STATUTORY INSTRUMENTS

2026 No. 459

EDUCATION, ENGLAND

The Education (Student Support) (Amendment) Regulations 2026

Made - - - -	*24th April 2026*
Laid before Parliament	*28th April 2026*
Coming into force - -	*19th May 2026*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 22(1) and (2) and 42(6) of the Teaching and Higher Education Act 1998(**a**).

PART 1
General

Citation, commencement, extent, application and interpretation

1.—(1) These Regulations may be cited as the Education (Student Support) (Amendment) Regulations 2026.

(2) These Regulations come into force on 19th May 2026.

(3) These Regulations extend to England and Wales but apply in relation to England only.

(4) In these Regulations "the 2011 Regulations" means the Education (Student Support) Regulations 2011(**b**).

PART 2
Amendment of the Education (Student Support) Regulations 2011

Amendment of the Education (Student Support) Regulations 2011

2. The 2011 Regulations are amended in accordance with this Part.

Amendment to regulation 2 (interpretation: general)

3. In regulation 2, after the definition of "qualified teacher", insert—

(**a**) 1998 c. 30. Section 22 was amended by section 146(2)(a) of the Learning and Skills Act 2000 (c. 21) and section 88(2) of the Higher Education and Research Act 2017 (c. 29); there are other amending instruments but none is relevant. There are amendments to section 42 but none is relevant.

(**b**) S.I. 2011/1986, amended by S.I. 2014/2765, S.I. 2019/142 and S.I. 2023/74; there are other amending instruments but none is relevant.

""“qualifying franchised provider” has the meaning given in regulation 7B(13);".

Amendment to regulation 2A (meaning of "in-year qualifying event", "protected category event", "settled status event", "course designation event" etc. and related matters)

4. In regulation 2A(**a**)—

(a) in paragraphs (5) and (6)—

(i) in each sub-paragraph (b), at the beginning insert "where the course begins before 1st September 2028,"

(ii) at the end of each sub-paragraph (c), omit "or";

(iii) after each sub-paragraph (d) (but before the full stop), insert "; or

(e) where the course begins on or after 1st September 2028—

(i) the English higher education provider, on whose behalf the course is being provided, becomes a registered provider, and

(ii) the course is provided by a qualifying franchised provider (or multiple qualifying franchised providers)";

(b) in paragraph (7)—

(i) in sub-paragraph (b), at the beginning, insert "where the course begins before 1st September 2028,";

(ii) at the end of sub-paragraph (b), omit "or";

(iii) after sub-paragraph (c) (but before the full stop), insert "; or

(d) where the course begins on or after 1st September 2028—

(i) the English higher education provider, on whose behalf the course is being provided, becomes a registered provider, and

(ii) the course is provided by a qualifying franchised provider (or multiple qualifying franchised providers)".

Amendment to regulation 5 (designated courses)

5. In regulation 5(1)(d)(**b**)—

(a) in paragraph (i), omit from ", or provided" to "of a registered provider";

(b) at the end of paragraph (vii) (but before the semi-colon), insert ", except where the institution which is situated outside the United Kingdom provides that course on behalf of the registered provider in England";

(c) at the end of paragraph (viii), omit "or";

(d) after paragraph (ix), insert—

"(x) provided by a registered or unregistered provider on behalf of a registered provider in England, where the course begins before 1st September 2028; or

(xi) provided by a qualifying franchised provider (or multiple qualifying franchised providers), on behalf of a registered provider in England, where the course begins on or after 1st September 2028;".

(**a**) Regulation 2A was inserted by S.I. 2023/74. Paragraphs (5) and (6) were amended by S.I. 2023/74.
(**b**) Paragraph (1)(d) was amended by S.I. 2019/142.

