

STATUTORY INSTRUMENTS

1983 No. 29

EDUCATION, ENGLAND AND WALES

The Education (Special Educational Needs) Regulations 1983

<i>Made</i>	- - - -	17th January 1983
<i>Laid before Parliament</i>		27th January 1983
<i>Coming into Operation</i>		1st April 1983

In exercise of the powers conferred by sections 7(10) and 19 of the Education Act 1981(a) and paragraphs 1, 3 and 4 of Schedule 1 thereto (read with section 114(1) of the Education Act 1944(b), the Secretary of State for Education and Science, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:—

Operation and citation

1. These Regulations may be cited as the Education (Special Educational Needs) Regulations 1983 and shall come into operation on 1st April 1983.

Interpretation

2.—(1) In these Regulations a reference to representations made, or evidence submitted, by a child's parent is a reference to representations made, or written evidence submitted, in pursuance of section 5(3)(d) of the Act of 1981 except that, where such representations have been made orally, any reference thereto is a reference to a written summary of those representations which the parent has accepted as accurate.

(2) In these Regulations any reference to the district health authority or the social services authority is, in relation to a particular child, a reference to the district health authority or social services authority in whose area that child lives.

(3) In these Regulations, except where the context otherwise requires, any reference to a Regulation is a reference to a Regulation contained therein and any reference in a Regulation to a paragraph is a reference to a paragraph of that Regulation.

(4) In these Regulations—

“the Act of 1981” means the Education Act 1981;

(a) 1981 c.60.
(b) 1944 c.31.

“district health authority” has the same meaning as in the National Health Service Act 1977(a);

“education authority” means a local education authority;

“social services authority” means a local authority for the purposes of the Local Authority Social Services Act 1970(b) acting in the discharge of such functions as are referred to in section 2(1) of that Act.

Notice of decision to make an assessment

3. Where in pursuance of section 5(5) of the Act of 1981 an education authority notify the parent of a child of their decision to make an assessment they shall send copies of the notification to the social services authority and the district health authority.

Advice generally

4.—(1) For the purpose of making an assessment an education authority shall, in the case of the child concerned, seek—

- (a) educational advice as provided in Regulation 5;
- (b) medical advice as provided in Regulation 6;
- (c) psychological advice as provided in Regulation 7, and
- (d) any other advice which the authority consider desirable in the case in question for the purpose of arriving at a satisfactory assessment,

subject, however, to Regulation 12.

(2) The advice sought in pursuance of 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 rendered requisite by those features of the child’s case, whether by way of special educational provision or non-educational provision additional thereto requisite if the child is properly to benefit therefrom.

(3) A person from whom advice is sought in pursuance of paragraph (1) 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 education authority as persons who have relevant knowledge of, or information relating to, the child.

(4) When seeking a person’s advice in pursuance of paragraph (1) an education authority shall furnish him with copies of—

(a) 1977 c. 49, amended by Part I of Schedule 1 to the Health Services Act 1980 (c. 53).
 (b) 1970 c.42.

- (a) any representations made by the parent, and
- (b) any evidence submitted by, or at the request of, the parent.

Educational advice

5.—(1) The educational advice referred to in Regulation 4(1)(a) shall, subject to paragraphs (2) and (3), be sought from a qualified teacher being—

- (a) the head-teacher of a school which the child has attended at some time within the preceding 18 months, or
- (b) if advice cannot be obtained as aforesaid (because the child has not attended a school or otherwise), a person whom the education authority are 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.

(2) The advice sought of a head-teacher as provided in paragraph (1)(a) shall, if the head-teacher 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.

(3) Where it appears to the education authority, in consequence of medical advice or otherwise, that the child in question—

- (a) is deaf or partially hearing, or
- (b) blind or otherwise visually handicapped,

and the person from whom advice is sought as provided in paragraph (1)(a) or (b) is not qualified to teach deaf or, as the case may be, blind pupils, then the advice sought shall be advice given after consultation with a person who is so qualified.

(4) In this Regulation—

- (a) the expression “qualified teacher” means a person who, in pursuance of the regulations relating to the employment of teachers^(a) from time to time in force under section 27 of the Education Act 1980^(b), is qualified to be employed as a teacher at a school to which that section applies;
- (b) any reference to a person qualified to teach deaf or blind pupils is a reference to a person who is so qualified to be employed at such a school as a teacher of a class for deaf or, as the case may be, blind pupils (otherwise than to give instruction in a craft, trade, or domestic subject);

and the provisions as to consultation contained in paragraphs (2) and (3) are without prejudice to each other or those of Regulation 4(3).

