
STATUTORY RULES OF NORTHERN IRELAND

2005 No. 384

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

PART III

STATEMENTS

Notices accompanying a proposed statement or proposed amended statement following a re-assessment review

13. A notice served by a board on a parent under paragraph 4(2) of Schedule 2 to the 1996 Order when—

- (a) a copy of a proposed statement is served under paragraph 2 of that Schedule; or
- (b) a copy of a proposed amended statement is served under paragraph 3 of that Schedule

shall contain the information as specified in Part A of Schedule 1.

Amendment notice following a review under Article 19(1)(b)

14. The notice served by a board on a parent under paragraph 4(2) of Schedule 2 to the 1996 Order when an amendment notice is served under paragraph 3 of that Schedule shall contain the information as specified in Part B of Schedule 1.

Statement of special educational needs

15. A statement shall—

- (a) be in a form substantially corresponding to that set out in Schedule 2;
- (b) contain the information therein specified;
- (c) be dated and authenticated by the signature of a duly authorised officer of the board concerned;
- (d) set out whether it is the first statement made by the board for the child or a subsequent statement; and
- (e) indicate on the first page if it is—
 - (i) amended following a review under Article 19(1)(b) and the date of that review;
 - (ii) amended following a review other than a review under Article 19(1)(b), and the date of that review;
 - (iii) amended in compliance with an order of the Tribunal, and the date of any such order; or
 - (iv) amended pursuant to a direction of the Department, and the date of any such direction.

Time limit relating to a proposed statement

16.—(1) This regulation applies where a board has—

- (a) served a notice on a parent under Article 15;
- (b) received a request from a child’s parent under Article 20(1) to arrange for an assessment to be made; or
- (c) received a request from a responsible body under Article 20A(1) to arrange for an assessment to be made,

and it is necessary under Article 16(1) for the board to make a statement.

(2) Subject to paragraph (3), the period within which a board shall serve on the child’s parent a proposed statement under paragraph 2 of Schedule 2 to the 1996 Order shall be 18 weeks beginning with the date on which it served the notice referred to in paragraph (1)(a) or received the request referred to in paragraph (1)(b) or (c), as the case may be.

(3) A board need not comply with the time limit referred to in paragraph (2) if it is impractical to do so for any of the reasons mentioned in regulation 11(7).

Time limits and prescribed information relating to a statement

17.—(1) Where a board has made an assessment of a child for whom no statement is maintained it shall—

- (a) serve a copy of a proposed statement and a notice on the child’s parent under paragraphs 2(1) and 4(2) of Schedule 2 to the 1996 Order; or
- (b) within a period of 2 weeks beginning with the date on which the assessment was made give notice to the child’s parent—
 - (i) under Article 17 that it has decided not to make a statement;
 - (ii) of its reasons for that decision;
 - (iii) of the parent’s right of appeal against that decision to the Tribunal; and
 - (iv) of the time limit within which an appeal must be made.

(2) Where a board has made an assessment of a child for whom a statement is maintained it shall—

- (a) serve on the child’s parent a copy of a proposed amended statement and a notice under paragraphs 3(2) and 4(2) of Schedule 2 to the 1996 Order; or
- (b) give notice to the child’s parent—
 - (i) under paragraph 13(2) of Schedule 2 to the 1996 Order that it has decided to cease to maintain the statement;
 - (ii) of the parent’s right of appeal against that decision to the Tribunal; and
 - (iii) of the time limit within which an appeal to the Tribunal must be made; or
- (c) serve on the child’s parent a notice—
 - (i) which informs him that it has decided not to amend the statement;
 - (ii) which informs him of its reasons for that decision;
 - (iii) which is accompanied by copies of the professional advice obtained during the assessment;
 - (iv) which informs him that under Article 18(1A) he may appeal to the Tribunal against the description in the statement of the board’s assessment of the child’s special educational needs, the special educational provision specified in the statement (including the name of a school so specified) or, if no school is named in the statement, that fact; and

(v) which informs him of the time limit within which an appeal to the Tribunal must be made.

