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STATUTORY INSTRUMENTS

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**2005 No. 1437**

**The Education (Pupil Information) (England) Regulations 2005**

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Education (Pupil Information) (England) Regulations 2005 and shall come into force on 8 July 2005.

(2) These Regulations apply to schools in England.

**Interpretation**

2. In these Regulations—

“the 2002 Act” means the Education Act 2002(1);

“the associated documents” means the documents published by the Department for Education and Skills and the Qualifications and Curriculum Authority, setting out any national curriculum levels of attainment, attainment targets and programmes of study in relation to each of the foundation subjects, which documents have effect by virtue of the orders made under section 87(3)(a) and (b) of the 2002 Act for the time being in force, for each of those subjects;

“core subjects” means English, mathematics and science;

“curricular record” means a formal record of a pupil’s academic achievements, his other skills and abilities and his progress in school;

“Departmental number” means a reference number unique to each establishment and allocated by use of a formula determined by the Department for Education and Skills;

“external marking agency” means a body nominated by the Qualifications and Curriculum Authority (or by any successor body to that Authority) and approved by the Secretary of State to mark NC tests;

“foundation subjects” means art and design, citizenship, design and technology, geography, history, information and communication technology, a modern foreign language, music, physical education and the core subjects;

“key stage” or references to a particular key stage shall be construed in accordance with section 82 of the 2002 Act;

“maintained school” means a community, foundation or voluntary school or a community or foundation special school other than such a school which is established in a hospital;

“NC attainment targets” means the National Curriculum attainment targets described in the associated documents;

“NC levels of attainment” means the National Curriculum levels of attainment described in the associated documents;

“NC tasks” means the National Curriculum standard tasks administered to pupils pursuant to the statutory arrangements(2);

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(1) 2002 c. 32.

(2) The statutory arrangements referred to are specified in the Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004 (S.I.2004/2783).

“NC tests” means the National Curriculum tests administered to pupils pursuant to the statutory arrangements(3);

“NC test tiers” means the National Curriculum test tiers described in the associated documents;

“personal education plan” means the plan referred to in section 5.16 to 5.26 of the guidance entitled “Guidance on the Education of Children and Young People in Public Care(4), which a local authority must ensure is provided for every child and young person in their care;

“responsible person” means—

- (a) the head teacher of an independent school;
- (b) the governing body of any other school; or
- (c) the person responsible for the conduct of any further education institution or higher education institution or other place of education or training to which a pupil transfers or may transfer;

“the statutory arrangements” means the assessment arrangements specified by orders made under section 87(3)(c) of the 2002 Act;

“teacher assessment” means assessment of a pupil’s NC level of attainment in a subject by the pupil’s teacher, as specified in the statutory arrangements(5);

“unauthorised absence” means any absence from the school for which leave has not been granted by a person authorised in that behalf by the governing body of the school;

“unique pupil number” means a combination of numbers which, together with a letter or letters, are allocated to a pupil by use of a formula determined by the Department for Education and Skills and are particular to that pupil.

### Meaning of educational record

3.—(1) Subject to paragraph (4), in these Regulations “educational record” means any record of information which—

- (a) is processed by or on behalf of the governing body of, or a teacher at, any school specified in paragraph (2);
- (b) relates to any person who is or has been a pupil at any such school; and
- (c) originated from or was supplied by or on behalf of any of the persons specified in paragraph (3),

other than information which is processed by a teacher solely for the teacher’s own use.

(2) The schools referred to in paragraph (1)(a) are—

- (a) any school maintained by a local education authority; and
- (b) any special school which is not so maintained.

(3) The persons referred to in paragraph (1)(c) are—

- (a) any employee of the local education authority which maintains the school or former school attended by the pupil to whom the record relates;

(3) The statutory arrangements referred to are specified in the Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003 (S.I. 2003/1038) and the Education (National Curriculum) (Key Stage 3 Assessment Arrangements) (England) Order 2003 (S.I. 2003/1039).

(4) These parts of the Guidance have statutory force by virtue of having been issued under section 7 of the Local Authority Social Services Act 1970 (1970 c. 42) (Paragraph 2.1(i) of Local Authority Circular (2000)13 refers).