Insertion of new Part 2A

6. After regulation 7, insert—

"PART 2A

DESIGNATION OF COURSES TAUGHT OR DELIVERED BY FRANCHISED PROVIDERS

Interpretation of Part 2A

7A. In this Part—

"calculation reference period" means, in respect of a course, the academic year beginning 36 months before the first day of the implementation year;

"designation period" means, in respect of a course, the academic year beginning 12 months before the first day of the implementation year;

"exempt franchised provider" means an unregistered franchised provider which is—

(a) a school, as defined by section 4 of the Education Act 1996(**a**);

(b) an academy under section 1(10) of the Academies Act 2010(**b**);

(c) an academy trust;

(d) a federation or federated school, as defined by section 24 of the Education Act 2002(**c**);

(e) an institution within the further education sector, as defined by section 91(3) of the Further and Higher Education Act 1992(**d**);

(f) a local authority;

(g) a mayoral combined authority, as defined by section 107A(8) of the Local Democracy, Economic Development and Construction Act 2009(**e**);

(h) an integrated care board established under section 14Z25 of the National Health Service Act 2006(**f**);

(i) an NHS trust established under section 25 of that Act;

(j) an NHS foundation trust within the meaning of section 30 of that Act(**g**);

(k) a police and crime commissioner established under section 1 of the Police Reform and Social Responsibility Act 2011(**h**);

(l) a government department; or

(m) the armed forces;

(**a**) 1996 c. 56. Section 4 is amended by sections 51 and 57 of, paragraph 10 of Schedule 7 and Schedule 8 to, the Education Act 1997 (c. 44), Part 3 of Schedule 22 to the Education Act 2002 (c. 32), section 95 of the Childcare Act 2006 (c. 21), S.I. 2010/1080, paragraph 9(2) of Schedule 13 to the Education Act 2011 (c. 21), and S.I. 2019/1027.

(**b**) 2010 c. 32. Section 1(10) is amended by section 53 of the Education Act 2011.

(**c**) 2002 c. 32. Section 24 is amended by S.I. 2010/1158 and paragraph 13(2) of Schedule 8 to the Education (Wales) Measure 2011 (nawm 7).

(**d**) 1992 c. 13. Section 91(3) is amended by section 269(4) of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22).

(**e**) 2009 c. 20. Section 107A(8) was inserted by section 2 of the Cities and Local Government Devolution Act 2016 (c. 1).

(**f**) 2006 c. 41. Section 14Z25 was inserted by section 19(2) of the Health and Care Act 2022 (c. 31).

(**g**) Section 30 is amended by section 159(1) of the Health and Social Care Act 2012 (c. 7).

(**h**) 2011 c. 13. Section 1 is amended by section 22(1) and paragraph 87 of Schedule 1 to the Policing and Crime Act 2017 (c. 3) and S.I. 2017/470.

"implementation year" means, in respect of a course, the academic year starting with 1st September and ending with 31st August, during which that course commences;

"lead provider" means the registered provider on whose behalf a franchised provider provides a course or part of a course.

Meaning of "franchised provider", "franchised student", "student population", "unregistered franchised provider", "below-threshold franchised provider" and "qualifying franchised provider"

7B.—(1) In these Regulations, a provider is a "franchised provider" in respect of a course where—

(a) it delivers or teaches the course, or part of the course, to students who are registered at a registered provider in England, and

(b) it does so on behalf of that registered provider.

(2) A student is a "franchised student" where—

(a) they are registered to study a course with a registered provider in England, and

(b) more than 50% of the modules, credits, credit points or other unit of their course is, or may be, taught by—

(i) a franchised provider, including where the franchised provider contracts with other providers to teach or deliver the course on its behalf, or

(ii) multiple franchised providers, where the total percentage of the course which is taught or delivered by, or on behalf of, the franchised providers is more than 50%.

(3) For the purposes of paragraph (2)(b), the percentage of a course that is taught or delivered by a provider is calculated as follows—

$$(A / B) \times 100$$

where—

A is the total number of modules, credits, credit points or other unit of that course which may be taught or delivered by franchised providers to that student, and

B is the number of modules, credits, credit points or other unit which that student would be likely to obtain within the period ordinarily required to complete that course.

