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STATUTORY RULES OF NORTHERN IRELAND

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**1997 No. 327**

**Education (Special Educational Needs)  
Regulations (Northern Ireland) 1997**

**Part III**

**Statements**

**Notice accompanying a proposed statement**

**10.** The notice which shall accompany a copy of a proposed statement served on the parent pursuant to paragraph 2 of Schedule 2 to the 1996 Order shall be in a form substantially corresponding to that set out in Part A of the Schedule and shall contain the information therein specified.

**Statement of special educational needs**

**11.** A statement of a child's special educational needs made under Article 16(1) shall be a form substantially corresponding to that set out in Part B of the Schedule, shall contain the information therein specified, and shall be dated and authenticated by the signature of an officer of the board concerned authorised in that behalf.

**Period for amending or ceasing to maintain a statement**

**12.—(1)** Where under paragraph 10(1) of Schedule 2 to the 1996 Order a board serves a notice on the child's parent informing him of its proposal to amend a statement it shall not amend the statement after the expiry of 8 weeks from the date on which the notice was served.

**(2)** Where under paragraph 11(2) of Schedule 2 to the 1996 Order a board gives notice to the child's parent that it has decided to cease to maintain a statement it shall not cease to maintain the statement—

- (a) before the expiry of the period referred to in regulation 7(3) of the Special Educational Needs Tribunal Regulations (Northern Ireland) 1997<sup>(1)</sup> during which the parent may appeal to the Tribunal against the decision; or
- (b) after the expiry of 4 weeks from the end of that period.

**Review of statement where child not aged 14 attends school**

**13.—(1)** This regulation applies where—

- (a) a board reviews a statement under Article 19(1) other than on the making of an assessment;
- (b) the child concerned attends a school; and
- (c) regulation 14 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 two months from 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); and
- (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 which 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; and
  - (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; and
- (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 two weeks before the date on which a meeting referred to in paragraph (5) is to be held send to all the 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); and
- (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; and
- (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 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) When 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 attend 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; and
- (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); and
- (e) any other person to whom the board considers it appropriate that a copy be sent.

#### **Review of statement where child aged 14 attends school**

**14.**—(1) This regulation applies where—

- (a) a board reviews a statement under Article 19(1) other than on the making of an assessment;
- (b) the child concerned attends a school; and
- (c) the review is the first review commenced after the child has attained the age of 14 years.

(2) The board shall for the purpose of preparing a report under this regulation by notice in writing require the principal of the child's school to seek the advice referred to in regulation 13(4), including in all cases advice as to the matters referred to in regulation 13(4)(d), 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 above; and
  - (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 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 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(2);
  - (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.
- (6) The meeting shall consider the matters referred to in regulation 13(7), in all cases including the matters referred to in regulation 13(4)(d), and shall make recommendations in accordance with regulation 13(8) and (9), in all cases including recommendations as to the matters referred to in regulation 13(8)(c).
- (7) The report to be prepared by the board under paragraph (2) 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 completed under paragraph (7) 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); and
  - (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 13(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).

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(2) 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)

### **Review of statement where child does not attend school**

15.—(1) This regulation applies where a board reviews a statement under Article 19(1) other than on the making of an assessment and the child concerned does not attend a school.

(2) The board shall prepare a report addressing the matters referred to in regulation 13(4), including the matters referred to in regulation 13(4)(d) in any case where the review referred to in paragraph (1) is commenced after the child has attained the age of 14 years or older, and for that purpose shall seek advice on those matters from the child's parent and any other person whose advice it considers appropriate in the case in question 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) where the review referred to in paragraph (1) is the first review commenced after the child has attained the age of 14 years, a representative of the health and social services authority;
- (c) where sub-paragraph (b) applies, a person providing careers services under section 1 of the Employment and Training Act (Northern Ireland) 1950; and
- (d) any person or persons whose attendance the board considers appropriate.

(4) The board shall not later than two 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.

(6) The meeting shall consider the matters referred to in regulation 13(7), including in any case where the review is commenced after the child has attained the age of 14 years the matters referred to in regulation 13(4)(d), and shall make recommendations in accordance with regulation 13(8) and (9), including in any case where the child has attained the age of 14 years or older as aforesaid recommendations as to the matters referred to in regulation 13(8)(c).

(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 completed under paragraph (7) 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); and
- (d) 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 13(8)(a) and (b), in any case where the review is the first review commenced after the child has attained the age of 14 years prepare a transition plan, and in any case where a transition plan 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**

16.—(1) This regulation applies where a child in respect of whom a statement is maintained moves from the area of the board 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, and 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 5(5) shall apply as if the new board had obtained the advice on the date on which the old board obtained it.

(3) The new board shall within 6 weeks of the date of the transfer 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 (4).

(4) The new board shall review the statement under Article 19(1) before the expiry of whichever of the following two periods expires later—

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

(5) Where by virtue of the transfer the new board comes under a duty to arrange the child's attendance at a school specified in the statement but in light of the child's move 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 paragraph 10 of Schedule 2 to the 1996 Order.

### **Restriction on disclosure of statements**

17.—(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 purposes 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 and his parent;
- (d) on the order 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(3);

- (f) to the Department when it requests such disclosure for the purposes of deciding whether to give directions or make an order under Article 101 of the 1986 Order<sup>(4)</sup>;
  - (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<sup>(5)</sup>;
  - (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<sup>(6)</sup>; or
  - (i) to an inspector, pursuant to Article 102 of the 1986 Order<sup>(7)</sup>.
- (2) The arrangements 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.

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<sup>(4)</sup> As substituted by S.I. 1989/2406 (N.I. 20) Article 158

<sup>(5)</sup> 1989 c. 10 as amended by Article 7 of and Schedule 1 to the Health and Personal Social Services (Northern Ireland) Order 1994 S.I. 1994/429 (N.I. 2)

<sup>(6)</sup> S.I. 1995/755 (N.I. 2)

<sup>(7)</sup> As amended by S.I. 1996/274 (N.I. 1) Article 33