(5) The statutory arrangements referred to are specified in the Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004 (S.I. 2004/2783), the Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003 (S.I. 2003/1038) and the Education (National Curriculum) (Key Stage 3 Assessment Arrangements) (England) Order 2003 (S.I. 2003/1039).

- (b) in the case of—
    - (i) a voluntary aided, foundation or foundation special school; or
    - (ii) a special school which is not maintained by a local education authority, any teacher or other employee at the school or at the pupil's former school (including any educational psychologist engaged by the governing body under a contract for services);
  - (c) the pupil to whom the record relates; and
  - (d) a parent of that pupil.
- (4) In addition to the information referred to in paragraph (1), an educational record includes—
- (a) any statement of special educational needs; and
  - (b) any personal education plan,

relating to the pupil concerned.

(5) For the purposes of this regulation, “processed” shall be construed in accordance with the definition of “processing” in section 1(1) of the Data Protection Act 1998(6).

#### **Duty to keep curricular records**

4. The governing body of every school maintained by a local education authority (other than a nursery school), and of every special school not so maintained, shall keep a curricular record, updated at least once every school year, in respect of every registered pupil at the school.

#### **Disclosure of curricular and educational records**

5.—(1) This regulation applies to the governing body of any school maintained by a local education authority (other than a nursery school) and any special school not so maintained.

(2) Subject to paragraph (4), the governing body shall make a pupil's educational record available for inspection by the parent, free of charge, within fifteen school days of receipt of the parent's written request for access to that record.

(3) Subject to paragraph (4), the governing body shall provide a copy of a pupil's educational record to the parent, on payment of such fee (not exceeding the cost of supply), if any, as the governing body may prescribe, within fifteen school days of receipt of the parent's written request for a copy of that record.

(4) When complying with a request under paragraph (2) or paragraph (3), a governing body shall not make available for inspection or provide a copy of any information—

- (a) which they could not lawfully disclose to the pupil himself under the Data Protection Act 1998; or
- (b) in relation to which the pupil himself would have no right of access under that Act or by virtue of any order made under section 30(2) or section 38(1) of the Act.

(5) Subject to paragraph (6), where the pupil is under consideration for admission to another school (including an independent school) or to a further education institution or higher education institution, the governing body shall transfer the pupil's curricular record to the responsible person, free of charge, within fifteen school days of receipt of the responsible person's written request for that record.

(6) The record supplied under paragraph (5) shall not include the results of any assessment of the pupil's achievements.

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(6) 1998 c. 29.

**Head teacher's annual report to parents and adult pupils**

6.—(1) This regulation applies to the head teacher of any school maintained by a local education authority.

(2) Subject to paragraphs (3) and (6), prior to the end of the summer term of every school year, the head teacher shall—

- (a) prepare a head teacher's report in respect of every registered pupil at the school, containing the information referred to in paragraph (4);
- (b) provide a copy of each such report to the person specified in paragraph (7)(a) or (b), as the case may be, free of charge; and
- (c) make arrangements to enable the recipient of the report to discuss its content with the pupil's teacher, if he so wishes.

(3) Paragraph (2) does not apply in relation to any pupil who is to be provided with a school leaver's report pursuant to regulation 8.

(4) Subject to paragraph (5), the head teacher's report shall include the information specified in Schedule 1.

(5) Where the head teacher has asked the external marking agency to review the result of any NC test taken by the pupil but still awaits the outcome of that review, he shall include the original result of the test in his report but indicate that it is provisional.

(6) The head teacher may provide the information referred to in paragraph (4) in the form of more than one report, provided that, subject to regulation 7, all such information is provided before the end of the summer term.

(7) The persons referred to in paragraph (2)(b) are—

- (a) in the case of any pupil who is aged 18 or over at the time the head teacher's report is due to be provided and who is not proposing to leave school by the end of the school year to which the report relates, the pupil himself and, if the head teacher considers there to be special circumstances which make it appropriate, the parent of that pupil;
- (b) in any other case, the parent of the pupil to whom the report relates.

(8) The period to which a head teacher's report relates shall begin with the later of—

- (a) the pupil's date of admission to the school; or
- (b) the day after the date on which the last report was made pursuant to this regulation (or, as the case may be, made available pursuant to regulation 6 of the regulations revoked by these Regulations).

