

2005 No. 1437

EDUCATION, ENGLAND

The Education (Pupil Information) (England) Regulations 2005

Made - - - - *24th May 2005*

Laid before Parliament *8th June 2005*

Coming into force - - *8th July 2005*

In exercise of the powers conferred on the Secretary of State by sections 408, 563 and 569(4) of the Education Act 1996(a), and after consulting with those persons with whom consultation appeared to her to be desirable, the Secretary of State for Education and Skills hereby makes the following Regulations—

Citation, commencement and application

1.—(1) These Regulations may be cited as the Education (Pupil Information) (England) Regulations 2005 and shall come into force on 8 July 2005.

(2) These Regulations apply to schools in England.

Interpretation

2. In these Regulations—

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

“the associated documents” means the documents published by the Department for Education and Skills and the Qualifications and Curriculum Authority, setting out any national curriculum levels of attainment, attainment targets and programmes of study in relation to each of the foundation subjects, which documents have effect by virtue of the orders made under section 87(3)(a) and (b) of the 2002 Act for the time being in force, for each of those subjects;

“core subjects” means English, mathematics and science;

“curricular record” means a formal record of a pupil’s academic achievements, his other skills and abilities and his progress in school;

“Departmental number” means a reference number unique to each establishment and allocated by use of a formula determined by the Department for Education and Skills;

“external marking agency” means a body nominated by the Qualifications and Curriculum Authority (or by any successor body to that Authority) and approved by the Secretary of State to mark NC tests;

(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 the Education Act 1997 (c. 44), Schedule 7, paragraph 30, the School Standards and Framework Act 1998 (c. 31), Schedule 30, paragraphs 57 and 106, the Learning and Skills Act 2000 (c.21), Schedule 9, paragraph 57 and the Education Act 2002 (c. 32), Schedule 21, paragraph 46.

(b) 2002 c. 32.

“foundation subjects” means art and design, citizenship, design and technology, geography, history, information and communication technology, a modern foreign language, music, physical education and the core subjects;

“key stage” or references to a particular key stage shall be construed in accordance with section 82 of the 2002 Act;

“maintained school” means a community, foundation or voluntary school or a community or foundation special school other than such a school which is established in a hospital;

“NC attainment targets” means the National Curriculum attainment targets described in the associated documents;

“NC levels of attainment” means the National Curriculum levels of attainment described in the associated documents;

“NC tasks” means the National Curriculum standard tasks administered to pupils pursuant to the statutory arrangements(a);

“NC tests” means the National Curriculum tests administered to pupils pursuant to the statutory arrangements(b);

“NC test tiers” means the National Curriculum test tiers described in the associated documents;

“personal education plan” means the plan referred to in section 5.16 to 5.26 of the guidance entitled “Guidance on the Education of Children and Young People in Public Care(c), which a local authority must ensure is provided for every child and young person in their care;

“responsible person” means—

- (a) the head teacher of an independent school;
- (b) the governing body of any other school; or
- (c) the person responsible for the conduct of any further education institution or higher education institution or other place of education or training to which a pupil transfers or may transfer;

“the statutory arrangements” means the assessment arrangements specified by orders made under section 87(3)(c) of the 2002 Act;

“teacher assessment” means assessment of a pupil’s NC level of attainment in a subject by the pupil’s teacher, as specified in the statutory arrangements(d);

“unauthorised absence” means any absence from the school for which leave has not been granted by a person authorised in that behalf by the governing body of the school;

“unique pupil number” means a combination of numbers which, together with a letter or letters, are allocated to a pupil by use of a formula determined by the Department for Education and Skills and are particular to that pupil.

