
STATUTORY INSTRUMENTS

2014 No. 3283

**The Education (Independent School
Standards) Regulations 2014**

Interpretation

2.—(1) In these Regulations—

“16 to 19 Academy” has the same meaning as in section 1B of the Academies Act 2010(1);

“the 1989 Act” means the Children Act 1989(2);

“the 1997 Act” means the Police Act 1997(3);

“the 2002 Act” means the Education Act 2002(4);

“the 2006 Act” means the Safeguarding Vulnerable Groups Act 2006(5);

“the 2008 Act” means the Education and Skills Act 2008;

“the 2010 Act” means the Equality Act 2010(6);

“boarder” means a pupil for whom a school provides accommodation, whether or not the pupil is a pupil at that school;

“EHC plan” means a plan within the meaning of section 37(2) of the Children and Families Act 2014(7);

“employment business” has the meaning given in section 13(3) of the Employment Agencies Act 1973(8);

“enhanced criminal record certificate” means an enhanced criminal record certificate issued under section 113B(1)(9) of the 1997 Act, which includes, in such cases as are from time to time prescribed under section 113BA(1) of that Act, suitability information relating to children, and any relevant up-date information where such a certificate is subject to up-date arrangements;

“interim prohibition order” has the meaning given in section 141C(7)(10) of the 2002 Act;

“maintained school” means a community, foundation or voluntary school or a community or foundation special school(11);

“the National Minimum Standards for Accommodation of Students under Eighteen by Further Education Colleges” means the statement of national minimum standards published under that

(1) 2010 c.32. Section 1B was inserted by section 53(7) of the Education Act 2011 (“the 2011 Act”) (c.21).

(2) 1989 c.41.

(3) 1997 c.50.

(4) 2002 c.32.

(5) 2006 c.47.

(6) 2010 c.15.

(7) 2014 c.6.

(8) 1973 c.35.

(9) Section 113B was inserted into the Police Act 1997 (c. 50) by section 163(2) of the Serious Organised Crime and Police Act 2005 (c. 15). Section 113B(1) was amended by articles 36 and 37(c) of the Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), sections 97(2), 112(2) and Part 8 of Schedule 8 of the Policing and Crime Act 2009 (c.26) and section 80(1) of the Protection of Freedoms Act 2012 (c.9).

(10) Section 141C was inserted by section 8(1) of the 2011 Act.

(11) See section 20 of the School Standards and Framework Act 1998 (c.31) as to the categories of maintained school.

title in March 2002 by the Secretary of State for Health under section 87C(1) of the 1989 Act⁽¹²⁾;

“the National Minimum Standards for Boarding Schools” means the statement of national minimum standards published under that title in November 2012 by the Secretary of State for Education under section 87C(1) of the 1989 Act;

“the National Minimum Standards for Residential Special Schools” means the statement of national minimum standards published under that title in November 2012 by the Secretary of State for Education under section 87C(1) of the 1989 Act;

“prohibition order” has the meaning given in section 141B(4)⁽¹³⁾ of the 2002 Act;

“pupil” has the meaning given in section 3 of the Education Act 1996⁽¹⁴⁾;

“relevant up-date information” means up-date information within the meaning given in section 116A(8)(b)(i)⁽¹⁵⁾ or 116A(8)(c)(i) of the 1997 Act;

“school” means an independent educational institution⁽¹⁶⁾ that is an independent school, or an alternative provision Academy that is not an independent school⁽¹⁷⁾;

“staff” means any person working at the school whether under a contract of employment, under a contract for services or otherwise than under a contract, but does not include supply staff or a volunteer;

“suitability information relating to children” has the meaning given in section 113BA(2)⁽¹⁸⁾ of the 1997 Act;

“supply staff” means any person working at the school supplied by an employment business;

“up-date arrangements” has the meaning given in section 116A(3) of the 1997 Act.