**Late receipt of information**

7.—(1) Where any of the particulars necessary to provide the information referred to in regulation 6 and specified in paragraph (2) are not received by the head teacher until after the end of the summer term, he shall send such information within fifteen school days of receiving it.

(2) The information referred to in paragraph (1) is—

- (a) the results of any public examinations taken;
- (b) details of any vocational qualifications or credits toward any such qualifications gained;
- (c) the results of any NC tests taken by the pupil; and
- (d) the results of any reviews by the external marking agency of any NC tests taken by the pupil.

### **Head teacher's report to school leavers**

8.—(1) The head teacher of every maintained school shall prepare a school leaver's report in respect of any pupil who has ceased to be of compulsory school age and is proposing to or has left the school, containing brief particulars of the pupil's progress and achievements in subjects and activities forming part of the school curriculum (other than in relation to any public examination or vocational qualification) in the school year during or at the end of which the pupil proposes to or has left school.

(2) The head teacher shall provide a copy of the school leaver's report to the pupil concerned by no later than 30th September following the end of the school year during or at the end of which the pupil left the school.

### **Transfer of information when a pupil changes school**

9.—(1) In this regulation "common transfer file" means a record of the information set out in Schedule 2.

(2) Where this regulation requires information to be transferred in machine readable form, that requirement may be met by transferring the information—

- (a) subject to paragraph (11), by an e-mail attachment;
- (b) through an intranet provided for that purpose by or on behalf of a local authority, and for the purposes of this regulation an intranet means a closed network that can only be accessed—
  - (i) by the local education authority,
  - (ii) by or on behalf of a governing body of a school within the area of that authority; or
  - (iii) by a teacher at a school within the area of that authority; or
- (c) through an internet website or other facility provided for that purpose by or on behalf of the Department for Education and Skills.

(3) Subject to paragraphs (6), (7) and (8), when a pupil ceases to be registered at a maintained school (the "old school") and becomes a registered pupil at another school (the "new school"), the governing body of the old school or, where this has been agreed between that governing body and the local education authority, that authority shall transfer the pupil's common transfer file and educational record to the responsible person of the new school no later than fifteen school days after the day on which the pupil ceases to be registered at the old school.

(4) The common transfer file shall be transferred in machine readable form, except where either the old school or the new school does not have the necessary facilities to send or receive such information in that form.

(5) The educational record may be transferred in machine readable form or in paper form or in a combination of both forms.

(6) Paragraph (3) shall not apply where it is not reasonably practicable for the governing body of the old school to ascertain the pupil's new school.

(7) The reference to "new school" in paragraph (3) shall include any school in Wales, Scotland or Northern Ireland with effect from 3 October 2005.

(8) Where a pupil has been registered at a maintained school for less than four weeks, it shall be sufficient compliance for the purposes of paragraph (3) if the governing body of that school or, where applicable, the local education authority transfers such information and record as they have received under this regulation from the school at which the pupil was previously registered in the form in which it was received by them.

(9) For the purposes of paragraph (8), the reference in paragraph (3) to “fifteen school days” shall be a reference to the number of days after the day on which the pupil ceases to be registered at the school in question or to the number of days after the information and record have been received by the governing body of that school, whichever is the later.

(10) If the governing body of a pupil’s old school receives a request from the responsible person of the school at which the pupil is currently a registered pupil, either for the pupil’s common transfer file or for any educational record relating to that pupil in the old school’s possession, they shall provide it within fifteen school days of receiving the request.

(11) Notwithstanding paragraph (2)(a), information may only be sent by an e-mail attachment up to and including 30 September 2005.

**10.** The following Regulations are hereby revoked—

- (a) The Education (Pupil Information) (England) Regulations 2000(7);
- (b) The Education (Pupil Information) (England) (Amendment) Regulations 2001(8);
- (c) The Education (Pupil Information) (England) (Amendment) Regulations 2002(9); and
- (d) The Education (Pupil Information) (England) (Amendment) Regulations 2003(10).

24th May 2005

*Jacqui Smith*  
Minister of State  
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(7) S.I. 2000/297.  
(8) S.I. 2001/1212.  
(9) S.I. 2002/1680.  
(10) S.I. 2003/1006.