India: AICTE Notifies Guidelines for Online and Open and Distance Learning

Article By:

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Introduction

The All India Council for Technical Education ("AICTE") has published the AICTE (Open and Distance Learning Education and Online Education) Guidelines, 2021,1 ("Guidelines") paving the way for certain technical education courses to be offered online. The Guidelines are significant since they seek to regulate the offering of online and open and distance learning programmes ("Online and ODL") in technical education.

The University Grants Commission ("UGC") had published the revised regulations for offering Online and ODL programmes in 20202 ("UGC Online and ODL Regulations") under which courses governed by statutory bodies could be offered in Online and ODL mode only after approval of such statutory body. In furtherance of the same, these Guidelines have been published and must be read together with the UGC Online and ODL Regulations.

Prior to the Guidelines, AICTE had published guidelines on recognition for open and distance learning ("ODL") programmes for standalone institutions and institutions deemed to be universities. These guidelines contained detailed provisions on the approval procedure for offering ODL programmes and requirements thereof, but lacked similar provisions for offering programmes in online mode. It was only provided that the relevant institution can offer programmes in the online mode as per the UGC Online and ODL Regulations. Therefore, the current Guidelines inter alia provide a more detailed framework for institutions to offer programmes in the online mode, in addition to permitting certain premier institutions to offer Online and ODL programmes without prior approval.

Key Highlights

"Online Mode" under the Guidelines has been defined to mean "a mode of providing flexible learning opportunities by overcoming separation of teacher and learner using internet, e-Learning Materials and full-fledged programme delivery through the internet using technology assisted mechanism and resources". Consequently, the AICTE, which had earlier been averse to the offering of technical education programmes online, has now enabled the offering of inter alia full-fledged courses, albeit in limited programmes, through online mode.

On the other hand, "Open and Distance Learning (ODL)" mode has been defined to mean "a mode of providing flexible learning opportunities by overcoming separation of teacher and learner using a variety of media, including print, electronic, MOOC, online and occasional interactive face-to-face meetings arranged by Institution through Learner Support Services to deliver teaching-learning experience, including practical or work experience"

Applicability

- Institutions: The Guidelines apply to higher educational institutions ("HEI") including standalone institutions,3 institutions-deemed to be universities4 and universities.5

- Programmes: Programmes offered by such HEIs in Online and ODL mode which lead to the award of diploma, post diploma certificate, post graduate certificate, post graduate diploma and post graduate degree level programmes will be governed by these Guidelines.

- Courses: The Guidelines are only applicable to management and allied areas, computer applications, artificial intelligence and data science in the engineering & technology domain, logistics, and travel and tourism. Technical education programmes other than these have been expressly prohibited for Online and ODL mode. In case an HEI proposes to start a new course, the nomenclature of which is not present in the AICTE Approval Process Handbook ("AICTE Handbook"), prior concurrence by the AICTE is required.

No-approval process for premier HEIs

The Guidelines permit HEIs with:

- a National Assessment and Accreditation Council ("**NAAC**") score of 3.26 and above on a scale of 4; or

- National Board of Accreditation ("**NBA**") score of 700 on a scale of 1000; or

- ranking in Top 100 in the university category of National Institutional Ranking Framework ("**NIRF**"),

at least twice in three preceding cycles to offer full-fledged programmes in Online and ODL mode without prior approval of the AICTE only for NBA accredited programmes. However, the approval of the UGC, if applicable, would be required. Under the Guidelines, the HEI will only be required to submit an application along with required information and affidavits and shall be required to comply with the Guidelines. Consequently, premier HEIs in India have a much less cumbersome process for offering Online and ODL programmes.

Approval process for other HEIs

HEIs which have completed at least five years of existence and which are:

- accredited by NAAC with minimum score of 3.01 on a 4-point scale; or

- accredited by NBA with at least 650 points on a scale of 1,000

for at least twice in the last three preceding cycles (at the time of application) can apply for AICTE's approval for offering Online and ODL programmes. However, such HEIs must acquire NBA Accreditation with a minimum score of 650 points on a scale of 1000 within two years from the date of initial approval by AICTE.

