
STATUTORY INSTRUMENTS

1989 No. 1261

EDUCATION, ENGLAND AND WALES

The Education (School Records) Regulations 1989

Made - - - - - *25th July 1989*

Laid before Parliament *27th July 1989*

Coming into force

Except for regulations 6(1)(b), (1)(c), (2), (3) and (4), 7 (insofar as it relates to disclosure and amendment of records) and 8 (insofar as aforesaid)

1st September 1989

Regulations 6(1)(b), (1)(c), (2), (3) and (4), 7 (insofar as it relates to disclosure and amendment of records) and 8 (insofar as aforesaid)

1st September 1990

In exercise of the powers conferred by sections 218(1)(f), (4) and (10) and 232(6) of the Education Reform Act 1988⁽¹⁾ the Secretary of State for Education and Science, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:

Citation

1. These Regulations may be cited as the Education (School Records) Regulations 1989.

Commencement

2.—(1) Except for the regulations referred to in paragraph (2), these Regulations shall come into force on 1st September 1989.

(2) Regulations 6(1)(b) and (c), (2), (3) and (4), 7 (insofar as it relates to disclosure and amendment of records), and 8 (insofar as aforesaid) shall come into force on 1st September 1990.

Revocation

3. Regulation 13 of the Education (Schools and Further Education) Regulations 1981(2) (transfer of educational records) is hereby revoked.

Definitions

4.—(1) In these Regulations—

“child abuse” includes physical injury (other than accidental injury) to, and physical and emotional neglect, ill-treatment or sexual abuse of a child;

“entitled person”, in relation to a registered pupil at a school, means—

- (a) a parent of the pupil, where that pupil is under the age of 16 years, or
- (b) the pupil or his parent, where that pupil is aged 16 or 17 years, or
- (c) the pupil himself, where he is aged 18 years or more;

“institution of further or higher education” means any institution falling within subsection (10) of section 218 of the Education Reform Act 1988;

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

“responsible person” means—

- (a) the head teacher of an independent school, or
- (b) the governing body of any other school, or
- (c) the person responsible for the conduct of any institution of further or higher education or other place of education or training

to which a pupil transfers or may transfer;

“school day” means a day on which the school meets; and

“teacher” includes head teacher.

(2) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation is a reference to the regulation bearing that number in these Regulations and any reference in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number.

Schools to which Regulations apply

5. In these Regulations, unless the context otherwise requires, a reference to a school is to a school maintained by a local education authority, a special school (whether or not so maintained) or a grant-maintained school.

Duties of Governing Body

6.—(1) It shall be the duty of the governing body of every school to make arrangements whereunder—

- (a) in respect of every registered pupil at that school there is kept a curricular record and that record is updated at least once a year;
- (b) upon receipt of a request made in writing by an entitled person, the relevant pupil’s curricular record is disclosed free of charge to the person making the request and, on payment of such fee (not exceeding the cost of supply), if any, as the governing body may prescribe, a copy of it is supplied to him;

- (c) upon receipt of a notice given in writing by an entitled person that he regards any part of the relevant pupil's curricular record as inaccurate then—
 - (i) if the holder of the record is satisfied that the record is inaccurate, the record is amended by the removal or correction of that part which is regarded as inaccurate, or
 - (ii) if the holder of the record is not satisfied that the record is inaccurate, the notice is appended to the record and subsequently treated as forming part of it; and
- (d) in every case where the pupil ceases to be a registered pupil at that school and becomes a registered pupil at another school (including an independent school) or a student at an institution of further or higher education or any other place of education or training, that pupil's curricular record and the records referred to in paragraph (5) are transferred to the responsible person, if that person so requests in writing.

(2) Arrangements made in pursuance of paragraph (1)(b) shall secure that the request is complied with within 15 school days of its receipt or, if the request is received on a day which is not a school day, within 15 school days of the first school day following the day on which the request was received.

