
STATUTORY INSTRUMENTS

2002 No. 1985

The Special Educational Needs and Disability Tribunal (General Provisions and Disability Claims Procedure) Regulations 2002

PART II

MAKING A CLAIM AND STATEMENTS OF CASE

(A) THE PARENT

Notice of claim

- 7.—(1) A claim to the tribunal shall be made by notice which—
- (a) shall state—
 - (i) the name and address of the parent making the claim and, if more than one address is given, the address to which the tribunal should send replies or notices concerning the claim;
 - (ii) the name and date of birth of the child;
 - (iii) that the notice is a notice of claim;
 - (iv) where it is alleged that a school has discriminated against the child, the name and address of the school;
 - (v) where it is alleged that a local education authority has discriminated against the child, or where a school named under sub-paragraph (iv) is maintained by a local education authority, the name of the local education authority;
 - (b) shall include, or be accompanied by, a statement of the parent's reasons for making the claim which must include information relating to the following matters—
 - (i) the nature of the child's disability;
 - (ii) the way in which it is alleged the child has been discriminated against;
 - (iii) the date or dates on which the alleged discrimination took place.
- (2) The parent shall sign the notice of claim.
- (3) The parent must deliver the notice of claim to the Secretary of the Tribunal.
- (4) Where the parent delivers a notice of claim, or otherwise seeks to institute proceedings, after the end of the period specified in paragraph 10(1) (and any extension under paragraph 10(2)) of Schedule 3 of the 1995 Act (Period within which proceedings must be brought), the President shall decide under paragraph 10(3) of that Schedule whether the tribunal will consider the claim out of time, and the President may seek further information from the parent before making the decision.
- (5) The notice of claim may include a request that the claim be heard with an appeal against a local education authority under Part IV of the 1996 Act, in accordance with regulation 27(2).

Reasons for making a claim

8.—(1) If the notice of claim does not include, or is not accompanied by, a statement of the parent's reasons for making the claim, including the information set out at regulation 7(1)(b), which the President considers sufficient to enable the responsible body to respond to the claim, he shall direct the parent to send particulars of the reasons for making the claim to the Secretary of the Tribunal within 10 working days of his direction.

(2) Regulations 21 and 25 shall apply in relation to a direction under paragraph (1).

(3) Particulars of reasons sent in response to a direction made in accordance with paragraph (1) shall be treated as part of the notice of claim.

Statement of parent's case, and supplementary provisions

9.—(1) During the case statement period, the parent may deliver to the Secretary of the Tribunal a written statement of his case which may include the views of the child, and the parent must submit all written evidence on which he intends to rely and which he has not already submitted.

(2) The parent may amend the notice of claim or his statement of case, deliver a supplementary statement of reasons for making the claim, deliver a supplementary statement of case, or make further amendments to any of these documents, if, in exceptional circumstances, permission is given by—

- (a) the President; or
- (b) at a hearing, the tribunal.

(3) The parent shall deliver to the Secretary of the Tribunal a copy of every amendment and supplementary statement for which permission was given.

(4) If permission is granted under paragraph (2)(a), the case statement period may, if necessary, be extended under regulation 51(1) or, if it has expired, a further period may be granted of no more than 15 working days.

(5) If, at the time permission is granted under paragraph (2), the responsible body has lost its entitlement to attend or be represented at the hearing in accordance with regulations 15 or 25, the giving of permission shall restore such entitlement and, if necessary, the hearing shall be rearranged or adjourned, as appropriate, so that the responsible body can attend or be represented.

Withdrawal of a claim

10. The parent may withdraw his claim—

- (a) at a hearing; or
- (b) at any other time, by sending written notification to the Secretary of the Tribunal.

Further action by the parent

11.—(1) The parent shall give the Secretary of the Tribunal the information requested in the enquiry made under regulation 20.

(2) If the parent does not intend to attend or be represented at the hearing, he may, not less than 5 working days before the hearing, send to the Secretary of the Tribunal additional written representations in support of his claim.