(3) Subject to paragraph (5), where a board has served a copy of a proposed statement or proposed amended statement on the child's parent under paragraph 2(1) or 3(2) of Schedule 2 to the 1996 Order the board shall within 8 weeks beginning with the date on which the proposed statement or proposed amended statement was served, serve a copy of the completed statement or completed amended statement and a written notice on the child's parent under paragraph 9(1) and 9(2) of that Schedule.

(4) The board need not comply with the time limit referred to in paragraph (3) if it is impractical to do so because—

- (a) exceptional personal circumstances affect the child or his parent during the 8 week period referred to in paragraph (3);
- (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 8 week period referred to in paragraph (3);
- (c) the child's parent indicates that he wishes to make representations to the board about the content of the statement under paragraph 7(1) of Schedule 2 to the 1996 Order after the expiry of the 15 day period for making such representations provided for in paragraph 7(4) of that Schedule;
- (d) a meeting between the child's parent and an officer of the board has been held pursuant to paragraph 7(1) of Schedule 2 of the 1996 Order and the child's parent under paragraph 7(2) of that Schedule has either required that another such meeting be arranged or has required a meeting with the appropriate person (as defined in paragraph 7(3) of that Schedule) to be arranged; or
- (e) the board has sent a written request to the Department seeking its consent under Article 12 to the child being educated at an institution in Northern Ireland other than a grant aided school and that institution is not approved under Article 26 and such consent has not been received by the board within 3 weeks beginning with the date on which the request was sent.

(5) Where under paragraph 11(1)(a) of Schedule 2 to the 1996 Order the child's parent asks the board to substitute for the name of the school or institution specified in a statement the name of a grant aided school specified by him and where the conditions referred to in paragraph 11(1)(b) of that Schedule have been satisfied the board shall within 8 weeks beginning with the date on which the request was received either—

- (a) comply with the request; or
- (b) give notice to the child's parent under paragraphs 11(3) and (4) of that Schedule that it has decided not to comply with the request, its reasons for that decision, and of his right to appeal against that decision to the Tribunal.

(6) Subject to paragraph (7), where under paragraph 3(4) of Schedule 2 to the 1996 Order a board has served an amendment notice on the child's parent informing him of its proposal to amend a statement it shall amend the statement within 8 weeks beginning with the date on which the notice was served.

(7) The board need not comply with the time limit in paragraph (6) where—

- (a) the amendment notice contained an amendment about the type or name of a school or institution or the provision made for the child concerned under the arrangements made under Article 10; and
- (b) it is impractical to do so because of any of the circumstances referred to in paragraph (4) (a) to (e) apply in relation to the 8 week period referred to in paragraph (6).

(8) Where under paragraph 13(1) of Schedule 2 to the 1996 Order a board gives notice to a child's parent that it has decided to cease to maintain a statement, the board shall not cease to maintain the statement before the expiry of the period during which the parent may appeal to the Tribunal against the decision.

(9) Any notice given in accordance with this regulation shall inform the parent on whom it is served of—

- (a) 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;
- (b) the availability to the parent of arrangements with a view to avoiding or resolving disagreements between parents and boards made by the board under Article 21B; and
- (c) the fact that the arrangements made under Article 21B cannot affect any right the parent has to appeal to the Tribunal and that the parent may appeal to the Tribunal and take up the arrangements made under Article 21B.

Review of statement where child not aged 14 attends school

18.—(1) This regulation applies where—

- (a) a board carries out a review under Article 19(1);
- (b) the child concerned attends a school; and
- (c) regulation 19 does not apply.

(2) The Board shall by notice in writing require the principal of the child's school to submit a report to it under this regulation by a specified date not less than 2 months beginning with the date on which the notice is given and shall send a copy of the notice to the child's parent.

(3) The principal shall for the purpose of preparing the report referred to in paragraph (2) seek advice as to the matters referred to in paragraph (4) from—

- (a) the child's parent;
- (b) any person whose advice the board considers appropriate for the purpose of arriving at a satisfactory report and whom it specifies in the notice referred to in paragraph (2);
- (c) any person whose advice the principal considers appropriate for the purpose of arriving at a satisfactory report.

