
STATUTORY RULES OF NORTHERN IRELAND

2005 No. 339

**Special Educational Needs and Disability
Tribunal Regulations (Northern Ireland) 2005**

PART II

MAKING A SEN APPEAL AND STATEMENTS OF CASE

(A) THE PARENT

Notice of appeal

7.—(1) An appeal to the Tribunal shall be made by notice which—

(a) shall state—

- (i) the name and address of the parent making the appeal and if more than one address is given, the address to which the Tribunal should send replies or notices concerning the appeal;
- (ii) the name, address and profession of the representative (if any) appointed in accordance with regulation 12;
- (iii) the name and date of birth of the child;
- (iv) that the notice is a notice of appeal;
- (v) the name of the board which made the disputed decision and the date on which the parent was notified of it;
- (vi) if the parent seeks an order that the child's statement be amended, to which Part or Parts of the statement the appeal relates;
- (vii) if the parent seeks an order that a school (other than one already named in the child's statement) be named in it, either the name and address of the school or a sufficient description of the type and nature of the school which the parent considers would constitute an appropriate placement for the child;

(b) shall be accompanied by—

- (i) a copy of the notice of the disputed decision;
- (ii) where the appeal is made under Article 18 of, or paragraphs 11 and 13 to Schedule 2 to the 1996 Order⁽¹⁾, a copy of the child's statement;
- (iii) where the notice of appeal states the name of a school in accordance with subparagraph (a)(vii), written confirmation that the parent has informed the school that he proposes to request that it be named in the statement; and

(c) shall include or be accompanied by a statement of the parent's reasons for appealing.

(2) The parent shall sign the notice of appeal.

⁽¹⁾ Schedule 2 was substituted by Article 12 of and Schedule 1 to S.I.2005/1117 (N.I. 6)

(3) The parent shall deliver the notice of appeal to the Secretary of the Tribunal so that it is received no later than the first working day after the expiry of a period of 2 months beginning with the date on which the board gave him notice, under Part II of the 1996 Order, that he had a right of appeal.

(4) The notice of appeal may include a request that the President should make an order in accordance with regulation 37 that the appeal be heard with a claim.

Reasons for appealing

8.—(1) If the notice of appeal does not include, and is not accompanied by, reasons for appealing which the President considers sufficient to enable the board to respond to the appeal, he shall direct the parent to send particulars of the reasons for making the appeal to the Secretary of the Tribunal within 10 working days of his direction.

(2) Regulations 31 and 35 shall apply to a direction under paragraph (1).

(3) Particulars of reasons sent in response to a direction made in accordance with paragraph (1) shall be treated as part of the notice of appeal.

Statement of parent's case and supplementary provisions

9.—(1) During the case statement period, the parent may deliver to the Secretary of the Tribunal a written statement of his case, which may include the views of the child, and must submit all written evidence on which he intends to rely and which he has not already submitted.

(2) In exceptional circumstances the parent may amend the notice of appeal, deliver a supplementary statement of reasons for appealing or statement of case or amend a supplementary statement of reasons for appealing or statement of case, if permission is given by—

- (a) the President; or
- (b) the tribunal at a hearing.

(3) The parent shall deliver to the Secretary of the Tribunal a copy of every amendment and supplementary statement for which permission was given.

(4) If the President gives permission under paragraph (2)(a) he may extend the case statement period under regulation 60(1) or, if it has expired, grant such further period as he considers appropriate.

(5) Where the board has lost its entitlement to be represented at the hearing in accordance with regulation 15 or 35, the giving of permission under paragraph (2) shall restore such entitlement and, if necessary, the hearing shall be re-arranged or adjourned, so that the board can be represented.

Withdrawal of appeal

10. The parent may withdraw his appeal—

- (a) at a hearing;
- (b) at any other time, by sending written notification to the Secretary of the Tribunal.

Further action by parent

11.—(1) The parent shall give to the Secretary of the Tribunal the information requested in the enquiry made under regulation 30.

(2) If the parent does not intend to attend or be represented at the hearing, he may, not less than 5 working days before the hearing, send to the Secretary of the Tribunal written representations in support of his appeal.