Parent's representatives

12.—(1) The parent may in the notice of claim or by giving written notice to the Secretary of the Tribunal at any later time—

- (a) appoint a representative;

- (b) appoint another representative to replace the representative previously appointed, whose appointment is cancelled by the later appointment;
 - (c) state that no person is acting as the parent's representative, which cancels any previous appointment.
- (2) To appoint a representative, the parent must give the name, address and profession of the representative.
- (3) If a person whom the parent has appointed as a representative notifies the Secretary of the Tribunal in writing that he is not prepared, or is no longer prepared, to act in that capacity—
- (a) the Secretary of the Tribunal shall notify the parent;
 - (b) the appointment of that representative is cancelled.
- (4) Subject to paragraph (5), at any time after the parent has appointed a representative, and until that appointment is cancelled—
- (a) the Secretary of the Tribunal shall send all documents and notices concerning the claim to the representative instead of the parent;
 - (b) references in these Regulations (however expressed) to sending documents to, or giving notice to, the parent shall be construed as references to sending documents to, or giving notice to, the representative.
- (5) Paragraph (4) applies—
- (a) unless the parent notifies the Secretary of the Tribunal that he does not wish it to apply;
 - (b) subject to regulations 36(6) and 49(5).
- (6) At a hearing, the parent may conduct his case himself (with assistance from one person if he wishes) or may appear and be represented by one person whether or not legally qualified:
- Provided that, if permission is given by the President or, at a hearing, the tribunal, the parent may obtain assistance or be represented by more than one person.

(B) THE RESPONSIBLE BODY

Statement of the responsible body's case, and supplementary provisions

- 13.**—(1) During the case statement period, the responsible body shall deliver to the Secretary of the Tribunal a written statement of its case and all written evidence on which it intends to rely.
- (2) The statement of the responsible body's case shall be signed by a person who is authorised to sign such documents on the responsible body's behalf and shall state whether or not the responsible body intends to oppose the claim, and if it does intend to oppose the claim it shall state—
- (a) the grounds on which it relies;
 - (b) the name and profession of a representative authorised to deal with the claim on the responsible body's behalf, and an address for service.
- (3) The responsible body may amend its statement of case, deliver a supplementary statement of case or amend a supplementary statement of case if, in exceptional circumstances, permission is given by—
- (a) the President; or
 - (b) at a hearing, the tribunal.
- (4) The responsible body shall deliver to the Secretary of the Tribunal a copy of every amendment and supplementary statement for which permission was given.

(5) If permission is granted under paragraph (3)(a), the case statement period may, if necessary, be extended under regulation 51(1) or, if it has expired, a further period may be granted of no more than 15 working days.

(6) If, at the time permission is granted under paragraph (3), the parent has lost his entitlement to attend or be represented at the hearing in accordance with regulation 25, the giving of permission shall restore such entitlement and, if necessary, the hearing shall be rearranged or adjourned, as appropriate, so that the parent can attend or be represented.

Responsible body's representative

14.—(1) The responsible body may at any time change its representative for the purposes of the claim by notifying the Secretary of the Tribunal of the name and profession of its new representative.

(2) References in these Regulations (however expressed) to sending documents to, or giving notice to, the responsible body shall be construed as references to sending documents to, or giving notice to, the representative named in accordance with regulation 13(2)(b) or paragraph (1) above.

Failure to deliver a statement of case and absence of opposition

15. If the Secretary of the Tribunal does not receive a statement of case from the responsible body within the case statement period or if the responsible body states in writing that it does not resist the claim, or withdraws its opposition to the claim, the tribunal shall—

- (a) determine the claim on the basis of the notice of claim, and any other documentation already received or amended in accordance with regulation 9(1) and (2), without a hearing; or
- (b) without notifying the responsible body hold a hearing at which the responsible body is not entitled to attend or be represented.

Representation at hearing and further action by the responsible body

16.—(1) At any hearing or part of a hearing the responsible body may—

- (a) appear; and
- (b) be represented by a legally qualified representative, in addition to any representative whose attendance is necessary in order for the responsible body to appear at the hearing under sub-paragraph (a).

(2) The President or, at a hearing, the tribunal may grant the responsible body permission to be represented by any further representatives to those permitted under paragraph (1).

(3) The responsible body shall give the Secretary of the Tribunal the information requested in the enquiry made under regulation 20.

(4) If the responsible body does not intend to be represented at the hearing it may, not less than 5 working days before the hearing, send to the Secretary of the Tribunal additional representations in support of its case.