- (2) For the purposes of these Regulations an “enhanced criminal record check” is made if—
- (a) an application for an enhanced criminal record certificate is made under section 113B(1) of the 1997 Act and the application is countersigned by a registered person (as defined in section 120(1) of that Act) or on behalf of that person; or
 - (b) where an enhanced criminal record certificate has been obtained under section 113B(1) of the 1997 Act and is subject to up-date arrangements, relevant up-date information is obtained.
- (3) In these Regulations, where an element of a standard is information or a document being “made available”, that element of the standard is met—
- (a) in a case where the school has an internet website, if—

⁽¹²⁾ Section 87 was amended by section 105 of the Care Standards Act 2000 (c.41). Section 87C was inserted by section 107 of that Act and amended by section 43(1) and (5) of the 2011 Act.

⁽¹³⁾ Section 141B was inserted by section 8(1) of the 2011 Act.

⁽¹⁴⁾ 1996 c.56. Section 138(1) of the Education and Skills Act 2008 (“the 2008 Act”) defines “student” in relation to an independent school as “a pupil” as defined in section 3 of the Education Act 1996. These regulations only apply to independent schools and so refer to “pupil” throughout, not “student”.

⁽¹⁵⁾ Section 116A was inserted by section 83 of the Protection of Freedoms Act 2012 and amended by articles 36 and 37(g) of the Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006).

⁽¹⁶⁾ These standards apply only to schools as defined in these Regulations. As originally enacted, section 94 of the 2008 Act applies the standards to independent educational institutions as defined in section 92(1) of that Act. An independent educational institution that is not an independent school is not currently required to register under section 95 of that Act, and so these standards do not apply to them.

⁽¹⁷⁾ “Independent school” is defined in section 463 of the Education Act 1996 (c.56), which was substituted by section 172 of the Education Act 2002. Section 463 was amended by section 82 and paragraphs 1 and 43(a) and (b) of Part 1 of Schedule 3 to the Children and Families Act 2014 and article 5(1) and paragraph 7(1) and (2) of Part 1 to Schedule 2 to the Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158). An educational institution which meets the requirements of section 1C(1) of the Academies Act 2010 is known as an “alternative provision Academy”. Section 1C was inserted by section 53(7) of the 2011 Act.

⁽¹⁸⁾ Section 113BA was inserted by paragraph 14(4) of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006 and amended by section 170(2) of the Education and Inspections Act 2006 (c.40), paragraph 12 of Schedule 1 to the 2008 Act and section 81 of the Policing and Crime Act 2009 (c.26).

- (i) the information or a copy of the document is available on the website in a form accessible to parents of pupils and parents of prospective pupils and available for inspection on the school's premises during the school day; and
 - (ii) the proprietor takes reasonable steps to ensure that parents of pupils and parents of prospective pupils are aware that the information or a copy of the document is available and the form in which it is available; and
 - (b) in a case where the school has an internet website but the information or a copy of the document is not available on the website, or where the school does not have an internet website, if—
 - (i) the proprietor takes reasonable steps to ensure that parents of pupils and parents of prospective pupils are made aware that they may request the information or a copy of the document; and
 - (ii) the information or a copy of the document is sent or given to such parents free of charge, in response to a request.
- (4) In these Regulations, where an element of a standard is information or a document being “provided” to a person, that element of the standard is met—
- (a) where the person has provided the school with a valid electronic mail address, by sending to that address—
 - (i) the information or a copy of the document in electronic form; or
 - (ii) the address for an internet website where the information or a copy of the document can be downloaded by the person,in which case the information or copy of the document must be available for inspection by the person on the school's premises during the school day; or
 - (b) by sending or giving the information or a copy of the document to the person.
- (5) For the purposes of paragraphs 18(2)(d), 19(2)(a)(i)(bb), 20(3)(b)(i), 20(5)(b)(i) and 20(6)(b)(i) of the Schedule, an enhanced criminal record check is only relevant where a person or individual is or will be engaging in—
- (a) regulated activity within the meaning of Part 1 of Schedule 4 to the 2006 Act; or
 - (b) regulated activity relating to children within the meaning of Part 1 of Schedule 4 to the 2006 Act as it had effect immediately before the coming into force of section 64 of the Protection of Freedoms Act 2012(19).