(4) The advice referred to in paragraph (3) shall be written advice as to—

- (a) the child's progress towards meeting the objectives specified in the statement;
- (b) the child's progress towards attaining any targets established in furtherance of the objectives specified in the statement;
- (c) where the school the child attends is a grant-aided school—
 - (i) any modifications to or exclusions from the application of the Northern Ireland curriculum to the child;
 - (ii) the appropriateness of any provisions substituted for the provisions of the Northern Ireland curriculum in order to maintain a balanced and broadly based curriculum;
- (d) where appropriate, and in any case where a transition plan exists, any matters which are the appropriate subject of such a plan;
- (e) whether the statement continues to be appropriate;
- (f) any amendments to the statement which would be appropriate;
- (g) whether the board should cease to maintain the statement.

(5) The notice referred to in paragraph (2) shall require the principal to invite the following persons to attend a meeting to be held on a date before the report referred to in that paragraph is submitted—

- (a) the representative of the board specified in the notice;
- (b) the child's parent;
- (c) a member or members of the staff of the school who teach the child or who are otherwise responsible for the provision of education for the child whose attendance the principal considers appropriate;
- (d) any other person whose attendance the principal considers appropriate; and
- (e) any person whose attendance the board considers appropriate and who is specified in the notice.

(6) The principal shall not later than 2 weeks before the date on which a meeting referred to in paragraph (5) is to be held send to all persons invited to that meeting copies of the advice he has received pursuant to his request under paragraph (3) and by written notice accompanying the copies shall request the recipients to submit to him before or at the meeting any written comments on that advice and any other advice which they think appropriate.

(7) The meeting referred to in paragraph (5) shall consider—

- (a) the matters referred to in paragraph (4);
- (b) any significant changes in the child's circumstances since the date on which the statement was made or last reviewed.

(8) The meeting referred to in paragraph (5) shall recommend—

- (a) any steps which it concludes ought to be taken, including whether the board should amend or cease to maintain the statement;
- (b) any targets to be established in furtherance of the objectives specified in the statement which it concludes the child ought to meet during the period until the next review;
- (c) where a transition plan exists, the matters which it concludes ought to be included in that plan.

(9) If the meeting cannot agree the recommendations to be made under paragraph (8) the persons who attended the meeting shall make differing recommendations as it appears necessary to each of them.

(10) The report to be submitted under paragraph (2) shall be completed after the meeting is held and shall include the principal's assessment of the matters referred to in paragraph (7) and his recommendations as to the matters referred to in paragraph (8), and shall refer to any difference between his assessment and recommendations and those of the meeting.

(11) Where the principal submits his report to the board under paragraph (2) he shall at the same time send copies to—

- (a) the child's parent;
- (b) the persons from whom the principal sought advice under paragraph (3);
- (c) the persons who were invited to the meeting in accordance with paragraph (5);
- (d) any other person to whom the board considers it appropriate that a copy be sent and to whom it directs him to send a copy;
- (e) any other person to whom the principal considers it appropriate that a copy be sent.

(12) The board shall review the statement under Article 19(1) in light of the report and any other information or advice which it considers relevant, shall make written recommendations as to the

matters referred to in paragraph (8)(a) and (b) and, where a transition plan exists, shall amend the plan as it considers appropriate.

(13) The board shall send copies of the recommendations and any transition plan referred to in paragraph (12) to—

- (a) the child's parent;
- (b) the principal;
- (c) the persons from whom the principal sought advice under paragraph (3);
- (d) the persons who were invited to attend the meeting in accordance with paragraph (5);
- (e) any other person to whom it considers it appropriate that a copy be sent.

First review of statement after a child's 14th birthday for a child who attends school

19.—(1) This regulation applies where—

- (a) a board carries out a review of a child's statement under Article 19(1);
- (b) the child concerned attends a school;
- (c) the review is the first review commenced on or after the date on which child has attained the age of 14 years.

(2) The board shall for the purpose of preparing a report under this regulation by notice require the principal of the child's school to seek the advice referred to in regulation 18(4) from—

- (a) the child's parent;
- (b) any person whose advice the board considers appropriate for the purpose of arriving at a satisfactory report and whom it specifies in the notice;
- (c) any person whose advice the principal considers appropriate for the purpose of arriving at a satisfactory report.