(3) In any case where the pupil is under consideration for admission to another school (including an independent school) or to an institution of further or higher education, the arrangements for disclosure and supply of a copy of that pupil's curricular record made in pursuance of paragraph (1) (b) shall have effect as if the responsible person were an entitled person in relation to the pupil save that he shall not be required to pay any fee in respect of the supply.

(4) In paragraph (1)(c) "inaccurate" means inaccurate or misleading as to any matter of fact.

(5) The records referred to in paragraph (1)(d) are such educational records, or parts thereof, relating to a pupil and kept before 1st September 1989 as appear to the governing body to be appropriate for transfer.

7.—(1) It shall be the duty of the governing body of every school to make arrangements whereunder—

- (a) any other educational records relating to a registered pupil (including a teacher's record) which are kept at the school in addition to the pupil's curricular record shall be as liable to disclosure or transfer to, and to a copy thereof being supplied to, and to amendment upon notice being given by, the parent or pupil or responsible person as if they formed part of the pupil's curricular record; and
- (b) a record of the arrangements made in pursuance of regulation 6 (other than regulation 6(1) (a)) and this regulation is kept and available for inspection free of charge at all reasonable times on a school day by an entitled person and on payment of such fee (not exceeding the cost of supply), if any, as the governing body may prescribe a copy of the arrangements is supplied to him.

(2) In paragraph (1) "teacher's record" means any record kept at the school by a teacher other than a record kept and intended to be kept solely for that teacher's own use.

8. The arrangements required to be made by regulations 6 and 7 shall make provision enabling the parent, pupil or responsible person (as the case may be) to appeal to the governing body of the school against any decision refusing disclosure or transfer or the supply of a copy of the whole or any part of the pupil's curricular record or of a record mentioned in regulation 7(1)(a) or any decision refusing amendment of any such record in those cases where the arrangements provide for those decisions to be taken by a teacher of the school.

Savings

9. Nothing in these Regulations shall authorise or require arrangements to be made for the disclosure of any information—

- (a) originating from or supplied by or on behalf of any person other than an employee of the local education authority which maintains the school, a teacher at the school (in the case of a voluntary aided or grant-maintained school), an education welfare officer (within the meaning of the Education (No. 2) Act 1986)⁽³⁾ or the person requesting disclosure;
- (b) to the extent that it would reveal, or enable to be deduced, the identity of a person (other than the pupil to whom that information relates or a person mentioned in sub-paragraph (a)) as the source of the information or as a person to whom that information relates; or
- (c) to the extent that disclosure would in the opinion of the holder of the information be likely to cause serious harm to the physical or mental health or emotional condition of the pupil to whom the information relates or of any other person; or
- (d) to the extent that in the opinion of the holder of the information it is relevant to the question whether the pupil to which it relates is or has been the subject of or may be at risk of child abuse.

10. Nothing in these Regulations shall require arrangements to be made for the disclosure or supply of a copy of any reference given by a teacher in respect of a registered pupil at the school in response to a request from potential employers of the pupil, from the Polytechnics Central Admissions System, the Universities Central Council on Admissions, or any other national body concerned with student admissions, from another school (including an independent school), from an institution of further or higher education or from any other place of education and training.

11. Nothing in regulation 6(1)(b) to (d) or 7 shall apply to educational records which are data for the purposes of the Data Protection Act 1984⁽⁴⁾.

12.—(1) Nothing in these Regulations shall empower or authorise the governing body of any school to make arrangements for the disclosure, supply of copies of or transfer of—

- (a) statements of special educational needs maintained under the Education Act 1981⁽⁵⁾;
- (b) information as to the results of an individual pupil’s assessment (whether under Chapter I of Part I of the Education Reform Act 1988 or otherwise), otherwise than to the pupil’s parents;
- (c) any report prepared for the purposes of proceedings to which the Magistrates’ Courts (Children and Young Persons) Rules 1988⁽⁶⁾ apply;
- (d) information as to the racial group to which a pupil belongs, the language spoken in his home, and his religious persuasion, otherwise than to an entitled person.