Meaning of educational record

3.—(1) Subject to paragraph (4), in these Regulations “educational record” means any record of information which—

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- (a) The statutory arrangements referred to are specified in the Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004 (S.I. 2004/2783).
 - (b) The statutory arrangements referred to are specified in the Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003 (S.I. 2003/1038) and the Education (National Curriculum) (Key Stage 3 Assessment Arrangements) (England) Order 2003 (S.I. 2003/1039).
 - (c) These parts of the Guidance have statutory force by virtue of having been issued under section 7 of the Local Authority Social Services Act 1970 (1970 c.42) (Paragraph 2.1(i) of Local Authority Circular (2000)13 refers).
 - (d) The statutory arrangements referred to are specified in the Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004 (S.I. 2004/2783), the Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003 (S.I. 2003/1038) and the Education (National Curriculum) (Key Stage 3 Assessment Arrangements) (England) Order 2003 (S.I. 2003/1039).

- (a) is processed by or on behalf of the governing body of, or a teacher at, any school specified in paragraph (2);
- (b) relates to any person who is or has been a pupil at any such school; and
- (c) originated from or was supplied by or on behalf of any of the persons specified in paragraph (3),

other than information which is processed by a teacher solely for the teacher's own use.

- (2) The schools referred to in paragraph (1)(a) are—
 - (a) any school maintained by a local education authority; and
 - (b) any special school which is not so maintained.
- (3) The persons referred to in paragraph (1)(c) are—
 - (a) any employee of the local education authority which maintains the school or former school attended by the pupil to whom the record relates;
 - (b) in the case of—
 - (i) a voluntary aided, foundation or foundation special school; or
 - (ii) a special school which is not maintained by a local education authority, any teacher or other employee at the school or at the pupil's former school (including any educational psychologist engaged by the governing body under a contract for services);
 - (c) the pupil to whom the record relates; and
 - (d) a parent of that pupil.
- (4) In addition to the information referred to in paragraph (1), an educational record includes—
 - (a) any statement of special educational needs; and
 - (b) any personal education plan,

relating to the pupil concerned.

(5) For the purposes of this regulation, "processed" shall be construed in accordance with the definition of "processing" in section 1(1) of the Data Protection Act 1998(a).

Duty to keep curricular records

4. The governing body of every school maintained by a local education authority (other than a nursery school), and of every special school not so maintained, shall keep a curricular record, updated at least once every school year, in respect of every registered pupil at the school.

Disclosure of curricular and educational records

5.—(1) This regulation applies to the governing body of any school maintained by a local education authority (other than a nursery school) and any special school not so maintained.

(2) Subject to paragraph (4), the governing body shall make a pupil's educational record available for inspection by the parent, free of charge, within fifteen school days of receipt of the parent's written request for access to that record.

(3) Subject to paragraph (4), the governing body shall provide a copy of a pupil's educational record to the parent, on payment of such fee (not exceeding the cost of supply), if any, as the governing body may prescribe, within fifteen school days of receipt of the parent's written request for a copy of that record.

(4) When complying with a request under paragraph (2) or paragraph (3), a governing body shall not make available for inspection or provide a copy of any information—

(a) 1998 c.29.

- (a) which they could not lawfully disclose to the pupil himself under the Data Protection Act 1998; or
- (b) in relation to which the pupil himself would have no right of access under that Act by virtue of any order made under section 30(2) or section 38(1) of the Act.

(5) Subject to paragraph (6), where the pupil is under consideration for admission to another school (including an independent school) or to a further education institution or higher education institution, the governing body shall transfer the pupil's curricular record to the responsible person, free of charge, within fifteen school days of receipt of the responsible person's written request for that record.

(6) The record supplied under paragraph (5) shall not include the results of any assessment of the pupil's achievements.

Head teacher's annual report to parents and adult pupils

6.—(1) This regulation applies to the head teacher of any school maintained by a local education authority.

(2) Subject to paragraphs (3) and (6), prior to the end of the summer term of every school year, the head teacher shall—

- (a) prepare a head teacher's report in respect of every registered pupil at the school, containing the information referred to in paragraph (4);
- (b) provide a copy of each such report to the person specified in paragraph (6)(a) or (b), as the case may be, free of charge; and
- (c) make arrangements to enable the recipient of the report to discuss its content with the pupil's teacher, if he so wishes.