(3) The board shall invite the following persons to attend a meeting to be held on a date before the review referred to in paragraph (1) is required to be completed—

- (a) the child's parent;
- (b) a member or members of staff of the school who teach the child or who are otherwise responsible for the provision of education for the child whose attendance the principal considers appropriate and whom he has asked the board to invite;
- (c) a representative of the health and social services authority;
- (d) a person providing careers services under section 1 of the Employment and Training Act (Northern Ireland) 1950⁽¹⁾;
- (e) any person whose attendance the principal considers appropriate and whom he has asked the board to invite; and
- (f) any person whose attendance the board considers appropriate.

(4) The principal shall not later than two weeks before the date on which the meeting referred to in paragraph (3) is to be held serve on all the persons invited to attend that meeting copies of the advice he has received pursuant to his request under paragraph (2) and shall by written notice request the recipients to submit to him before or at the meeting any written comments on that advice and any other advice which they think appropriate.

(5) A representative of the board shall attend the meeting referred to in paragraph (3).

(1) 1950 c. 29 (N.I.) as amended by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 S.I.1988/1087 (N.I. 10)

(6) The meeting referred to in paragraph (3) shall consider the matters referred to in regulation 18(7)(a) and (b) and shall make recommendations in accordance with regulation 18(8) and (9).

(7) The report to be prepared by the board under this regulation shall be completed after the meeting, shall contain the board's assessment of the matters required to be considered by the meeting and its recommendations as to the matters required to be recommended by it and shall refer to any difference between its assessment and recommendations and those of the meeting.

(8) The board shall send copies of the report to—

- (a) the child's parent;
- (b) the principal;
- (c) the persons from whom the principal sought advice under paragraph (2);
- (d) the persons who were invited to attend the meeting under paragraph (3);
- (e) any person to whom it considers it appropriate to send a copy.

(9) The board shall review the statement under Article 19(1) in light of the report and any other information or advice which it considers relevant, shall make written recommendations as to the matters referred to in regulation 18(8)(a) and (b), and shall prepare a transition plan.

(10) The board shall send copies of the recommendations and the transition plan referred to in paragraph (9) to the persons referred to in paragraph (8).

Review of statement where child does not attend school

20.—(1) This regulation applies where a board carries out a review of a statement under Article 19(1) and the child concerned does not attend school.

(2) The board shall prepare a report addressing the matters referred to in regulation 18(4), in any case where the review referred to in paragraph (1) is commenced on or after the date on which the child has attained the age of 14 years, and for that purpose shall seek advice on those matters from the child's parent and any other person whose advice it considers appropriate for the purpose of arriving at a satisfactory report.

(3) The board shall invite the following persons to attend a meeting to be held before the review referred to in paragraph (1) is required to be completed—

- (a) the child's parent;
- (b) where the review referred to in paragraph (1) is the first review commenced after the date on which the child has attained the age of 14 years—
 - (i) a representative of the health and social services authority;
 - (ii) a person providing careers services under Section 1 of the Employment and Training Act (Northern Ireland) 1950; and
- (c) any person whose attendance the board considers appropriate.

(4) The board shall not later than 2 weeks before the date on which the meeting referred to in paragraph (3) is to be held send to all the persons invited to that meeting a copy of the report which it proposes to make under paragraph (2) and by written notice accompanying the copies shall request the recipients to submit to the board any written comments on the report and any other advice which they think appropriate.

(5) A representative of the board shall attend the meeting referred to in paragraph (3).

(6) The meeting referred to in paragraph (3) shall consider the matters referred to in regulation 18(7)(a) and ((b) and shall make recommendations in accordance with regulation 18(8) and (9).

(7) The report prepared by the board under paragraph (2) shall be completed after the meeting referred to in paragraph (3) is held, shall contain the board's assessment of the matters required to be considered by the meeting and its recommendations as to the matters required to be recommended by the meeting, and shall refer to any difference between its assessment and recommendations and those of the meeting.

(8) The board shall send copies of the report to—

- (a) the child's parent;
- (b) the persons from whom it sought advice under paragraph (2);
- (c) the persons who were invited to attend the meeting under paragraph (3);
- (d) to any person whom it considers it appropriate to send a copy.

