
STATUTORY INSTRUMENTS

2021 No. 59

The School and Early Years Finance
(England) Regulations 2021

PART 3

Determination of Budget Shares etc.

CHAPTER 1

Requirements, and Factors and Criteria Taken into Account

10 per cent early years discretionary funding cap

25.—(1) A local authority must ensure that the total amount of discretionary funding does not exceed 10 per cent of early years allocations.

(2) In this regulation, “discretionary funding” means funding that is attributable to—

- (a) the factors based on the incidence of social deprivation in pupils or children referred to in regulation 15(5) (social deprivation), and
- (b) the requirements, factors and criteria set out in Part 2 of Schedule 3 which by virtue of regulation 21(3) a local authority may take into account in its formula.

(3) In this regulation, early years allocations is the total amount of the following budget shares and amounts determined by the local authority under regulation 11(9)—

- (a) the budget shares for nursery schools maintained by the authority,
- (b) the amounts to be allocated in respect of nursery classes in schools maintained by it;
- (c) the amounts to be allocated to relevant early years providers in its area; and
- (d) the amounts to be allocated in respect of community early years provision in schools maintained by it.

less any of the amounts specified in paragraph (4).

(4) The following are not included in early years allocations for the purposes of this regulation—

- (a) any amounts allocated in respect of disadvantaged two-year-olds; and
- (b) the maintained nursery school supplement.