(3) Paragraph (2) does not apply in relation to any pupil who is to be provided with a school leaver's report pursuant to regulation 8.

(4) Subject to paragraph (5), the head teacher's report shall include the information specified in Schedule 1.

(5) Where the head teacher has asked the external marking agency to review the result of any NC test taken by the pupil but still awaits the outcome of that review, he shall include the original result of the test in his report but indicate that it is provisional.

(6) The head teacher may provide the information referred to in paragraph (4) in the form of more than one report, provided that, subject to regulation 7, all such information is provided before the end of the summer term.

(7) The persons referred to in paragraph (2)(b) are—

- (a) in the case of any pupil who is aged 18 or over at the time the head teacher's report is due to be provided and who is not proposing to leave school by the end of the school year to which the report relates, the pupil himself and, if the head teacher considers there to be special circumstances which make it appropriate, the parent of that pupil;
- (b) in any other case, the parent of the pupil to whom the report relates.

(8) The period to which a head teacher's report relates shall begin with the later of—

- (a) the pupil's date of admission to the school; or
- (b) the day after the date on which the last report was made pursuant to this regulation (or, as the case may be, made available pursuant to regulation 6 of the regulations revoked by these Regulations).

Late receipt of information

7.—(1) Where any of the particulars necessary to provide the information referred to in regulation 6 and specified in paragraph (2) are not received by the head teacher until after the end of the summer term, he shall send such information within fifteen school days of receiving it.

- (2) The information referred to in paragraph (1) is—
- (a) the results of any public examinations taken;
 - (b) details of any vocational qualifications or credits toward any such qualifications gained;
 - (c) the results of any NC tests taken by the pupil; and
 - (d) the results of any reviews by the external marking agency of any NC tests taken by the pupil.

Head teacher's report to school leavers

8.—(1) The head teacher of every maintained school shall prepare a school leaver's report in respect of any pupil who has ceased to be of compulsory school age and is proposing to or has left the school, containing brief particulars of the pupil's progress and achievements in subjects and activities forming part of the school curriculum (other than in relation to any public examination or vocational qualification) in the school year during or at the end of which the pupil proposes to or has left school.

(2) The head teacher shall provide a copy of the school leaver's report to the pupil concerned by no later than 30th September following the end of the school year during or at the end of which the pupil left the school.

Transfer of information when a pupil changes school

9.—(1) In this regulation "common transfer file" means a record of the information set out in Schedule 2.

(2) Where this regulation requires information to be transferred in machine readable form, that requirement may be met by transferring the information—

- (a) subject to paragraph (11), by an e-mail attachment;
- (b) through an intranet provided for that purpose by or on behalf of a local authority, and for the purposes of this regulation an intranet means a closed network that can only be accessed—
 - (i) by the local education authority,
 - (ii) by or on behalf of a governing body of a school within the area of that authority; or
 - (iii) by a teacher at a school within the area of that authority; or
- (c) through an internet website or other facility provided for that purpose by or on behalf of the Department for Education and Skills.

(3) Subject to paragraphs (6), (7) and (8), when a pupil ceases to be registered at a maintained school (the "old school") and becomes a registered pupil at another school (the "new school"), the governing body of the old school or, where this has been agreed between that governing body and the local education authority, that authority shall transfer the pupil's common transfer file and educational record to the responsible person of the new school no later than fifteen school days after the day on which the pupil ceases to be registered at the old school.

(4) The common transfer file shall be transferred in machine readable form, except where either the old school or the new school does not have the necessary facilities to send or receive such information in that form.

(5) The educational record may be transferred in machine readable form or in paper form or in a combination of both forms.

(6) Paragraph (3) shall not apply where it is not reasonably practicable for the governing body of the old school to ascertain the pupil's new school.