(4) For the purposes of this regulation, a provider is deemed to teach or deliver a course, or percentage of a course, where that provider carries out teaching or delivery itself or sub-contracts that teaching or delivery to another provider.

(5) In respect of a franchised provider, its "student population" means the total number of franchised students that the franchised provider teaches or delivers a course (or part of a course) to, as published by the OfS from time to time(**a**).

(6) A franchised provider's student population includes students—

(a) who are studying—

(i) full-time courses;

(ii) part-time courses;

(**a**) The OfS student population data is published at https://www.officeforstudents.org.uk/data-and-analysis/size-and-shape-of-provision-data-dashboard/.

(iii) courses which are not eligible for financial support by way of grant or loan made by the Secretary of State;

(iv) publicly funded courses;

(v) courses delivered online;

(vi) for a level 4 or higher qualification;

(b) regardless of whether they fall within Schedule 1 of the Education (Fees and Awards) (England) Regulations 2007(**a**).

(7) A franchised provider's student population does not include students who are studying—

(a) a course as part of an apprenticeship;

(b) for modules or credits only.

(8) Where a franchised provider is a group undertaking(**b**) in respect of another franchised provider, those franchised providers will be treated as one provider for the purposes of calculating the student population.

(9) A provider is an "unregistered franchised provider" in respect of a course, where it is—

(a) a franchised provider, and

(b) an unregistered provider.

(10) A provider is not an unregistered franchised provider in respect of a course if it is—

(a) a constituent college, where the university or institution of which the college is a constituent is itself a registered provider, or

(b) jointly owned by two or more institutions, where—

(i) those two institutions are themselves registered providers, and

(ii) in connection with that course a student may be eligible for a healthcare bursary.

(11) An unregistered franchised provider is a "below-threshold franchised provider" where—

(a) it is not an exempt franchised provider, and

(b) it has a student population of less than 300, determined in accordance with regulation 7D.

(12) The Secretary of State may vary the threshold specified at paragraph (11)(b), and must publish the updated threshold figure at gov.uk.

(13) A franchised provider is a "qualifying franchised provider" if it is—

(a) an exempt franchised provider,

(b) a below-threshold franchised provider, or

(c) a registered provider.

(**a**) S.I. 2007/779. Schedule 1 is amended by S.I. 2011/87, S.I. 2018/137, S.I. 2020/1181, S.I. 2021/127, S.I. 2021/929, S.I. 2021/1348, S.I. 2022/57, S.I. 2022/534, S.I. 2023/74, S.I. 2024/85, S.I. 2024/669 and S.I. 2026/130.

(**b**) As defined by section 1161(5) of the Companies Act 2006 (c. 46).

Restriction of designation of courses taught or delivered by franchised providers

7C.—(1) This regulation applies to courses beginning on or after 1st September 2028.

(2) A course which is taught or delivered by a franchised provider, on behalf of a lead provider in England, will not be a designated course for the purposes of—

(a) regulation 5,

(b) regulation 139, or

(c) regulation 161,

unless that franchised provider is a qualifying franchised provider.

Determination of student population

7D.—(1) In each designation period, the Secretary of State must determine the student population of any unregistered franchised provider which is not an exempt franchised provider.

(2) The unregistered franchised provider's student population will be determined by reference to the student population data published by the OfS for the calculation reference period.

(3) Subject to paragraph (6), where the Secretary of State is unable to calculate an unregistered franchised provider's student population for the calculation reference period, the unregistered franchised provider's student population will be determined to be less than 300.

(4) Paragraph (5) applies where an unregistered franchised provider—

(a) has a student population of less than 300 for the calculation reference period, including where it does not have student population data for the calculation reference period, and

(b) intends to have a student population of 300 or more for the implementation year.

(5) That unregistered franchised provider must, as soon as reasonably practicable, notify the Secretary of State of—

(a) its intended student population for the implementation year, and

(b) whether it intends to become a registered provider for that implementation year.

(6) Following a notification under paragraph (5), the unregistered franchised provider's student population will be determined to be at least 300.

