
STATUTORY RULES OF NORTHERN IRELAND

2005 No. 384

**The Education (Special Educational Needs)
Regulations (Northern Ireland) 2005**

**PART II
ASSESSMENTS**

Notices relating to assessment

5.—(1) Paragraph (2) applies where—

- (a) under Article 15(1)(1) or 20A(3) a board serves a notice on a child's parent that it is considering whether to make an assessment, or
- (b) under Article 15(4) or 20A(7) a board gives notice to a child's parent of its decision to make an assessment.

(2) Where this paragraph applies a board shall send copies of the relevant notice to—

- (a) the health and social services authority, and
- (b) if the child is registered at a school, the principal of that school.

(3) Where a copy of a notice is sent under paragraph (2), an endorsement on the copy or a notice accompanying that copy shall inform the recipient what advice the board is likely to seek.

(4) Where—

- (a) under Article 20(1) a child's parent asks a board to arrange for an assessment, and
- (b) no assessment has been made for that child within the period of 6 months ending with the date on which the request is made,

the board shall give notice to the persons referred to in paragraph (2)(a) and (b) that the request for an assessment has been made and inform them what advice the board is likely to seek.

(5) Where—

- (a) under Article 20A(1) a responsible body asks a board to arrange for an assessment, and
- (b) no assessment has been made for that child within the period of 6 months ending with the date on which the request is made,

the board shall give notice to the persons referred to in paragraph (2)(a) and (b) that the request for an assessment has been made and inform them what advice the board is likely to seek.

Advice to be sought by a board

6.—(1) For the purpose of making an assessment under Article 15 a board shall seek—

- (a) advice from a child's parent;

- (b) educational advice as provided for in regulation 7;
 - (c) medical advice as provided for in regulation 8;
 - (d) psychological advice as provided for in regulation 9;
 - (e) social services advice from the health and social services authority; and
 - (f) any other advice which the board considers appropriate for the purpose of arriving at a satisfactory assessment.
- (2) The advice referred to in paragraph (1) shall be written advice relating to—
- (a) the educational, medical, psychological or other features of the case (according to the nature of the advice sought) which appear to be relevant to the child’s educational needs (including his likely future needs);
 - (b) how those features could affect the child’s educational needs, and
 - (c) the provision which is appropriate for the child in light of those features of the child’s case, whether by way of special education provision or non-educational provision, but not relating to any matter which is required to be specified in a statement by virtue of Article 16(4)(b).
- (3) A person from whom the advice referred to in paragraph (1) is sought may in connection therewith consult such persons as it appears to him expedient to consult; and he shall consult such persons, if any, as are specified in the particular case by the board as the persons who have relevant knowledge of, or information relating to, the child.
- (4) When seeking the advice referred to in paragraphs (1)(b) to (f) a board shall provide the person from whom it is sought with copies of—
- (a) any representations made by the parent, and
 - (b) any evidence submitted by, or at the request of, the parent
- under Article 15(1)(d) or Article 20A(3)(d) as the case may be.
- (5) The board need not seek the advice referred to in paragraph (1)(b) to (f) if—
- (a) it has obtained advice under paragraph (1)(b) to (f) respectively within the preceding 12 months, and
 - (b) the board, the person from whom the advice was obtained and the child’s parent are satisfied that the existing advice is sufficient for the purpose of arriving at a satisfactory assessment.

Educational advice

- 7.—(1) The educational advice referred to in regulation 6(1)(b) shall, subject to paragraphs (2) to (5), be sought—
- (a) from the principal of each school which the child is currently attending or which he has attended at any time within the preceding 18 months;
 - (b) if advice cannot be obtained from a principal of a school which the child is currently attending (because the child is not attending a school or otherwise), then from a person who the board is satisfied has experience of teaching children with special educational needs or knowledge of the differing provision which may be called for in different cases to meet those needs;
 - (c) if the child is not currently attending a school and if advice obtained under sub-paragraph (b) is not advice from such a person, then from a person responsible for educational provision for him; and

(d) if any of the child's parents is a serving member of Her Majesty's armed forces, from Service Children's Education.

(2) The advice sought as provided in paragraph (1)(a) to (c) shall not be sought from any person who is not a qualified teacher.

(3) The advice sought from a principal as provided in paragraph (1)(a) shall, if the principal has not himself taught the child within the preceding 18 months, be advice given after consultation with a teacher who has so taught the child.