The reduced compliance burden on premier HEIs for offering Online and ODL programmes is in line with the incentives provided under the UGC Online and ODL Regulations. Further, the eligibility requirements of scoring and ranking of HEIs will also ensure that the standards of Online and ODL programmes are maintained thereby increasing their popularity and reputation further.

Other requirements

- The Guidelines also state that as per the UGC Online and ODL Regulations, institutions which are universities or deemed to be universities must obtain approval from both the UGC as well as the AICTE. However, the affiliated colleges or institutions are not permitted to conduct Online and ODL programmes.

- Similar to the requirements under the UGC Online and ODL Regulations, there are numerous disclosure requirements for HEIs under the Guidelines. This includes uploading of the application for approval under the Guidelines, annual report on quality assurance, etc. to promote transparency regarding HEIs, and consequently awareness among both prospective and current students.

- An HEI recognized for Online and ODL mode for post graduate degree, post graduate diploma or certificate levels may also offer certificate or diploma level programmes in Online and ODL mode in domains other than prohibited programmes provided that before commencing such programmes, the certificate or diploma programmes must be duly approved by the relevant statutory/regulatory authority of the HEI and the delivery mechanism conforms to the quality standards of Online and ODL mode.

Application process

The Guidelines prescribe the application process and subsequent process for approval. Subsequent to the processing of the application, if AICTE refuses to grant approval either for the HEI as a whole or for specific programmes, AICTE is required to give a reasoned order in writing.

Notably, the AICTE Handbook states that all approvals shall be uploaded by April 30 of each calendar year. Therefore, the AICTE will be processing applications for approvals in an expedited manner, even before the commencement of the next academic year. It is crucial that AICTE ensures that students are not impacted due to any delays in approvals for the next academic session.

Consequences of grant, refusal and withdrawal of approval

If an HEI's application for Online and ODL programmes is refused by AICTE, the HEI must immediately discontinue such programmes. On the other hand, in case AICTE grants approval for the programme, such programme can only commence from the academic session as prescribed by

AICTE. AICTE may also withdraw the approval granted to an HEI if it is found to have provided false information in its application, or has contravened the Guidelines or any orders thereunder. However, in order to avoid undue disadvantages to the learner, if an Online and/or ODL programme is offered as per the relevant AICTE guidelines and norms, and admission is obtained during the recognition period, the admission in such a programme would be recognized till the completion of the programme, even if the programme is not recognized in subsequent years.

HEIs are not permitted to offer Online and ODL programmes under the Guidelines if they have not been granted approval by the AICTE. Admission in anticipation of approval has been specifically prohibited and AICTE will usually not provide conditional approval.[6] If an HEI offers Online and ODL programmes without recognition under the Guidelines, or subsequent to withdrawal of approval by AICTE, the respective programme will not be treated as a valid qualification. The Guidelines also prescribe other punitive measures that AICTE may take against the HEI if the HEI offers programmes without approval of AICTE or in contravention of the Guidelines. Notably, this includes filing of a First Information Report against the officials or management of an institution which does not comply with the Guidelines. This is a stringent measure and adds considerable severity to the consequences of non-compliance for HEIs.

Applicability of UGC Online and ODL Regulations

The Guidelines state that the requirements for (i) infrastructure, academic and other quality standards; (ii) teachers in the centre of distance and online education or centre for online learning and learner support centres; (iii) admissions, examinations and learner support; and (iv) other matters such as human resource and infrastructural requirements, guidelines on self-learning material and e-learning material, grievance redressal mechanism, etc. shall be as per the specifications under the UGC Online and ODL Regulations. This would be in addition to the applicability of other regulations/guidelines issued by the AICTE and the UGC on these matters and as contained in the AICTE Handbook, as amended from time to time.[7] Therefore, there appears to be a certain degree of co-ordination between the two regulators, i.e., AICTE and UGC, which is in line with the National Education Policy 2020's vision of a single umbrella regulator for higher education in India. Co-ordination between regulators typically leads to streamlined and more coherent regulations and hence, lesser compliance burden on stakeholders.