Notice of status

7E.—(1) Following a determination under regulation 7D, the Secretary of State must issue a notice (a "notice of status") to the unregistered franchised provider.

(2) The notice of status must contain—

(a) confirmation that the franchised provider is not a registered provider or exempt franchised provider,

(b) the Secretary of State's determination of the unregistered franchised provider's student population,

(c) confirmation of whether the unregistered franchised provider is a below-threshold franchised provider, and

(d) the Secretary of State's determination regarding whether any courses which are delivered or taught by the unregistered franchised provider during the

implementation year will be designated for the purposes of section 22 of the 1998 Act.

Appeals against notices of status

7F.—(1) This regulation applies where the Secretary of State has issued a notice of status under regulation 7E.

(2) The franchised provider may appeal this decision on the ground that—

(a) it reasonably believes that it is, or will be, an exempt franchised provider during the implementation year, or

(b) it reasonably believes that it will have a student population of less than 300 during the implementation year.

(3) An appeal under this regulation must be made to the Secretary of State in writing before the end of the period of one month beginning with the day on which the notice of status is issued.

Correction year

7G.—(1) Paragraphs (2) and (3) apply where—

(a) the Secretary of State issued a notice of status which states that—

(i) the unregistered franchised provider was a below-threshold franchised provider,

(ii) a course which is taught or delivered by that unregistered franchised provider would be designated for student finance during the implementation year, and

(b) that unregistered franchised provider's student population was 300 or more at any time between the beginning of the calculation reference period and the end of the implementation year.

(2) The Secretary of State may revoke the designation of any course which is taught or delivered by that unregistered franchised provider on behalf of any lead provider.

(3) That revocation will apply to all courses which commence at any time during the academic year immediately following the Secretary of State becoming aware of the provider's breach of the student population threshold under regulation 7B(11)(b) (the "correction year").

(4) The Secretary of State may disapply a revocation made under paragraph (2) where, having regard to all the circumstances, the Secretary of State considers it appropriate to do so.

(5) Before revoking the designation of any course under paragraph (2), the Secretary of State must issue a notice to the franchised provider (a "notice of a correction year"), which includes—

(a) confirmation that the Secretary of State intends to revoke the designation of the course, and

(b) the Secretary of State's determination as to which academic year is to be the correction year.

Appeals against correction years

7H.—(1) A franchised provider may appeal the application of a correction year, where, on the start date of any designated course during that implementation year, the franchised

provider reasonably believed that it would have a student population of less than 300 for the implementation year.

(2) An appeal under this regulation must be made to the Secretary of State in writing before the end of the period of one month beginning with the day on which the notice of a correction year is issued.".

Amendment to regulation 139 (designated part-time courses)

7. In regulation 139(1)(d)(**a**)—

(a) in paragraph (i), omit from ", or provided" to " of a registered provider";

(b) at the end of paragraph (v) (but before the semi-colon), insert ", except where the institution which is situated outside the United Kingdom provides that course on behalf of the registered provider in England";

(c) at the end of paragraph (v), omit "or";

(d) after paragraph (vi), insert—

"(vii) provided by a registered or unregistered provider on behalf of a registered provider in England, where the course begins before 1st September; or

(viii) provided by a qualifying franchised provider (or multiple qualifying franchised providers), on behalf of a registered provider in England, where the course begins on or after 1st September 2028;".

Amendment to regulation 161 (designated postgraduate courses)

8. In regulation 161(1)(c)(**b**)—

(a) in paragraph (i), omit from ", or provided" to "of a registered provider";

(b) at the end of paragraph (v) (but before the semi-colon), insert ", except where the institution which is situated outside the United Kingdom provides that course on behalf of the registered provider in England";

(c) at the end of paragraph (v), omit "or";

(d) after paragraph (vi), insert—

"(vii) provided by a registered or unregistered provider on behalf of a registered provider in England, where the course begins before 1st September; or

(viii) provided by a qualifying franchised provider (or multiple qualifying franchised providers), on behalf of a registered provider in England, where the course begins on or after 1st September 2028;".

