1990 No. 287

EDUCATION

Education (Pupil Records) Regulations (Northern Ireland) 1990

Made	*30th July 1990*
Coming into operation—	
Except for regulations 5(1)(b), (1)(c), (2), (3) and (4), 6 (insofar as it relates to disclosure and amendment of records) and 7 (insofar as aforesaid)	*1st September 1990*
Regulations 5(1)(b), (1)(c), (2), (3) and (4), 6 (insofar as it relates to disclosure and amendment of records) and 7 (insofar as aforesaid)	*1st September 1991*

The Department of Education, in exercise of the powers conferred on it by Articles 17A and 134(1) of the Education and Libraries (Northern Ireland) Order 1986(**a**), and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation

1. These Regulations may be cited as the Education (Pupil Records) Regulations (Northern Ireland) 1990.

Commencement

2.—(1) Except for the regulations referred to in paragraph (2), these Regulations shall come into operation on 1st September 1990.

(2) Regulations 5(1)(*b*) and (*c*), (2), (3) and (4), 6 (insofar as it relates to disclosure and amendment of records) and 7 (insofar as aforesaid) shall come into operation on 1st September 1991.

Interpretation

3.—(1) In these Regulations—

"assessment" includes an examination or a test;

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

(a) S.I. 1986/594 (N.I. 3); Article 17A was inserted by Article 5 of S.I. 1987/167 (N.I. 2) and amended by S.I. 1989/2406 (N.I. 20) Articles 32, 166 and Schedule 9

"curricular record" means a formal record of a pupil's academic achievements, his other skills and abilities and his educational progress;

"entitled person" means—

(*a*) in relation to a pupil in a primary school or a nursery school, a parent of the pupil;

(*b*) in relation to a pupil in a secondary school, the pupil himself or his parent;

(*c*) in relation to a pupil in a special school who is aged under 11, a parent of the pupil;

(*d*) in relation to a pupil in a special school who is aged 11 or over, the pupil himself or his parent;

"key stage" in relation to a pupil has the meaning given by Article 5(6) of the 1989 Order(**a**);

"responsible person" means—

(*a*) the principal or proprietor of an independent school, or

(*b*) the principal or the Board of Governors of any other school to which a pupil transfers or may transfer;

"school" means, subject to regulation 4, a grant-aided school;

"school day" means a day on which the school is open for teaching purposes; and

"teacher" includes the principal.

(2) In these Regulations any reference to the Board of Governors of a school includes, in relation to a voluntary school referred to in Article 11(8) of the Education and Libraries (Northern Ireland) Order 1986, a reference to the person approved in relation to that school by the Department under the said Article 11(8).

(3) In their application to a technical secondary school conducted in association with an institution of further education, these Regulations shall have effect as if—

(*a*) references to the Board of Governors of a school included references to the governing body of the institution;

(*b*) references to the principal of a school included references to the principal of the institution.

Application

4.—(1) Subject to paragraph (2), these Regulations apply to all grant-aided schools.

(2) Regulation 5 shall not apply to nursery schools, or in respect of pupils in primary schools or special schools who have not attained the lower limit of compulsory school age.

(a) The Education Reform (Northern Ireland) Order 1989 (S.I. 1989 No. 2406 (N.I. 20))

Duties of Boards of Governors

5.—(1) Subject to regulation 4(2) it shall be the duty of the Board of Governors of every school to make arrangements whereunder—

(*a*) in respect of every 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 Board of Governors may determine, 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 a pupil ceases to be a pupil at that school and becomes a pupil at another school (including an independent school), 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 a pupil at a school is under consideration for admission to another school (including an independent school), 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 1990 as appear to the Board of Governors to be appropriate for transfer.

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

(*a*) any other educational records relating to a 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, the parent of the pupil, the pupil himself where he is aged 16 or more, or the responsible person, and to

amendment upon notice being given by the pupil where he is aged 16 or more or his parent, as if they formed part of the pupil's curricular record; and

(*b*) a statement of the arrangements made in pursuance of regulation 5 (other than regulation 5(1)(*a*)) and this regulation is kept and available for inspection free of charge at all reasonable times by an entitled person or a responsible person.

(2) The duties under paragraph (1)(*a*) of a Board of Governors of a school shall extend to any educational records kept in respect of—

(*a*) pupils at a nursery school; and

(*b*) pupils at a primary school or a special school who have not attained the lower limit of compulsory school age,

notwithstanding that a curricular record is not held in respect of such pupils.

(3) 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.

7. The arrangements required to be made by regulation 5 and 6 shall make provision enabling the parent, pupil or responsible person (as the case may be) to appeal to the Board of Governors 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 6(1)(*a*) or (2), 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 at the school.

Savings

8. 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 a teacher at any school which the pupil to whom that information relates is attending or has attended, an employee of a board other than such a teacher, the pupil himself, or his parent; or

(*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 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.

9. 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 pupil 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 of the United Kingdom or the Republic of Ireland concerned with student admissions, from another school (including an independent school), from an institution of further education, from a college of education or from any other educational or training institution.