(7) The reference to "new school" in paragraph (3) shall include any school in Wales, Scotland or Northern Ireland with effect from 3 October 2005.

(8) Where a pupil has been registered at a maintained school for less than four weeks, it shall be sufficient compliance for the purposes of paragraph (3) if the governing body of that school or,

where applicable, the local education authority transfers such information and record as they have received under this regulation from the school at which the pupil was previously registered in the form in which it was received by them.

(9) For the purposes of paragraph (8), the reference in paragraph (3) to “fifteen school days” shall be a reference to the number of days after the day on which the pupil ceases to be registered at the school in question or to the number of days after the information and record have been received by the governing body of that school, whichever is the later.

(10) If the governing body of a pupil’s old school receives a request from the responsible person of the school at which the pupil is currently a registered pupil, either for the pupil’s common transfer file or for any educational record relating to that pupil in the old school’s possession, they shall provide it within fifteen school days of receiving the request.

(11) Notwithstanding paragraph (2)(a), information may only be sent by an e-mail attachment up to and including 30 September 2005.

10. The following Regulations are hereby revoked—

- (a) The Education (Pupil Information) (England) Regulations 2000(**a**);
- (b) The Education (Pupil Information) (England) (Amendment) Regulations 2001(**b**);
- (c) The Education (Pupil Information) (England) (Amendment) Regulations 2002(**c**); and
- (d) The Education (Pupil Information) (England) (Amendment) Regulations 2003(**d**).

24th May 2005

Jacqui Smith
Minister of State
Department for Education and Skills

(a) S.I. 2000/297.
(b) S.I. 2001/1212.
(c) S.I. 2002/1680.
(d) S.I. 2003/1006.

SCHEDULE 1

Regulation 6(4)

Information to be included in the head teacher's annual report

1. Except where otherwise specified, the following information must be included in the annual report of every pupil—

- (a) brief particulars of achievements in all subjects and activities forming part of the school curriculum;
- (b) comments on general progress;
- (c) arrangements for discussing the report with the pupil's teacher;
- (d) attendance record, except where the pupil is in—
 - (i) the reception year; or
 - (ii) year 12 or 13 and is no longer of compulsory school age;
- (e) the results of any public examinations taken, by subject and grade;
- (f) details of any vocational qualifications or credits towards any such qualifications gained; and
- (g) the results of any NC tests taken during that year, by level.

2. The following information must be included in the report of every pupil at the end of each of the key stages specified—

- (a) at the end of the first, second and third key stages—
 - (i) a brief commentary;
 - (ii) the results of the teacher assessment of his NC levels of attainment, excluding English at the first key stage and citizenship;
 - (iii) particulars of any NC attainment targets or subjects from which the pupil is exempt;
 - (iv) comparative information about the NC levels of attainment of pupils of the same age in the school; and
 - (v) comparative information about the NC levels of attainment in the core subjects of pupils of the same age nationally;
- (b) at the end of the first key stage—
 - (i) a statement that the teacher assessment of his NC levels of attainment takes into account the results of any NC tasks and NC tests taken in accordance with the statutory arrangements; and
 - (ii) if applicable, a statement explaining why any NC tasks or NC tests have not been taken or why the teacher assessment has been disapplied;
- (c) at the end of the first and second key stages, the results of the teacher assessment of his NC attainment targets in English; and
- (d) at the end of the second and third key stages—
 - (i) the results of the NC tests taken, by level; and
 - (ii) a statement that the NC levels of attainment have been arrived at in accordance with the statutory arrangements.