Learner mobility and residence

The Guidelines permit mobility of a learner from either of the Online and ODL mode to other modes with prior approval of the statutory authority of the HEI, in addition to the relevant statutory council/regulatory body, if any. This is an important enabling provision, especially in light of Covid-19 and the general lack of accessibility to education for learners across the country. For instance, if a learner is unable to attend a programme physically due to a lockdown situation, they may enrol in an Online and ODL programme, and subsequently migrate to the conventional mode to ensure continuity of learning.

However, there are restrictions on the residence of learners in case of ODL mode, wherein only learners residing in India can enrol. For programmes in the online mode, on the contrary, learners from both India and abroad can enrol.

Other provisions

- If any university seeks to offer any technical course in Online and ODL mode, its application

will be processed by AICTE as per the Guidelines, and then be forwarded to the UGC for further processing under the UGC Online and ODL Regulations.

- The Guidelines require HEIs to mandatorily undergo assessment and accreditation as per existing regulations or norms in addition to third party academic audits every five years. HEIs recognized under the Guidelines must also undergo assessment of Online and ODL programmes and annual academic audits by Centre for Internal Quality Assurance ("**CIQA**"). The CIQA report after assessment must be placed on the HEI's website and presented to the AICTE. The AICTE has powers of inspection and review over the HEI, and may require HEI to provide information on adherence with the Guidelines.

- An HEI can intake a maximum of three times the sanctioned intake for specific programmes in conventional mode.

- The Guidelines also prescribe norms in terms of number of credits and duration for each category of programmes. Notably, the maximum duration for completing the program under Online and ODL mode can be twice the duration of the respective programmes.

- The Guidelines expressly provide that programmes offered through Online and ODL mode will be equivalent to the relevant certificate, diploma or degree level programme offered in conventional mode.

Conclusion

The National Education Policy 2020 had envisaged a light but tight form of regulation for higher education in India, and the Guidelines are in tandem with this vision. The Guidelines contain numerous enabling provisions, such as the ability of high-ranking institutions to commence online programmes without prior approval of the AICTE. The regime is not process-heavy either, and prescribes that certain eligibility criteria be fulfilled and relevant norms be complied with. In light of this, clarity in regulation is better than no regulations, since the latter leaves considerable scope for arbitrary action from the regulators. Given that they provide more structure to the regulation of the online education sector, and provide more clarity to HEIs regarding their compliance requirements, the Guidelines are a welcome push to the already thriving online education sector.

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[1] Available at https://www.aicte-india.org/sites/default/files/aicte-odl-online-guidelines-2021.pdf (Last visited on March 10, 2021).

[2] Available at https://www.ugc.ac.in/pdfnews/221580.pdf (Last visited on March 10, 2021).

[3] The Guidelines do not define Standalone Institutions. However, Section 2.8 of the AICTE (Categorisation of Standalone Institutions (SIs) for Grant of Graded Autonomy) Guidelines, 2019 define them as "*those institutions which are not affiliated to any of the Universities, and imparting courses through regular or through Open and Distance Learning Systems, leading to Diploma, Post Diploma Certificate, Post Graduate Certificate and Post Graduate Diploma Levels in Management and allied areas, Computer Applications and Travel and Tourism with the approval of AICTE*".

[4] Section 3 of the UGC Act, 1956, explains "Institutions Deemed to be Universities" as follows: "*the Central Government may, on the advice of the Commission, declare by notification in the Official Gazette, that any institution for higher education, other than a University, shall be deemed to be a University for the purposes of this Act, and on such a declaration being made, all the provisions of this Act shall apply to such institution as if it were a University within the meaning of clause (f) of section 2.*"

[5] Section 2(f) of the UGC Act, 1956 defines "University" as "*a University established or incorporated by or under a Central Act, a Provincial Act or a State Act, and includes any such institution as may, in consultation with the University concerned, be recognised by the Commission in accordance with the regulations made in this behalf under this Act*"

[6] See p. 88 of the AICTE Handbook, 2021-22 (Last visited on March 12, 2021).

[7] The 2021-22 version of the AICTE Handbook is available at: https://www.aicte-india.org/sites/default/files/approval/index.html#p=1 (Last visited on March 12, 2021)

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