(4) The advice sought from a principal as provided in paragraph (1)(a) shall include advice relating to the steps which have been taken by the school to identify and assess the special educational needs of the child and to make provision for the purpose of meeting those needs.

(5) Where it appears to the board, in consequence of medical advice or otherwise, that the child in question is—

- (a) hearing impaired; or
- (b) visually impaired; or
- (c) both hearing impaired and visually impaired,

and any such person from whom advice is sought as provided in paragraph (1) is not qualified to teach pupils who are so impaired then the advice sought shall be advice given after consultation with a person who is so qualified.

(6) For the purposes of paragraph (5) a person shall be considered to be qualified to teach pupils who are hearing impaired or visually impaired or who are both hearing impaired and visually impaired if he is qualified to be employed at a school as a teacher of a class for pupils who are so impaired otherwise than to give instruction in a craft, trade or domestic subject.

(7) Paragraphs (3) and (5) are without prejudice to regulation 6(3).

Medical advice

8. The medical advice referred to in regulation 6(1)(c) shall be sought from the health and social services authority, who shall obtain the advice from a registered medical practitioner.

Psychological advice

9.—(1) The psychological advice referred to in regulation 6(1)(d) shall be sought from a person—

- (a) regularly employed by the board as an educational psychologist; or
- (b) engaged by the board as an educational psychologist in the case in question.

(2) The advice sought from a person as provided in paragraph (1) shall, if that person has reason to believe that another psychologist has relevant knowledge of, or information relating to, the child, be advice given after consultation with that other psychologist.

(3) Paragraph (2) is without prejudice to regulation 6(3).

Matters to be taken into account in making an assessment

10. When making an assessment a board shall take into consideration—

- (a) any representations made by the child's parent under Article 15(1)(d) or 20A(3)(d);
- (b) any evidence submitted by, or at the request of, the child's parent under Article 15(1)(d) or 20A(3)(d); and
- (c) the advice obtained under regulation 6.

Time limits and prescribed information relating to assessment

11.—(1) Where under Article 15(1) a board serves a notice on a child’s parent informing him that it is considering whether to make an assessment it shall within 6 weeks beginning with the date of service of that notice give notice to the child’s parent of—

- (a) its decision to make an assessment, and of its reasons for making that decision, or
- (b) its decision not to assess the educational needs of the child and of its reasons for that decision, and

in either case the availability to the parent of advice and information from the board on matters related to his child’s special educational needs under Article 21A(2).

(2) Where under Article 20(1) a parent asks the board to arrange for an assessment to be made it shall within 6 weeks beginning with the date of receipt of the request, give notice to the child’s parent—

- (a) of—
 - (i) its decision to make an assessment;
 - (ii) its reasons for making that decision, and
 - (iii) the availability to the parent of advice and information from the board on matters related to his child’s special educational needs under Article 21A; or
- (b) of—
 - (i) its decision not to comply with the parent’s request;
 - (ii) its reasons for making that decision;
 - (iii) the availability to the parent of advice and information from the board on matters related to his child’s special educational needs under Article 21A;
 - (iv) the availability to the parent of arrangements for the avoidance and resolution of disputes between parents and boards made by the board under Article 21B(1)(3);
 - (v) the parent’s right to appeal to the Tribunal against the decision not to make an assessment;
 - (vi) the time limit within which an appeal must be made to the Tribunal, and
 - (vii) the fact that the arrangements for the avoidance and resolution of disputes made under Article 21B(1) cannot affect the parent’s right of appeal to the Tribunal and that a parent may appeal to the Tribunal and enter into the arrangements made under Article 21B(1).

(3) Where Article 20A(1) applies a board shall, within 6 weeks beginning with the date of receipt of a request from a responsible body that an assessment of a child be made, give notice to that body—

- (a) of the board’s decision to make an assessment, and of its reasons for making that decision, or
- (b) of the board’s decision not to assess the educational needs of the child, and of its reasons for making that decision.