Medical advice

6. The medical advice referred to in Regulation 4(1)(b) shall be sought from a fully registered medical practitioner who is either designated for the purposes of this Regulation by the district health authority or is nominated by them in the case in question.

^(a) The regulations currently in force are the Education (Teachers) Regulations 1982 (S.I. 1982/106).

^(b) 1980 c.20.

Psychological advice

7.—(1) The psychological advice referred to in Regulation 4(1)(c) shall be sought—

- (a) from a person regularly employed by the education authority as an educational psychologist, or
- (b) from a person, in the case in question, engaged by the education authority as an educational psychologist.

(2) The advice sought of 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) The provisions as to consultation contained in paragraph (2) are without prejudice to those of Regulation 4(3).

Matters to be taken into account in making an assessment

8. When making an assessment in the case of a child an education authority shall take into consideration—

- (a) any representations made by the child's parent;
- (b) any evidence submitted by, or at the request of, that parent;
- (c) the advice obtained in the case in pursuance of Regulation 4, and
- (d) any information relating to the health or welfare of the child furnished by or on behalf of—
 - (i) any district health authority, or
 - (ii) any social services authority.

Mandatory re-assessment

9. Where an education authority maintain a statement in respect of a child whose educational needs have not been assessed since before he attained the age of 12 years and 6 months then, during the period of 12 months beginning with the day on which he attains the age of 13 years and 6 months, the authority shall re-assess those needs.

Contents and form of statements

10.—(1) A statement of a child's special educational needs, made in pursuance of section 7(1) of the Act of 1981, shall also—

- (a) specify the special educational provision (in terms of facilities and equipment, staffing arrangements, curriculum or otherwise) which the education authority consider appropriate to meet those needs;
- (b) without prejudice to the generality of sub-paragraph (a), specify either—
 - (i) the type of school which the education authority consider would be appropriate for the child and, if they consider that a particular school would be so appropriate, the name of that school, or
 - (ii) if they consider it appropriate that the child should be provided with

education otherwise than at a school, particulars of the provision which they consider would be appropriate;

- (c) specify any additional non-educational provision—
 - (i) which, unless proposed to be made available by the education authority, they are satisfied will be made available by a district health authority, a social services authority or some other body, and
 - (ii) of which, in their opinion, advantage should be taken if the child is properly to benefit from the special educational provision specified in pursuance of sub-paragraphs (a) and (b) above, and
- (d) set out the representations, evidence, advice and information taken into consideration in pursuance of Regulation 8.

(2) A statement shall be in the form set out in the Schedule hereto or a form to the like effect and shall be authenticated by the signature of a duly authorised officer of the education authority concerned.

Restriction on disclosure of statements

11.—(1) Subject to the provisions of the Act of 1981 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 education authority concerned, the statement should be disclosed in the educational interests of the child;
- (b) for the purposes of any appeal under section 8 of the Act of 1981;
- (c) for the purposes of educational research which, in the opinion of the education authority concerned, 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 and his parent;
- (d) on the order of any court or for the purposes of any criminal proceedings, or
- (e) for the purposes of any investigation under Part III of the Local Government Act 1974(a) (investigation of maladministration).

(2) The arrangements for keeping 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 therein in pursuance of Regulation 10(1)(d).

(a) 1974 c.7.

Children moving from one education area into another

12.—(1) This Regulation shall apply where a child in respect of whom a statement is maintained moves from the area of one education authority (“the old authority”) into that of another (“the new authority”).

(2) The old authority may transfer the statement to the new authority and shall do so at the request of that authority.

(3) Where the statement has been transferred as aforesaid and—

(a) the new authority, being of the opinion mentioned in section 5(1) of the Act of 1981, in pursuance of section 5(3) thereof, serve notice on the child’s parent that they propose to make an assessment, and

(b) the transferred statement was made within the period of 3 years immediately preceding the date of the notice,

then, with the written agreement of the parent, the educational, medical or psychological advice which the new authority are required to seek by Regulation 4(1) may be sought from the old authority instead of as provided in Regulation 5, 6 or 7 and accordingly, in such case, any reference in Regulation 4(3) or (4) to a person from whom advice is sought shall be construed as a reference to the old authority.

(4) Where the statement has been transferred as aforesaid but the new authority are not of the opinion mentioned in section 5(1) of the Act of 1981 then they shall notify the child’s parent that they are not of that opinion and, accordingly, do not propose to make an assessment.

