare Committee (CWC) initiates an assessment by instructing case workers or child welfare officers to evaluate the family's circumstances and reasons for the lack of visitation and accordingly, interventions may be provided to facilitate reunification if possible.

CARA Helpline No: 1800-11-1311 (Available between 8:00 AM to 8:00 PM (Mon-Fri))

Toll-free No: 011-26760471, 26760472, 26760473, 26760474

| E-mail: carahdesk.wcd@nic.in | Website: www.cara.wcd.gov.in

- d) The CWC decides the legal status of such children based on necessary documents like Social Investigation Reports (SIRs- Form 22), Individual Care Plans (ICPs- Form 7), and the child's case history (Form 43) prepared by case workers or child welfare officers.
- e) The CWC considers various factors such as the child's age, efforts of the biological or extended family to maintain a healthy relationship, consent of the biological parent or guardian for alternate care, and availability of prospective foster families before making any decision.
- f) CCIs and DCPU encourage visitation of parent(s) or guardian, keep pertinent records, and educate biological parents or guardians about the negative effects of long-term institutionalisation on the child; offer counselling services to parents or guardians and older children to enable them to take informed decisions which may include family reunification or alternate family care through foster care and adoption.
- g) CCIs shall provide details of children under no visitation category to the concerned DCPU for registration on the designated portal for maintaining accurate records and monitoring.
- h) The CWC conducts mandatory quarterly reviews based on status reports prepared by case workers or child welfare officers to assess progress and for their early deinstitutionalisation.

Procedure to be followed in case of Children having Unfit Guardian/ Parent

11. The following process may be adhered to identify children with unfit guardians, with a focus on determining the child's legal status, coordinating with medical boards for assessments of the parent's/guardian's fitness, restoring the child, and conducting routine reviews for deinstitutionalisation:-

- a) If the child's biological parents/ guardians (wherever applicable) are mentally challenged or mentally ill, the Specialised Adoption Agency (SAA) or Child Care Institution (CCI) shall coordinate with the medical board to obtain a certificate declaring the biological parent/guardian unfit based on the severity of the disease .
- b) The CWC directs the District Child Protection Unit (DCPU) to facilitate coordination with the medical board, counselling of the biological family and older children, and any other tasks deemed appropriate by the Committee.
- c) The CWC gathers pertinent information pertaining to the biological parent/ guardian through different means to declare them unfit for reasons, i.e. abuse and neglect of the child, having a criminal record, unable or unwilling to take care of the child and severe cases of substance abuse.
- d) The CWC ensures reunification and family preservation efforts if one of the biological parents is found unfit.
- e) CCIs and DCPU offer counselling services to parents or guardians to surrender the child for rehabilitation and simultaneously counsel older children to prepare them for alternate family care through foster care and adoption.
- f) The CWC decides the legal status of such children based on necessary documents like Social Investigation Reports (SIRs- Form 22), Individual Care Plans (ICPs- Form 7), and the child's case history (Form 43) prepared by case workers or child welfare officers.
- g) CCIs shall provide details of children under unfit parent/guardian category to the concerned DCPU for registration on the designated portal for maintaining accurate records and monitoring.

- h) The CWC conducts mandatory quarterly reviews based on status reports prepared by case workers or child welfare officers to assess progress and for their early deinstitutionalisation.

Section 2(1) (s) of the Mental Healthcare Act (MHCA) 2017 defines Mental illness as substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life, but does not include mental retardation which is a condition of arrested or incomplete development of mind of a person, specially characterised by sub normality of intelligence.

Section 38(3) of the JJ Act, 2015 (amended in 2021) provides that “Notwithstanding anything contained in any other law for the time being in force a child of a mentally retarded parents or a unwanted child of victim of sexual assault, such child may be declared free for adoption by the Committee, by following the procedure under this Act’ which means right of a child to a family has been given utmost priority.”

Regulation 6(18) of Adoption Regulations 2022 provides that “the procedure for declaring a child of parents with mental illness or intellectual disability as legally free for adoption by the Child Welfare Committee shall be done on the basis of a certificate reflecting mental disability of the parents from the medical board constituted by the Central Government or the State Government, as the case may be, as per the laws established by the Government of India, with respect to the same.”

*Child care institution (CCI) also means specialised adoption agency as mentioned in section 2(21) of the JJ Act 2015(Amended in 2021)



केंद्रीय दत्तक-ग्रहण संसाधन प्राधिकरण
Central Adoption Resource Authority

(भारत सरकार के महिला एवं बाल विकास मंत्रालय का सांविधिक निकाय)
(A Statutory Body of Ministry of Women & Child Development, Government of India)



स/No. E 96181/CARA-EA043/9/2021



दिनांक / Date 28-03-2024

कार्यालय ज्ञापन
OFFICE MEMORANDUM

The registration of children on CARINGS portal has been modified with the following provisions:

- The children will be registered on CARINGS portal in FIVE categories (Orphan, Abandoned, Surrendered, No Visitation, and Unfit Guardians).
- All Orphan, Abandoned or Surrendered children are generally rehabilitated through adoption as per the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 (as amended in 2022) and Adoption Regulations, 2022. Their adoptability in terms of 'Legally Free for Adoption (LFA)', will be ascertained by Child Welfare Committee (CWC).
- As far as children registered under the category of 'No Visitation' and 'Unfit Guardians' are concerned, they will primarily be potential cases for 'foster care' as provisioned on CARINGS portal. Once such children are declared legally free, their permanent rehabilitation can be facilitated through adoption.
- In cases where children under FIVE categories are found to have no claimants, the process for 'Legally Free for Adoption (LFA)' may be completed expeditiously through the Child Welfare Committee (CWC) concerned.
- The moment it is realised that it will take time to register the child in five categories; the child may be registered in the category of 'OTHER'. Further, based on the assessment by the concerned Child Welfare Committee (CWC) (refer Chapter V of JJ Model Rules 2022), the exact status of the child may be determined and child may be shifted from OTHER category to any of the five categories. Accordingly, the district authorities can change the category of child, as per the procedure given below :

Procedure: DCPU Portal → CCI Information → Registered Children Details → Details of Registered CCI Children (for updation)

- If any technical issue arises during the registration process of children on CARINGS portal, the same may be brought into the notice of CARA through email with screen shot to carahdesk.wcd@nic.in.

(डॉ. जगन्नाथ पति)
(Dr. Jagannath Pati)
निदेशक (कार्यक्रम)
Director (Programme)

Copy to:

- All Nodal Officers at State/UT level
- State Adoption Resource Agencies (SARAs)
- District Child Protection Units (DCPUs)
- Specialised Adoption Agencies (SAAs)
- Child Care Institutions (CCIs)

CARA Helpline No: 1800-11-1311 (Available between 8:00 AM to 8:00 PM (Mon-Fri))

Toll-free No: 011-26760471, 26760472, 26760473, 26760474

| E-mail: carahdesk.wcd@nic.in | Website: www.cara.wcd.gov.in