

**2008 No. 1747**

**EDUCATION, ENGLAND**

**The Education (Pupil Information) (England) (Amendment)  
Regulations 2008**

<i>Made</i> - - - -	<i>3rd July 2008</i>
<i>Laid before Parliament</i>	<i>9th July 2008</i>
<i>Coming into force</i> - -	<i>1st September 2008</i>

The Secretary of State for Children, Schools and Families makes the following Regulations in exercise of the powers conferred by sections 408, 563 and 569(4) of the Education Act 1996(a).

In accordance with section 408(5) of that Act he has consulted with those with whom consultation appeared to be desirable.

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Education (Pupil Information) (England) (Amendment) Regulations 2008 and come into force on 1st September 2008.

(2) These Regulations apply to schools in England.

**Amendment of the Education (Pupil Information) (England) Regulations 2005**

2. The Education (Pupil Information) (England) Regulations 2005(b) are amended as follows.

3. In regulation 2 (interpretation)—

(a) after the definition of “the 2002 Act” insert—

““the 2004 document” means the document entitled “Assessment and Reporting Arrangements” published by the Qualifications and Curriculum Authority for the Foundation Stage and Key Stage 1 in 2004;

“assessment”, in relation to a pupil’s P Levels of attainment or performance against the P Level attainment targets means an assessment carried out in accordance with any document for the time being in force containing provisions relating to assessment arrangements which has effect by virtue of orders made under section 87(3)(c) and (11) of the 2002 Act;”;

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(a) 1996 c.56. By virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) the powers conferred by these sections are exercisable by the Secretary of State only in relation to England. Section 408 was amended by section 57 and Schedule 7 of the Education Act 1997 (c. 44), section 140 and Schedule 30 of the School Standards and Framework Act 1998 (c. 31), section 149 and Schedule 9 of the Learning and Skills Act 2000 (c.21) and section 215 and Schedule 21 of the Education Act 2002 (c. 32). See section 579(1) for the definition of “regulations”.

(b) S.I. 2005/1437, amended by S.I. 2007/3224.

- (b) in the definition of “the associated documents” before the words “published by the Department for Education and Skills” insert “other than the P Level Document”;
- (c) after the definition of “maintained school” insert—
  - ““management committee”, in relation to a pupil referral unit, means the management committee for that unit established pursuant to the Education (Pupil Referral Units) (Management Committees etc.) Regulations 2007(a);”;
- (d) after the definition of “NC test tiers” insert—
  - ““P Levels of attainment” means, for those pupils with special educational needs who are working below level 1 of the NC levels of attainment, the National Curriculum levels of attainment below level 1 described in the P Level Document;
  - “P Level attainment targets” means, for those pupils with special educational needs who are working below level 1 of the NC levels of attainment, the National Curriculum attainment targets specified in the P Level Document;
  - “P Level Document” means the document published from time to time by the Qualifications and Curriculum Authority which—
    - (a) describes, in relation to pupils with special educational needs who are working below level 1 of the NC levels of attainment, the levels of attainment below level 1 for each of the core and foundation subjects, and
    - (b) specifies, in relation to such pupils, the attainment targets which have effect by virtue of an Order made under section 87(3)(a) of the 2002 Act(b);”;
- (e) in paragraph (b) of the definition of “responsible person” after “any other school” insert “(or, where the school is a pupil referral unit, the management committee)”;
- (f) after the definition of responsible person insert—
  - ““special educational needs” is to be interpreted in accordance with section 312 of the Education Act 1996(c);”;
- (g) after the definition of “unauthorised absence”, insert—
  - ““unique learner number”, in relation to a registered pupil at a school, means the specific combination of numbers allocated to the pupil by the Learning and Skills Council as that pupil’s unique learner number;”.

**4. In regulation 6 (head teacher’s annual report to parents and adult pupils)—**

- (a) in paragraph (2) for “paragraphs (3) and (6)” substitute “paragraphs (3), (3A) and (6)”;
- (b) after paragraph (3) insert the following paragraph—
  - “(3A) Where the school is a pupil referral unit the head teacher shall only prepare the report referred to in paragraph (2) in respect of a registered pupil in the school year in which the pupil ceases to be of compulsory school age.”;
- (c) in paragraph (4) for “paragraph (5)” substitute “paragraphs (4A) and (5)”;
- (d) after paragraph (4) insert the following paragraph—
  - “(4A) Where the school is a pupil referral unit the head teacher’s report shall only include the information specified in paragraph 1 of Schedule 1.”.