10. Nothing in regulation 5(1)(*b*) to (*d*) or 6 shall apply to educational records which are data for the purposes of the Data Protection Act 1984(**a**).

11. Nothing in these Regulations shall empower or authorise the Board of Governors of any school to make arrangements for the disclosure, supply of copies of or transfer of—

(*a*) statements of special educational needs maintained under Article 31(1) of the Education and Libraries (Northern Ireland) Order 1986;

(*b*) any report prepared for the purposes of proceedings to which the Magistrates' Courts (Children and Young Persons) Rules (Northern Ireland) 1969(**b**) apply;

(*c*) information as to the name, address or occupation of a pupil's parent or as to the religious denomination to which a pupil belongs, otherwise than to an entitled person.

12.—(1) Nothing in these Regulations shall require arrangements to be made whereby information as to the results of an individual pupil's assessment (whether under Part III of the 1989 Order or otherwise) is made available to any persons or bodies other than—

(*a*) the pupil concerned and his parents; or

(*b*) the Board of Governors of any school to which that pupil applies for admission,

and these Regulations shall not require arrangements to be made for such information to be made available to the body mentioned in sub-paragraph (*b*) except—

(i) in the case of information to which paragraph (2) applies, where the Department so directs;

(ii) in any other case, where necessary for the purposes of the performance by that body of any functions under the Education Orders.

(2) This paragraph applies to information as to the results of—

(*a*) any assessment of a pupil at a special school; or

(*b*) any assessment of a pupil in any subject at or near the end of a key stage, if at any time during that key stage any provision has been made under Article 14, 15, 16 or 17 of the 1989 Order in relation to that

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(**a**) 1984 c. 35

(**b**) S.R. & O. (N.I.) 1969 No. 221 as amended by S.R. & O. (N.I.) 1971 No. 179, S.R. & O. (N.I.) 1973 No. 346 and S.R. 1977 No. 172

pupil excluding or modifying the application of Article 5, 6 or 8 of the 1989 Order in relation to that subject.

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 6(1)(*a*) or (2) to the extent that those records comprise records made before 1st September 1990.

Translation of documents

14.—(1) This regulation applies to any document containing a statement of disclosure and transfer arrangements kept in pursuance of regulation 6(1)(*b*).

(2) If it appears requisite to the Board of Governors of any school that any such document should be translated into a language other than English, it shall be so translated and these Regulations shall apply to the translated document as they apply to the original document.

Sealed with the Official Seal of the Department of Education on 30th July 1990.

(L.S.) *S. Peover*

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations impose on the Boards of Governors (as that term is extended by regulation 3(2) and (3)) of all grant-aided schools with the exceptions specified below obligations relating to the keeping, disclosure and transfer of pupil records. They come into force in 2 stages.

From 1st September 1990 the Board of Governors is required to make arrangements for the keeping and updating of a record of each pupil's academic achievements, his skills and abilities, and his educational progress (his "curricular record" — regulation 5(1)(*a*)). This requirement does not apply to nursery schools, or in respect of pupils in primary schools or special schools who have not attained the lower limit of compulsory school age.

From 1st September 1991 the Boards of Governors of all schools are required to make arrangements for the disclosure and supply of copies of the record kept under regulation 5(1)(*a*), on request, to—

(i) where the pupil is in a primary school, or is in a special school and is under age 11, the pupil's parent;

(ii) where the pupil is in a secondary school, or is in a special school and is age 11 or over, the pupil himself or his parent (regulation 5(1)(*b*));

(iii) any school in respect of which the pupil is being considered for admission (regulation 5(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 5(1)(*b*) and (*c*)). A request for disclosure and supply must be dealt with within 15 school days of its receipt (regulation 5(2)).

Boards of Governors must also make arrangements to ensure that certain other educational records, if kept as part of a pupil's record, should be disclosed on request and a copy supplied to the parent or the pupil himself where he is aged 16 or more or any school in respect of which the pupil is being considered for admission. The arrangements must also provide an opportunity for correction of these other educational records. These duties extend to any educational records kept on nursery school pupils, or on pupils in primary school who are below compulsory school age. A copy of the arrangements made under regulations 5 and 6 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 6).

The arrangements must also secure, from 1st September 1990, the transfer of those records on request to any other school to which the pupil transfers (regulations 5(1)(*d*) and 6) and they must provide for appeal against certain decisions of a teacher where the Board of Governors arranges for him to take those decisions (regulation 7).

Regulations 8 and 9 exclude specified categories of information from the disclosure obligation. Regulations 10 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 and Libraries (Northern Ireland) Order 1986;

(*c*) reports for the purposes of proceedings to which the Magistrates' Courts (Children and Young Persons) Rules (Northern Ireland) 1969 apply;

(*d*) certain information about the pupil's home circumstances and his religious denomination;

(*e*) the results of an individual pupil's assessment; and

(*f*) records made before 1st September 1990.

Boards of Governors may translate the statement of transfer and disclosure arrangements kept under regulation 6(1)(*b*) into a language other than English (regulation 14).