3. In this Schedule—

“attendance record” means a summary of the pupil's attendance during the period to which the information relates, showing the total number of possible attendances and the total number of unauthorised absences expressed as a percentage of the possible attendances;

“brief commentary” means a brief account of what the teacher assessments (and, in relation to the second and third key stages, the pupil’s NC tests results) show about the pupil’s progress individually, and in relation to other pupils in the same year, which draws attention to any particular strengths and weaknesses of the pupil;

“comparative information”, in relation to pupils of the same age nationally, means the information provided by the Department for Education and Skills about the NC levels of attainment in the core subjects of all registered pupils at schools in England in the final year of the relevant key stage for the preceding school year.

SCHEDULE 2

Regulation 9(1)

Information forming part of the common transfer file

1. The pupil's—
 - (a) unique pupil number;
 - (b) surname and where known, former surname;
 - (c) forename(s);
 - (d) date of birth;
 - (e) gender;
 - (f) ethnic group; and
 - (g) first language.
2. Where the pupil has special educational needs, the type of special educational provision that is being made for him (“School Action”, “School Action Plus” or “Statement”).
3. The following information in relation to the school year in which the pupil transferred—
 - (a) the total number of sessions in the school year;
 - (b) the total number of sessions in that school year attended by the pupil; and
 - (c) the total number of the pupil's unauthorised absences in that school year.
4. The Departmental number and name of the old school.
5. The Departmental number and name of the new school.
- 6.—(1) The pupil's cumulative achievements in education, as follows—
 - (a) the results of the teacher assessment of the pupil's NC levels of attainment at the end of any key stage completed, excluding any such assessment in English at the end of the first key stage;
 - (b) the results of the teacher assessment of his NC attainment targets;
 - (c) where the pupil has not completed any key stage or is between key stages when he transfers school, the most recent assessment by the teacher of his NC levels of attainment, where any such assessments have been made;
 - (d) subject to sub-paragraph (2), the results of the NC tasks and NC tests taken by the pupil at the end of any key stage completed, by level and score;
 - (e) the age-standardised scores, derived from tables produced by the Qualifications and Curriculum Authority, where these have been applied;
 - (f) the NC test tiers, where appropriate;
 - (g) the results of any public examinations taken, by subject and grade;
 - (h) details of any vocational qualifications or credits towards any such qualifications gained.

(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 in the school year 2004/5 and thereafter.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and re-enact with modifications the Education (Pupil Information) (England) Regulations 2000.

They make provision for the keeping of records about the academic achievements, the skills and abilities and the progress of pupils at schools maintained by local education authorities (other than nursery schools) and special schools not so maintained (*regulation 4*).

They make provision for the disclosure of educational records by the governing bodies of schools maintained by local education authorities (other than nursery schools) and special schools not so maintained (*regulation 5*).

They require the provision of information by governing bodies and head teachers of community, foundation or voluntary schools and community or foundation special schools other than such schools established in hospitals (“maintained schools”), primarily about the educational achievements of their pupils (*regulations 6, 7 and 8*).

They make provision for the transfer of information (“the common transfer file”) when a pupil moves from a maintained school to another school (whether or not a maintained school) (*regulation 9*).

The principal substantive changes in these Regulations are—

- (a) the definition of “educational record” is revised to include the pupil’s personal education plan and any statement of special educational needs prepared by a local education authority which does not maintain the school attended or previously attended by the pupil (*regulation 3*);
- (b) certain duties previously imposed on head teachers are transferred to governing bodies (*regulations 4, 5 and 9*);
- (c) the disclosure of information contained in educational records, which could not be disclosed to the pupil himself under the Data Protection Act 1998 or in relation to which the pupil would have no right of access by virtue of any order made under section 38(1) of the Act, is prohibited (*regulation 5(4)*);
- (d) the results of NC tasks and NC tests taken by pupils at the end of the first key stage in the school year 2004/2005 and thereafter are no longer required to be reported to parents in pupil reports or transferred to other schools in the common transfer file (*regulations 6 and 9*);
- (e) where pupils transfer to new schools in Scotland, Wales or Northern Ireland, the old schools will be required to transfer their records to those schools (*regulation 9*).

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