**5. In regulation 9 (transfer of information when a pupil changes school)—**

- (a) for paragraph (1) substitute the following paragraph—
  - “(1) In this regulation—
    - (a) “common transfer file” means a record of the information set out in Schedule 2, and

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(a) S.I.2007/2978.

(b) 2002 c. 32. Section 87 has been prospectively amended by sections 48 and 102 and Schedules 1 and 3 of the Childcare Act 2006 (c. 47).

(c) Section 312 was last amended by section 6(2) and Schedule 1 of the Education and Inspections Act 2006, (c. 40).

- (b) “governing body” means, in relation to a pupil referral unit, the management committee.”;
  - (b) in paragraph (3) for “maintained school” substitute “school maintained by a local education authority”;
  - (c) after paragraph (3) insert the following paragraphs—
    - “(3A) Paragraph (3B) applies where a pupil becomes registered at a school maintained by a local education authority (“the second school”) and remains registered at another such school (“the first school”).
    - (3B) Subject to paragraph (8), the governing body of the first school or, where this has been agreed between that governing body and the local education authority which maintains the first school, that authority shall send a copy of the pupil’s common transfer file and educational record to the responsible person of the second school no later than fifteen school days after the date on which the head teacher of the first school learned of the second registration.”;
  - (d) in paragraph (4) after “the new school” insert “or, as the case may be, the first school or the second school”;
  - (e) in paragraph (8)—
    - (i) for “maintained school” substitute “school maintained by a local education authority”;
    - (ii) for “paragraph (3)” substitute “paragraph (3) or (3B)”;
  - (f) in paragraph (10) —
    - (i) after “old school” insert “or first school”;
    - (ii) after “old school’s” insert “or first school’s”.
- 6. In Schedule 1 (information to be included in the head teacher’s annual report)—**
- (a) renumber paragraph 2 as sub-paragraph 2(1);
  - (b) in sub-paragraph 2(1) as renumbered, before the words “The following information” insert “Subject to sub-paragraphs (2) and (3)”;
  - (c) after sub-paragraph 2(1) insert—
    - “(2) Where a pupil with special educational needs is working below level 1 of the NC levels of attainment in a core subject (“the relevant subject”) at the first or second key stage the following information must be included in the report at the end of that key stage—
      - (a) where the relevant subject is English, the assessment of the pupil’s P Level of attainment in English or, where the pupil is working at level 4 or above of the P Levels of attainment, the assessment of his performance against each of the P Level attainment targets specified in the P Level Document in relation to English under the headings “Speaking”, “Listening”, “Reading” and “Writing”;
      - (b) where the relevant subject is Mathematics, the assessment of the pupil’s P Level of attainment in Mathematics or, where the pupil is working at level 4 or above of the P Levels of attainment, the assessment of his performance against each of the P Level attainment targets specified in the P Level Document in relation to Mathematics under the headings “Using and applying mathematics”, “Number” and “Shape, space and measures”;
      - (c) where the relevant subject is Science, the assessment of the pupil’s P Level of attainment in Science.
    - (3) Where a pupil with special educational needs is working below level 1 of the NC levels of attainment in any foundation subject (“the relevant subject”) at the third key stage the following information must be included in the report at the end of that key stage—
      - (a) where the relevant subject is English, the assessment of the pupil’s P Level of attainment in English or, where the pupil is working at level 4 or above of the P Levels of attainment, the assessment of his performance against each of the P

Level attainment targets specified in the P Level Document in relation to English under the headings “Speaking”, “Listening”, “Reading” and “Writing”;

- (b) where the relevant subject is Mathematics, the assessment of the pupil’s P Level of attainment in Mathematics or, where the pupil is working at level 4 or above of the P Levels of attainment, the assessment of his performance against each of the P Level attainment targets specified in the P Level Document in relation to Mathematics under the headings “Using and applying mathematics”, “Number” and “Shape, space and measures”;
- (c) where the relevant subject is any other foundation subject, the assessment of the pupil’s P Level of attainment in the relevant subject.”.