Parent's representatives

- 12.**—(1) The parent may, by giving written notice to the Secretary of the Tribunal at any time—
- (a) appoint a representative;
 - (b) appoint another representative to replace the representative previously appointed, whose appointment is cancelled by the later appointment;
 - (c) state that no person is acting as the parent's representative, which cancels any previous appointment.
- (2) To appoint a representative, the parent must give to the Secretary of the Tribunal the name, address and profession of the representative.
- (3) If a person whom a parent has appointed as a representative notifies the Secretary of the Tribunal in writing that he is not prepared, or is no longer prepared, to act in that capacity—
- (a) the Secretary of the Tribunal shall notify the parent;
 - (b) the appointment of the representative is cancelled.
- (4) Subject to paragraph (5), at any time after the parent has appointed a representative, and until that appointment is cancelled—
- (a) the Secretary of the Tribunal shall send all documents and notices concerning the appeal to the representative instead of the parent;
 - (b) references in these Regulations (however expressed) to sending documents to, or giving notice to, the parent shall be construed as references to sending documents to, or giving notice to, the representative.
- (5) Paragraph (4) applies—
- (a) unless the parent notifies the Secretary of the Tribunal that he does not wish it to apply;
 - (b) subject to regulations 46(6) and 58(5).
- (6) Subject to paragraph (7), at a hearing, the parent may conduct his case himself (with assistance from one person if he wishes) or may appear and be represented by one person.
- (7) If permission is given by the President or the tribunal at a hearing, the parent may obtain assistance from or be represented by more than one person.

(B) THE BOARD

Statement of board's case, and supplementary provisions

- 13.**—(1) During the case statement period, the board shall deliver to the Secretary of the Tribunal a written statement of its case and all written evidence on which it intends to rely.
- (2) The statement of the board's case shall be signed by an officer of the board who is authorised to sign such documents, and shall state whether or not the board intends to oppose the appeal and if it does intend to oppose the appeal shall state—
- (a) the grounds on which it relies;
 - (b) the name and profession of the representative of the board and the address for service of the board for the purposes of the appeal;
 - (c) a summary of the facts relating to the disputed decision;
 - (d) the reasons for the disputed decision, if they are not included in the decision;
 - (e) the views of the child concerning the issues raised by the appeal, or the reasons why the board has not ascertained those views.

(3) In exceptional circumstances the board may amend its statement of case, deliver a supplementary statement of case or amend a supplementary statement of case if permission is given by—

- (a) the President; or
- (b) the tribunal at a hearing.

(4) The board shall deliver to the Secretary of the Tribunal a copy of every amendment and supplementary statement for which permission was given.

(5) If the President gives permission under paragraph (3)(a), the case statement period may be extended under regulation 60(1), or if it has expired, grant such further period as he considers appropriate.

(6) Where, the parent has lost his entitlement to attend or be represented at the hearing in accordance with regulation 35, the giving of permission under paragraph (3) shall restore such entitlement and, if necessary, the hearing shall be rearranged or adjourned, so that the parent can attend or be represented.

Board's representative

14.—(1) The board may at any time change its representative for the purposes of the appeal by notifying the Secretary of the Tribunal of the name and profession of its new representative.

(2) References in these Regulations (however expressed) to sending documents to, or giving notice to, the board shall be construed as references to sending documents to, or giving notice to, the representative named in accordance with regulation 13(2)(b) or paragraph (1).

Failure to deliver a statement of case and absence of opposition

15.—(1) If the Secretary of the Tribunal does not receive a statement of case from the board within the case statement period subject to Article 18A of the 1996 Order⁽²⁾ or if the board states in writing that it does not resist the appeal, the tribunal shall—

- (a) determine the appeal on the basis of the notice of appeal and any other documentation already received or amended in accordance with regulation 9(1) and (2) without a hearing; or
- (b) without notifying the board hold a hearing at which the board is not represented.

(2) Where the parent's appeal relates to the contents of the child's statement, no statement that the board does not resist the appeal or that it withdraws its opposition shall take effect until the board sends the Tribunal a written statement of the amendments (if any) to the statement which it agrees to make.

Representation at hearing and further action by the board

16.—(1) Subject to paragraph (2), at a hearing the board may be represented by one person.

(2) If permission is given by the President or, at a hearing the tribunal the board may be represented by more than one person.

(3) The board shall supply the Secretary of the Tribunal the information required in the enquiry made under regulation 30.

(4) If the board does not intend to be represented at the hearing it may, not less than 5 working days before the hearing, send to the Secretary of the Tribunal additional representations in support of its case.

(2) As inserted by Article 8 of S.I. 2005/1117 (N.I. 6)

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*