(4) Where Article 20A(1) applies a board shall, within 6 weeks beginning with the date of receipt of a request from a responsible body that an assessment of a child be made, give notice to the child’s parent—

- (a) of—
 - (i) the board’s decision to make an assessment;

(2) Article 21A was inserted by S.I.2005/1117 (N.I. 6) Article 4

(3) Article 21B was inserted by S.I. 2005/1117(N.I. 6) Article 5

- (ii) the board's reasons for making that decision, and
 - (iii) the availability to the parent of advice and information from the board about matters related to his child's special educational needs under Article 21(A), or
- (b) of—
- (i) the board's decision not to assess the educational needs of the child;
 - (ii) the board's reasons for making that decision;
 - (iii) the availability to the parent of advice and information from the board on matters related to his child's special educational needs under Article 21(A);
 - (iv) the availability to the parent of arrangements for the avoidance and resolution of disputes between parents and boards made by the board under Article 21B(1);
 - (v) the parent's right to appeal to the Tribunal against the decision not to make an assessment;
 - (vi) the time limit within which an appeal must be made to the Tribunal, and
 - (vii) the fact that the arrangements for the avoidance and resolution of disputes made under Article 21B(1) cannot affect the parent's right to appeal to the Tribunal and that the parent may appeal to the Tribunal and enter into the arrangements made under Article 21B(1).
- (5) A board need not comply with the time limits referred to in paragraphs (1) to (4) if it is impractical to do so because—
- (a) the board has requested advice from the principal of a school during a period beginning one week before any date on which that school was closed for a continuous period of not less than 4 weeks beginning with that date and ending one week before the date on which it re-opens;
 - (b) exceptional personal circumstances affect the child or his parent during the 6 week period referred to in paragraphs (1) to (4), or
 - (c) the child or his parent is absent from the board's area for a continuous period of not less than 4 weeks during the 6 week period referred to in paragraphs (1) to (4).
- (6) Subject to paragraph (7), where under Article 15(4) or 20A(7) a board has given notice to the child's parent of its decision to make an assessment it shall complete that assessment within 10 weeks beginning with the date on which such notice was given.
- (7) A board need not comply with the time limit referred to in paragraph (6) if it is impractical to do so because—
- (a) in exceptional cases after receiving the advice sought under regulation 6 it is necessary for the board to seek further advice;
 - (b) the child's parent has indicated to the board that he wishes to provide advice to the board after the expiry of 6 weeks beginning with the date on which a request for such advice under regulation 6(1)(a) was received, and the board has agreed to consider such advice before completing the assessment;
 - (c) the board has requested advice from the principal of a school under regulation 6(1)(b) during a period beginning one week before any date on which that school was closed for a continuous period of not less than 4 weeks beginning with that date and ending one week before the date on which it re-opens;
 - (d) the board has requested advice from a health and social services authority under regulation 6(1)(c) or (e) and the health and social services authority has not complied with that request within 6 weeks beginning with the date on which it was made;

- (e) exceptional personal circumstances affect the child or his parent during the 10 week period referred to in paragraph (6);
 - (f) the child or his parent is absent from the board's area for a continuous period of not less than 4 weeks during the 10 week period referred to in paragraph (6); or
 - (g) the child fails to keep an appointment for an examination or a test during the 10 week period referred to in paragraph (6).
- (8) Subject to paragraph (9) where a board has requested help from a health and social services authority in the making of an assessment under Article 15, the health and social services authority shall comply with that request within 6 weeks beginning with the date on which it receives it.
- (9) A health and social services authority need not comply with the time limit referred to in paragraph (8) if it is impractical to do so because—
- (a) exceptional personal circumstances affect the child or his parent during the 6 week period referred to in paragraph (8);
 - (b) the child or his parent is absent from the board's area for a continuous period of not less than 4 weeks during the 6 week period referred to in paragraph (8),
 - (c) the child fails to keep an appointment for an examination or a test made by the authority during the 6 week period referred to in paragraph (8), or
 - (d) the authority has not before the date on which a copy of a notice has been served on it in accordance with regulation 5(2), (4) or (5) produced or maintained any information or records relevant to the assessment of the child under Article 15.
- (10) This regulation shall have effect subject to regulation 16.

Children without statements in special schools

- 12.** If a child without a statement has been admitted to a special school for the purposes of an assessment under Article 15 at that school, he may remain there—
- (a) until the expiry of 10 days during which the school is open to pupils after the board serves a notice under Article 17 informing the child's parent that it does not propose to make a statement;
 - (b) until a statement is made as under Article 16; or
 - (c) if a child has been admitted to a special school established in a hospital, until he is no longer in that hospital.