(2) In paragraph (1)(d) “racial group” means a group of persons defined by reference to colour, race, nationality or ethnic or national origins.

13. Nothing in these Regulations shall require arrangements to be made for the disclosure or supply of a copy of a pupil’s curricular record or a record of the kind mentioned in regulation 7(1) (a) to the extent that those records comprise records made before 1st September 1989.

⁽³⁾ 1986 c. 61; see section 50(4).

⁽⁴⁾ 1984 c. 35.

⁽⁵⁾ 1981 c. 60.

⁽⁶⁾ S.I. 1988/913, amended by S.I. 1989/384.

Translation of documents

14.—(1) This regulation applies to any document containing a record of disclosure and transfer arrangements kept in pursuance of regulation 7(1)(b).

(2) If it appears requisite to the governing body of any school in Wales that any such document should be translated into Welsh, it shall be so translated and subject to paragraph (4) these Regulations shall apply to the translated document as they apply to the original document.

(3) If it appears requisite to the governing body of any school that any such document should be translated into a language other than English or Welsh, it shall be so translated and subject to paragraph (4) these Regulations shall apply to the translated document as they apply to the original document.

(4) Where a charge is made for a copy of the original document, no greater charge shall be made for a copy of the document so translated.

24th July 1989

Kenneth Baker
Secretary of State for Education and Science

25th July 1989

Wyn Roberts
Minister of State, Welsh Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose obligations relating to the keeping, disclosure and transfer of educational records on the governing bodies of every school maintained by a local education authority, of every special school not so maintained, and of every grant-maintained school. They come into force in two stages.

From 1st September 1989 the governing body is required to make arrangements for the keeping and updating of a record of each registered pupil's academic achievements, his skills and abilities, and his progress in school (regulation 6(1)(a)).

From 1st September 1990 the arrangements should secure the disclosure and supply of copies of the record kept under regulation 6(1)(a) on request to—

- (i) where the pupil is under 16, the pupil's parents;
- (ii) where the pupil is 16 or 17, the pupil or his parents;
- (iii) where the pupil is 18 or over, the pupil himself (regulation 6(1)(b));
- (iv) any school or institution of further or higher education to which the pupil may transfer (regulation 6(3)).

A fee may be charged for the supply of copies not exceeding the cost of such supply, and the arrangements must provide an opportunity for correction of inaccurate records (regulation 6(1)(b) and (c)). A request for disclosure and supply must be dealt with within 15 school days of its receipt (regulation 6(2)).

Those governing bodies must also make arrangements to ensure that certain other educational records, if kept as part of the pupil's record, should be disclosed and a copy supplied to the parent or pupil. A copy of the arrangements made under regulations 6 and 7 must be available for inspection free of charge by any person entitled to disclosure and supply of a copy of a pupil's record (regulation 7).

The arrangements must also secure, from 1st September 1989, the transfer of those records on request to any educational establishment to which the pupil transfers (regulations 6(1)(d) and 7) and provide for appeal against certain decisions of a teacher where the governors arrange for him to take those decisions (regulation 8).

Regulations 9 and 10 exclude specified categories of information from the disclosure obligation. Regulations 11 to 13 contain savings in respect of—

- (a) educational records which are data for the purposes of the Data Protection Act 1984;
- (b) statements of special educational needs maintained under the Education Act 1981;
- (c) information about a pupil's racial group;
- (d) the results of an individual pupil's assessment;
- (e) reports for the purposes of proceedings to which the Magistrates' Courts (Children and Young Persons) Rules 1988 apply, and
- (f) records made before 1st September 1989.

The governing bodies of schools in Wales may translate into Welsh the record of transfer and disclosure arrangements kept under regulation 7(1)(b), and any governing body may translate such a document into a language other than English or Welsh (regulation 14).

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Regulation 13 of the Education (Schools and Further Education) Regulations 1981, which is concerned with the transfer of educational records, is revoked.