STATUTORY INSTRUMENTS

# 2010 No. 1156

# EDUCATION, ENGLAND

## The Education (Educational Provision for Improving Behaviour) Regulations 2010

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| *Made - - - -* | *31st March 2010* |
| *Laid before Parliament* | *7th April 2010* |
| *Coming into force - -* | *1st September 2010* |

The Secretary of State for Children, Schools and Families makes the following Regulations in exercise of the powers conferred by sections 29A and 210(7) of the Education Act 2002(**a**).

**Citation, commencement and application**

**1.** These Regulations may be cited as The Education (Educational Provision for Improving Behaviour) Regulations 2010 and come into force on 1st September 2010.

**Interpretation**

**2.** In these Regulations—

"the 2002 Act" means the Education Act 2002;

"provider" means the person making educational provision intended to improve the behaviour of a pupil;

"pupil" means a registered pupil;

"the relevant day" means the first school day on which a pupil is required under section 29A(1) of the 2002 Act to attend at a place outside the school premises for the purpose of receiving educational provision intended to improve the behaviour of the pupil;

"relevant person" means—

(a) in relation to a pupil under the age of 18, a parent of the pupil,

(b) in relation to a pupil who has attained that age, the pupil;

"review meeting" means a meeting held for the purpose of keeping under review a requirement imposed upon a pupil under section 29A(1) of the 2002 Act.

**Requirements relating and other matters relating to the imposition of a requirement upon a pupil under section 29A(1) of the 2002 Act**

**3.**—(1) Where a governing body determine that they will impose a requirement on a pupil under section 29A(1) of the 2002 Act, they must give the persons prescribed in paragraph (3) a notice in

(**a**) 2002 c. 32. Section 29A was inserted by the section 154 of the Education and Skills Act 2008 (c. 25). For the meaning of "prescribed" and "regulations", see (by virtue of section 212(2) and 212(3) of the 2002 Act) section 579(1) of the Education Act 1996 (c.56).

writing of the imposition of the requirement containing the information prescribed in paragraph (4).

(2) The notice must be given as soon as practicable after the determination has been made and not less than two school days before the relevant day.

(3) The prescribed persons are—

(a) the relevant person; and

(b) where the pupil has a statement of special educational needs, the local authority maintaining the statement.

(4) The prescribed information is—

(a) the address at which the educational provision is to be provided for the pupil;

(b) particulars identifying the person to whom the pupil should report on first attending that address for the purposes of receiving the educational provision;

(c) the number of days for which the requirement is to be imposed;

(d) the reasons for, and objectives of, imposing the requirement; and

(e) in relation to the educational provision—

(i) where two sessions per day are provided, the times at which the morning session commences, the afternoon session ends and the break between them commences and ends, or

(ii) where a single session per day is provided, the times at which the session commences and ends.

(5) A requirement imposed on a pupil under section 29A(1) of the 2002 Act may have effect until the end of the last school day of the school year in which the relevant day falls.

**Requirement to keep under review the imposition of a requirement upon a pupil under section 29A(1) of the 2002 Act**

**4.** (1) Where a governing body have imposed a requirement upon a pupil under section 29A(1) of the 2002 Act, they must keep under review the imposition of any such requirement by—

(a) holding a review meeting in accordance with the requirements in regulation 6—

(i) not later than thirty days after the relevant day,

(ii) not later than thirty days after the date of the first review meeting, and

(iii) not later than thirty days after the date of each subsequent review meeting

for as long as the requirement remains in effect; and

(b) making a decision following each review meeting as to whether the requirement should continue to have effect and, if so, for what further period of time.

(2) In making a decision under paragraph 1(b), the governing body must take into account the views of any persons referred to in regulation 5(1) who have attended the review meeting or have submitted their views in writing.

**Conduct of review meetings**

**5.**—(1) Not later than six days before the date of any review meeting, a governing body must give a written invitation to the following persons requesting them to attend the review meeting, or to submit in writing before the date of the meeting their views as to whether a requirement imposed upon a pupil under section 29A(1) of the 2002 should continue to have effect—

(a) the relevant person;

(b) the provider;

(c) the head teacher of the school;

(d) a representative of the governing body; and

(e) where the pupil has a statement of special educational needs, a representative of the local authority maintaining the statement.

(2) The governing body must ensure, insofar as is practicable, that any review meeting is convened on a date, and at a time, that is suitable for the relevant person.

(3) For the purposes of this regulation, a representative of the governing body may be any member of the governing body who is not—

(a) the head teacher of the school in question or any person who has held that position within the previous five years;

(b) any person employed by the local authority which maintains the school; or

(c) any person who has, or at any time has had, any connection with the pupil in question of a kind which might reasonably be taken to raise doubts about their ability to act impartially.

**Notification of the outcome of a review**

**6.** A governing body must give written notification of their decision under regulation 4(b), and the reasons for it, to—

(a) the relevant person;

(b) the provider; and

(c) where the pupil has a statement of special educational needs, the local authority maintaining the statement

not later than six days after the date of the review meeting.

**Notices, invitations and notifications**

**7.** Any notice, invitation or notification referred to in these Regulations must be given by post.

**Guidance**

**8.** A governing body exercising functions under section 29A(1) of the 2002 Act, or under these Regulations, must have regard to any guidance given from time to time by the Secretary of State.

*Vernon Coaker*
Minister of State
31st March 2010 Department for Children, Schools and Families

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

The Education (Educational Provision for Improving Behaviour) Regulations 2010 apply to governing bodies of maintained schools in England. They impose requirements relating to the exercise of governing bodies' powers under section 29A(1) of the Education Act 2002 to require a pupil to attend provision away from the school premises for the purpose of receiving education to improve the pupil's behaviour ('off-site provision').

Regulation 3 provides that a governing body imposing a requirement that a pupil attend off-site provision must give written notice of the requirement to the relevant person, and, where the pupil has a statement of special educational needs, to the local authority maintaining the statement. The relevant person will be the pupil's parent (where the pupil is under 18) or the pupil. The regulation imposes a time limit within which the notice must be given; sets out the information that the notice

must contain; and provides that the requirement may have effect until the end of the school year in which it is imposed.

Regulation 4 provides that a governing body must keep under review the imposition of a requirement for a pupil to attend off-site provision by holding review meetings at least every 30 days for as long as the requirement remains in effect. Following each review meeting, the governing body must decide whether they should continue to require the pupil to attend off-site provision and, if so, for how long. In making this decision, they must take into account the views of the persons listed in regulation 5(1) who have attended the review meeting or expressed views in writing.

Regulation 5 sets out the persons who must be invited to attend review meetings. Those persons may also submit their views in writing as to whether the pupil concerned should continue to be required to attend off-site provision. The governing body must try to convene meetings at a time and date when the relevant person can attend.

Regulation 6 provides that the governing body must give written notice of the outcome of any review meeting to the relevant person, the provider and, where the pupil has a statement of special educational needs, to the local authority maintaining the statement, within six days of the meeting.

Regulation 7 provides that notices, invitations and notifications under these Regulations must be given by post. This means that service is deemed effective by properly addressing, pre-paying and posting a letter containing the document and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post**(a)**.

Regulation 8 creates an obligation upon governing bodies to have regard to guidance from the Secretary of State when exercising functions under section 29A(1) of the Education Act 2002 or under these Regulations.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available at the Better Regulations Impact Assessment Library http://www.ialibrary.berr.gov.uk/ and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

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(**a**) See section 7 of the Interpretation Act 1978 (c.30).

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