

CHILDREN AND FAMILIES ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 3 - children and young people in England with special Educational Needs OR DISABILITIES

Mainstream education

Section 33: Children and young people with EHC plans

203. *Section 33* sets out what action should be taken when a local authority is making an EHC plan for a child or young person with special educational needs who is to go to a school or college, where either:
- The child's parents or the young person do not ask for a particular school or college to be named in the EHC plan in accordance with section 38; or
 - The child's parents or the young person do make a request, but the local authority does not intend to name the requested provider.
204. It places a duty on the local authority to make sure that the EHC plan provides for the child or young person to be educated in a maintained nursery school or mainstream setting (that is, not in a special school or special college) unless that is against the wishes of the young person or the child's parent, or would damage the efficient education of others and there are no reasonable steps that could be taken to overcome this. If one of those conditions applies, the child or young person's EHC plan can provide for them to be educated in a special school or a special post-16 institution such as an independent specialist provider.
205. This section replaces sections 316 and 316A of the Education Act 1996 and extends the provisions to young people in post-16 education.

Section 34: Children and young people with special educational needs but no EHC plan

206. This section applies to a child or young person in England who has special educational needs but no EHC plan and who is to be educated in a school or post-16 institution. It sets out the general principle that those children and young people must be educated in a maintained nursery school, mainstream school or mainstream college except in particular circumstances. These are: where it is agreed that they are admitted to a special school or special post-16 institution to be assessed for an EHC plan; it is agreed that they are admitted to a special school or special post-16 institution following a change in their circumstances; they are admitted to a special school which is established in a hospital; or where they are admitted to a Special Academy whose Academy arrangements allow it to admit children or young people with special educational needs who do not have an EHC plan.

*These notes refer to the Children and Families Act 2014
(c.6) which received Royal Assent on 13 March 2014*

207. This section replaces sections 316 and 316A of the Education Act 1996 and extends the provisions to young people in post-16 education.

Section 35: Children with special educational needs in maintained nurseries and mainstream schools

208. When a child with special educational needs is being educated in a maintained nursery school or a mainstream school, the school must enable the child to take part in the activities of the school with other children as far as is reasonably practicable and so long as this ensures the child gets the special educational provision they need, does not damage the education of the other children and does not mean an inefficient use of resources.
209. This section replaces, in England, section 317(4) of the Education Act 1996.