PART 3

Transitional Provisions

Interpretation of Part 3

9. In this Part—

"academic year" has the meaning given in regulation 2 of the 2011 Regulations;

(**a**) Paragraph (1)(d) was amended by S.I. 2014/2765 and S.I. 2019/142.
(**b**) Regulation 161(1)(c) was substituted by S.I. 2019/142.

"appeal reference period" means, for each course, the academic year beginning 24 months before the first day of that implementation year;

"below-threshold franchised provider" has the meaning given in regulation 7B of the 2011 Regulations (as inserted by regulation 6 of these Regulations);

"franchised provider" has the meaning given in regulation 7B of the 2011 Regulations (as inserted by regulation 6 of these Regulations);

"implementation year" has the meaning given in regulation 7A of the 2011 Regulations (as inserted by regulation 6 of these Regulations);

"notice of status" has the meaning given in regulation 7E(1) of the 2011 Regulations (as inserted by regulation 6 of these Regulations);

"OfS" has the meaning given in regulation 2 of the 2011 Regulations;

"qualifying franchised provider" has the meaning given in regulation 7B(13) of the 2011 Regulations (as inserted by regulation 6 of these Regulations);

"register" has the meaning given in regulation 2 of the 2011 Regulations;

"student population" has the meaning given in regulation 7B of the 2011 Regulations (as inserted by regulation 6 of these Regulations).

Ongoing applications for registration

10.—(1) This regulation applies where the following conditions are met—

(a) a provider is a franchised provider;

(b) that franchised provider has, before 1st July 2026, submitted an application to be placed on the register;

(c) the OfS has confirmed before 1st September 2027 that the application meets its criteria;

(d) the franchised provider has not received a final decision from OfS in relation to that application before 1st September 2027.

(2) That franchised provider is a qualifying franchised provider for the academic year beginning with 1st September 2028.

Transitional appeals

11.—(1) This regulation will cease to have effect on 31st August 2029.

(2) This regulation applies where a franchised provider has received a notice of status which states that they are not a below-threshold franchised provider.

(3) The franchised provider may appeal this notice where the franchised provider reasonably believes that it had a student population of less than 300 for the appeal reference period.

(4) An appeal under this regulation must be made to the Secretary of State in writing before the end of the period of one month beginning with the day on which the notice of status is issued.

(5) Following receipt of an appeal, the Secretary of State must—

(a) determine the student population of the franchised provider for the appeal reference period;

(b) make a final determination as to the appropriate student population for the franchised provider;

(c) notify the franchised provider of the outcome of the appeal.

Smith of Malvern
Minister of State
24th April 2026 Department for Education

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Education (Student Support) Regulations 2011 (S.I. 2011/1986) ("the 2011 Regulations").

Part 2 amends the 2011 Regulations to insert a new Part 2A, which limits the automatic designation of courses offered by unregistered providers on behalf of registered providers. Under the new Part 2A, for a course to be designated it must be taught or delivered by a registered provider or an unregistered provider with less than 300 students, or which is a specified state-funded or public body (a "qualifying franchised provider"). Part 2A additionally sets out how the Secretary of State will calculate the student population, notify providers, and revoke designation in the following academic year if the provider's student population exceeds the threshold of less than 300 students. Part 2A also contains provision enabling providers to appeal a notice provided by the Secretary of State under this Part.

Part 3 enables the Secretary of State to treat providers which have applied for registration with the Office for Students before 1st July 2026 and are awaiting a registration decision on 1st September 2027 as if they are a qualifying franchised provider, for the purposes of courses commencing during the academic year beginning with 1st September 2028. It also contains transitional provision for appealing a notice issued by the Secretary of State under new Part 2A, where a provider's student population is less than 300 students in the academic year before that notice is issued.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector has been produced and is published alongside these Regulations on www.legislation.gov.uk. Hard copies are available from the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT.

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