SCHEDULE
FORM OF STATEMENT
STATEMENT OF SPECIAL EDUCATIONAL NEEDS

I—INTRODUCTION

1. In accordance with section 7 of the Education Act 1981 and the Education (Special Educational Needs) Regulations 1983, the following statement is made by the council ("the education authority") in respect of the child whose name and other particulars are mentioned below.

<i>Child</i>	
Surname	Other names
Home address	
.....	Sex
Date of birth	Religion
	Home language
<i>Child's parent or guardian</i>	
Surname	Other names
Home address	Relationship to child
.....	
.....	

2. When assessing the child's special educational needs the education authority took into consideration, in accordance with Regulation 8 of the Regulations, the representations, evidence and advice set out in the Appendices to this statement.

II—SPECIAL EDUCATIONAL NEEDS

(Here, set out, in accordance with section 7 of the 1981 Act, the child's special educational needs as assessed by the education authority.)

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III—SPECIAL EDUCATIONAL PROVISION

(Here specify, in accordance with Regulation 10(1)(a), the special educational provision which the education authority consider appropriate to meet the needs specified in Part II.)

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IV—APPROPRIATE SCHOOL OR OTHER ARRANGEMENTS

(Here specify, in accordance with Regulation 10(1)(b), the type of school and any particular school which the education authority consider appropriate for the child or the provision for his education otherwise than at a school which they consider appropriate.)

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V—ADDITIONAL NON-EDUCATIONAL PROVISION

(Here specify, in accordance with Regulation 10(1)(c), any such additional provision as is here mentioned or record that there is no such additional provision.)

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(Signature of authenticating officer.)

(Date)

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.....
A duly authorised officer of the
education authority.

APPENDIX A

PARENTAL REPRESENTATIONS

(Here set out any written representations made by the parent of the child in pursuance of section 5(3)(d) of the Act and a summary which the parent has accepted as accurate of any oral representations so made or record that no such representations were made.)

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APPENDIX B

PARENTAL EVIDENCE

(Here set out any written evidence either submitted by the parent of the child in pursuance of section 5(3)(d) of the Act or submitted at his request or record that no such evidence was submitted.)

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APPENDIX C
EDUCATIONAL ADVICE

(Here set out the advice obtained in pursuance of Regulation 4(1)(a).)

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APPENDIX D
MEDICAL ADVICE

(Here set out the advice obtained in pursuance of Regulation 4(1)(b).)

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APPENDIX E
PSYCHOLOGICAL ADVICE

(Here set out the advice obtained in pursuance of Regulation 4(1)(c).)

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APPENDIX F
OTHER ADVICE OBTAINED BY EDUCATION AUTHORITY

(Here set out any advice obtained in pursuance of Regulation 4(1)(d) or record that no such advice was sought.)

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APPENDIX G
INFORMATION FURNISHED BY DISTRICT HEALTH AUTHORITY OR
SOCIAL SERVICES AUTHORITY

(Here set out any such information as is mentioned in Regulation 8(d) or record that no such information was furnished.)

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Keith Joseph,
Secretary of State for
Education and Science.

17th January 1983.

Nicholas Edwards,
Secretary of State for Wales.

17th January 1983.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations relate to the assessment of special educational needs and to statements of such needs under the Education Act 1981.

Where an education authority notify the parent of a child that they have decided to make an assessment in his case, they must send copies of the notification to the social services authority and the district health authority in whose areas the child lives (*Regulation 3*) and take account not only of representations made by the parent but also of any information relating to the health or the welfare of the child which those authorities may furnish (*Regulation 8(a), (b) and (d)*).

For the purpose of making an assessment an education authority are required to seek, and take account of, educational, medical and psychological advice from prescribed persons (*Regulations 4 to 7 and 8(c)*) except that, in the case of a child who moves from the area of one education authority into that of another in respect of whom the old authority made a statement within the previous 3 years, the new authority may, with the agreement of his parent, seek such advice from the old authority instead of from the prescribed persons (*Regulation 12*).

When a child in respect of whom a statement is maintained attains the age of 13 years and 6 months and his educational needs have not been assessed since before he attained the age of 12 years and 6 months, those needs must be re-assessed during the next following year (*Regulation 9*).

The contents and form of statements are prescribed. They must specify not only the special educational needs of the child concerned but also the special educational provision and non-educational provision which the education authority consider appropriate or expedient. The representations, evidence, advice and information taken into consideration by the authority must be set out (*Regulation 10 and the Schedule*). There are restrictions on the disclosure of statements and steps are to be taken to avoid unauthorised persons having access to them (*Regulation 11*).

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