(9) The board shall review the statement under Article 19(1) in light of the report and any other information or advice which it considers relevant, shall make written recommendations as to the matters referred to in regulation 18(8)(a) and (b), in any case where the review is the first review commenced on or after the date on which the child has attained the age of 14 years prepare a transition plan, and where a transition plan already exists, amend the plan as it considers appropriate.

(10) The board shall send copies of the recommendations and any transition plan referred to in paragraph (9) to the persons referred to in paragraph (8).

Transfer of statements

21.—(1) This regulation applies where a child in respect of whom a statement is maintained moves from the board area which maintains the statement ('the old board') into that of another board ('the new board').

(2) The old board shall transfer the statement to the new board.

(3) From the date of the transfer—

- (a) the statement shall be treated for the purposes of the new board's duties and functions under Part II of the 1996 Order and these Regulations as if it had been made by the new board on the date on which it was made by the old board; and
- (b) where the new board makes an assessment under Article 15 and the old board has supplied the new board with advice obtained in pursuance of a previous assessment regulation 6(5) shall apply as if the new board had obtained the advice on the date on which the old board obtained it.

(4) The new board shall within 6 weeks beginning with the date on which the statement was transferred to it serve a notice on the child's parent informing him—

- (a) that the statement has been transferred;
- (b) whether it proposes to make an assessment under Article 15; and
- (c) when it proposes to review the statement in accordance with paragraph (5).

(5) The new board shall review the statement under Article 19(1) before the expiry of whichever of—

- (a) the period of 12 months beginning with the making of the statement, or as the case may be, with the previous review; or
- (b) the period of 3 months beginning with the date of the transfer,

whichever is the later.

(6) Where by virtue of the transfer of the statement the new board comes under a duty to arrange the child's attendance at a school specified in the statement but as a result of the child's move into the area of the new board that attendance is no longer practicable, the new board may arrange for

the child's attendance at another school appropriate for the child until such time as it is possible to amend the statement in accordance with the procedure set out in Schedule 2 to the 1996 Order.

Restriction on disclosure of statements

22.—(1) Subject to the provisions of the 1996 Order and of these Regulations, a statement in respect of a child shall not be disclosed without the parent's consent except—

- (a) to persons to whom, in the opinion of the board concerned, the statement should be disclosed in the interests of the child;
- (b) for the purpose of any appeal under the 1996 Order;
- (c) for the purposes of educational research which, in the opinion of the board, may advance the education of children with special educational needs, if, but only if, the person engaged in that research undertakes not to publish anything contained in, or derived from, a statement otherwise than in a form which does not identify any individual concerned including, in particular, the child concerned or his parent;
- (d) on the orders of any court or for the purposes of any criminal proceedings;
- (e) for the purposes of any investigation under the Commissioner for Complaints (Northern Ireland) Order 1996(2);
- (f) to the Department when it requests such disclosure for the purpose of deciding whether to give directions or make an order under Article 101 of the 1986 Order(3);
- (g) for the purposes of an assessment of the needs of the child with respect to the provisions of any statutory services for him being carried out by officers of a health and social services authority by virtue of arrangements made under section 5(5) of the Disabled Persons (Northern Ireland) Act 1989(4);
- (h) for the purposes of a health and social services authority in the performance of its duties under Article 26(1)(a), 174(6), 175(3), 176(2), or 177(5) of the Children (Northern Ireland) Order 1995(5); or
- (i) to an inspector, pursuant to Article 102 of the 1986 Order(6).

(2) The arrangement for keeping such statements shall be such as to ensure, so far as is reasonably practicable, that unauthorised persons do not have access to them.

(3) In this regulation any reference to a statement includes a reference to any representations, evidence, advice or information which is set out in the appendices to a statement.

(2) S.I. 1996/1297 (N.I. 7)

(3) As substituted by S.I. 1989/2406 (N.I. 20) Article 158

(4) 1989 c. 10 as amended by Article 7 of and Schedule 1 to the Health and Social Services (Northern Ireland) Order 1994 S.I. 1994/429 (N.I. 2)

(5) S.I. 1995/755 (N.I. 2)

(6) Article 102 was substituted by S.I. 1996/274 (N.I. 1) Article 33