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STATUTORY INSTRUMENTS

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**2021 No. 59**

The School and Early Years Finance  
(England) Regulations 2021

PART 2

Action to be Taken by a Local Authority

CHAPTER 1

Determination of the Non-Schools Education Budget, Schools  
Budget, Individual Schools Budget, and Budget Shares

**Determination of allocation of budget shares etc. for the funding period**

11.—(1) Except as provided for in paragraphs (2), (4) and (9), not later than 28th February 2021, a local authority must determine the budget share for each school which it maintains, using the formula referred to in regulation 10(1) in accordance with Part 3 of these Regulations.

(2) Paragraph (1) does not apply to any determination of amounts to be included in budget shares under regulation 26 (sixth form funding) and in relation to such determination the local authority must make the determination and notify the school to which the determination relates within a reasonable period after the notification given by the Secretary of State under regulation 26(1).

(3) When making the determination under paragraph (1) the local authority must identify within each budget share an amount calculated by reference to the requirements, factors and criteria specified in Part 3 which are relevant to pupils with special educational needs; such amount must be calculated using a sum of £6,000 as the threshold below which the school will be expected to meet the additional costs of pupils with special educational needs from its budget share.

(4) Not later than 28th February 2021, a local authority must determine the budget share for each of the special schools and pupil referral units maintained by it in accordance with Part 3 of these Regulations.

(5) After the local authority has made a determination under paragraph (1) but before giving notice under paragraph (10), the authority may apply to its schools forum under regulation 12(1), or to the Secretary of State under regulation 12(2), for authorisation to redetermine schools' budget shares by removing any of the expenditure referred to in Part 6 (Items That May Be Removed From Maintained Schools' Budget Shares – Primary and Secondary Schools) of Schedule 2 from the budget shares of—

- (a) all primary schools other than nursery schools;
- (b) all secondary schools; or
- (c) all primary schools other than nursery schools, and all secondary schools,

where the expenditure is instead to be treated as if it were part of central expenditure.

(6) After the local authority has made a determination under paragraph (1) or (4) but before giving notice under paragraph (10), the authority may apply to its schools forum under regulation 12(1), or to the Secretary of State under regulation 12(2), for authorisation to redetermine schools' budget

shares by removing any of the expenditure referred to in Part 7 (Items That May Be Removed From Maintained Schools' Budget Shares – Primary, Secondary, and Special Schools, and Pupil Referral Units) of Schedule 2 from the budget shares of the schools specified in paragraph (7), where the expenditure is instead to be treated as if it were part of central expenditure.

(7) For the purposes of paragraph (6), the specified schools are all primary schools other than nursery schools, all secondary schools, and all special schools and pupil referral units.

(8) Where the local authority makes an application under paragraph (6), the amount by which the budget share is to be redetermined must be set out—

- (a) in the case of a maintained school which is not a special school, on an amount per pupil basis;
- (b) in the case of a maintained school which is a special school, or a pupil referral unit, on an amount per place basis.

(9) Not later than 31st March 2021, a local authority must determine—

- (a) the budget share for each of the nursery schools maintained by it;
- (b) the amount to be allocated in respect of each nursery class in schools maintained by it;
- (c) the amount to be allocated to each relevant early years provider in its area; and
- (d) the amount to be allocated in respect of community early years provision,

using the formula referred to in regulation 10(3) in accordance with Part 3 of these Regulations.

(10) Not later than 31st March 2021, a local authority must give notice of—

- (a) each budget share or amount determined under paragraphs (1), (4) and (9); or
- (b) the redetermined budget share, when the budget share has been redetermined under paragraph (5) or (6),

to the governing body of the school or the relevant early years provider concerned.

(11) Save as provided in this regulation and in regulations 16 (special arrangements for pupils in maintained nursery schools and nursery classes and children receiving relevant early years provision), 19 (Risk Protection Arrangement), 20 (differential funding), 26 (sixth form funding), 27 (new schools, merged schools and closing schools), 28 (federated schools), 29 (excluded pupils), 30 (correction of errors and non-domestic rates) and 31 (alternative arrangements), the authority must not redetermine a school's budget share or the amount allocated to a relevant early years provider.