7. In Schedule 2 (information forming part of the common transfer file)—

- (a) in paragraph 1 after sub-paragraph (a), insert—

“(aa) unique learner number, where known;”;

- (b) in paragraph 4 after “old school” insert “or first school”;

- (c) in paragraph 5 after “new school” insert “or second school”;

- (d) in paragraph 6—

- (i) in sub-paragraph (1), for the words “achievements in education,” substitute “achievements in education which, subject to sub-paragraphs (2) and (3), are”;

- (ii) Paragraphs (g) and (h) of sub-paragraph (1) are omitted;

- (iii) for sub-paragraph (2) substitute—

“(2) Paragraph 6(1)(d) shall not apply to the results of the NC tasks and NC tests taken by pupils at the end of the first key stage —

- (a) where those pupils were not required to undertake those tasks and tests by virtue of their involvement in the Key Stage 1 assessment trial 2003/4 referred to in the 2004 document (a); or

- (b) where those pupils were at the end of the first key stage in the school year 2004/5 and thereafter.”;

- (iv) after sub-paragraph (2) insert—

“(3) Where an assessment of a pupil’s P Level of attainment has been carried out in relation to a core subject at the first or second key stage, or a foundation subject at the third key stage, the pupil’s cumulative achievements in education in relation to that subject for the key stage are as follows—

- (a) where the subject is English, the assessment of the pupil’s P Level of attainment in English or, where the pupil is working at level 4 or above of the P Levels of attainment, the assessment of his performance against each of the P Level attainment targets specified in the P Level Document in relation to English under the headings “Speaking”, “Listening”, “Reading” and “Writing”;

- (b) where the subject is Mathematics, the assessment of the pupil’s P Level of attainment in Mathematics or, where the pupil is working at level 4 or above of the P Levels of attainment, the assessment of his performance against each of the P Level attainment targets specified in the P Level Document in relation to Mathematics under the headings “Using and applying mathematics”, “Number” and “Shape, space and measures”;

- (c) where the subject is Science, the assessment of the pupil’s P Level of attainment in Science;

- (d) where the subject is another foundation subject, the pupil’s P Level of attainment in that subject.”

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(a) Pupils involved in the 2003/4 pilot project were exempted from the requirement to undertake NC tasks and tests as part of that project.

3rd July 2008

*Andrew Adonis*  
Parliamentary Under Secretary of State  
Department for Children, Schools and Families

### **EXPLANATORY NOTE**

*(This note is not part of these Regulations)*

The Regulations amend the Education (Pupil Information) (England) Regulations 2005 (“the principal Regulations”). The principal amendments—

- (a) insert additional provisions into the interpretation provisions of the principal Regulations setting out the meaning of “P Level attainment targets”, “P Levels of attainment” and “P Level Document” (regulation 3). The P Levels apply to pupils with special educational needs who are working below level 1 of the National Curriculum. A copy of the P Level document in which the P Level attainment targets are specified and the P Levels of attainment are described can be viewed at this website:

[http://www.qca.org.uk/qca\\_8541.aspx](http://www.qca.org.uk/qca_8541.aspx)

- (b) amend regulation 6 of the Principal Regulations so that where a school is a pupil referral unit the head teacher’s report only has to be prepared for the school year in which a pupil ceases to be of compulsory school age and need only contain limited information (regulation 4);
- (c) amend regulation 9 of, and Schedule 2 to, the Principal Regulations to provide that where a pupil becomes registered at two schools maintained by a local education authority the governing body of the first school (or management committee in the case of a pupil referral unit) must send a copy of the common transfer file to the second school (regulation 5 and 7(b) and (c));
- (d) require any assessment of a pupil’s P Levels of attainment (including performance against the P Level attainment targets in English and Mathematics where the pupils is working at P Level 4 or above in those subjects) to be included—
- (i) in the head teacher’s annual report at the end of the first, second and third key stages (regulation 6); and
- (ii) in the information forming part of the common transfer file (regulation 7(d)(i) and (iv));

where the pupil has special educational needs and is working below level 1 of the National Curriculum;

- (e) require a pupil’s unique learner number (where one is known) to be included in the information forming part of the common transfer file (regulation 7(a));
- (f) remove the requirement for the results of public examinations and vocational qualifications (or credits towards such qualifications) to be included in the common transfer file since it is not currently technically possible for this information to be so included (regulation 7(d)(ii));
- (g) add to the exemption in paragraph 6(2) of Schedule 2 (pupils at the end of Key Stage 1 from 2004/5 onwards) pupils who were involved in the Key Stage 1 pilot in 2003/4 for whom there was no statutory requirement to undertake the tests (regulation 7(d)(iii)).

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.





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STATUTORY INSTRUMENTS

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**£3.00**

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E2682 7/2008 182682T 19585