

2012 No. 2962

EDUCATION, ENGLAND

**The Education (Independent School Standards) (England)
(Amendment) Regulations 2012**

<i>Made</i>	- - - -	<i>26th November 2012</i>
<i>Laid before Parliament</i>		<i>4th December 2012</i>
<i>Coming into force</i>	- -	<i>1st January 2013</i>

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 157 and 210(7) of the Education Act 2002(a).

Citation and commencement

1. These Regulations may be cited as the Education (Independent School Standards) (England) (Amendment) Regulations 2012 and come into force on 1st January 2013.

Amendments to the Education (Independent School Standards) (England) Regulations 2010

2.—(1) The Education (Independent School Standards) (England) Regulations 2010(b) are amended as follows.

(2) In regulation 2(1) (interpretation)—

- (a) in the definition of “the National Minimum Standards for Boarding Schools”, for “July 2010” substitute “November 2012”;
- (b) in the definition of “the National Minimum Standards for Residential Special Schools”—
 - (i) for “March 2002” substitute “November 2012”; and
 - (ii) for “Health” substitute “Education”; and
- (c) omit the definition of “the School Premises Regulations”.

(3) After regulation 2(3) (interpretation) insert—

“(4) In these Regulations, where an element of a standard is information or a document being “provided” to a person, that element of the standard is met—

- (a) where the person has provided the school with a valid electronic mail address, by sending to that address—
 - (i) the information or a copy of the document in electronic form; or
 - (ii) the address for an internet website where the information or a copy of the document can be downloaded by the person,

(a) 2002 c.32. For the meaning of “prescribed” and “regulations” see section 212(1). Chapter 1 of Part 10 (which includes section 157) applies to alternative provision Academies that are not independent schools as it applies to independent schools. See section 156AA, inserted by S.I. 2012/976.

(b) S.I. 2010/1997, as amended by S.I. 2012/979.

in which case the information or copy of the document must be available for inspection by the person on the school's premises during the school day; or

(b) by sending or giving the information or a copy of the document to the person.”.

(4) In Part 1 of Schedule 1 (quality of education provided), after paragraph 2(2)(g) insert—

“(ga) where the school has pupils below compulsory school age, a programme of activities which is appropriate to their educational needs in relation to personal, social, emotional and physical development and communication and language skills;”.

(5) In Part 2 of Schedule 1 (spiritual, moral, social and cultural development of pupils), for paragraph 5 substitute—

“5. The standard about the spiritual, moral, social and cultural development of pupils at the school is met if the proprietor—

(a) ensures that principles are promoted which—

(i) enable pupils to develop their self-knowledge, self-esteem and self-confidence;

(ii) enable pupils to distinguish right from wrong and to respect the civil and criminal law;

(iii) encourage pupils to accept responsibility for their behaviour, show initiative and understand how they can contribute positively to the lives of those living and working in the locality in which the school is situated and to society more widely;

(iv) provide pupils with a broad general knowledge of public institutions and services in England;

(v) assist pupils to acquire an appreciation of and respect for their own and other cultures in a way that promotes tolerance and harmony between different cultural traditions; and

(vi) encourage pupils to respect the fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs;

(b) precludes the promotion of partisan political views in the teaching of any subject in the school; and

(c) takes such steps as are reasonably practicable to ensure that where political issues are brought to the attention of pupils—

(i) while they are in attendance at the school;

(ii) while they are taking part in extra-curricular activities which are provided or organised by or on behalf of the school; or

(iii) in the promotion at the school, including through the distribution of promotional material, of extra-curricular activities taking place at the school or elsewhere;

they are offered a balanced presentation of opposing views.”

(6) In Part 3 of Schedule 1 (welfare, health and safety of pupils)—

(a) in paragraph 10, from “regard” to the end substitute “an effective anti-bullying strategy is drawn up and implemented.”;

(b) for paragraph 11 substitute—

“11. The standard in this paragraph is met if the proprietor ensures that a written policy on compliance with relevant health and safety laws is drawn up and effectively implemented.”; and

(c) omit paragraph 12.

(7) In Part 4 of Schedule 1 (suitability of staff, supply staff, and proprietors)—

- (a) in paragraph 19(2)(e), for “38” substitute “14” and for “27” substitute “14”;
- (b) in paragraph 19(4)(a), after “school” insert “or a maintained school”;
- (c) in paragraph 20(2)(e), for “38” substitute “14” and for “27” substitute “14”;
- (d) in paragraph 20(4)(a), after “school” insert “or a maintained school”.

(8) In Part 5 of Schedule 1 (premises of and accommodation at schools), for paragraph 23 substitute—

23. The standards about the premises of and accommodation at the school are those contained in this Part.

23A.—(1) Subject to sub-paragraph (2), the standard in this paragraph is met if the proprietor ensures that—

- (a) suitable toilet and washing facilities are provided for the sole use of pupils;
- (b) separate toilet facilities for boys and girls aged 8 years or over are provided except where the toilet facility is provided in a room that can be secured from the inside and that is intended for use by one pupil at a time; and
- (c) suitable changing accommodation and showers are provided for pupils aged 11 years or over at the start of the school year who receive physical education.

(2) Where separate facilities are provided under sub-paragraph (1)(a) for pupils who are disabled, they may also be used by other pupils, staff, supply staff, volunteers and visitors, whether or not they are disabled.

23B.—(1) The standard in this paragraph is met if the proprietor ensures that suitable accommodation is provided in order to cater for the medical and therapy needs of pupils, including—

- (a) accommodation for the medical examination and treatment of pupils;
- (b) accommodation for the short term care of sick and injured pupils, which includes a washing facility and is near to a toilet facility; and
- (c) where a school caters for pupils with complex needs, additional medical accommodation which caters for those needs.

(2) The accommodation provided under sub-paragraphs (1)(a) and (b) may be used for other purposes (apart from teaching) provided it is always readily available to be used for the purposes set out in sub-paragraphs (1)(a) and (b).

(3) For the purposes of sub-paragraph (1)(c), a pupil has “complex needs” if the pupil has profound and multiple learning difficulties in addition to other significant difficulties, such as a physical disability or sensory impairment, which require provision which is additional to or different from that generally required by children of the same age in schools other than special schools or by children with special requirements.

23C. The standard in this paragraph is met if the proprietor ensures that the school premises and the accommodation and facilities provided therein are maintained to a standard such that, so far as is reasonably practicable, the health, safety and welfare of pupils are ensured.

23D. The standard in this paragraph is met if the proprietor ensures that the acoustic conditions and sound insulation of each room or other space are suitable, having regard to the nature of the activities which normally take place therein.

23E. The standard in this paragraph is met if the proprietor ensures that—

- (a) the lighting in each room or other internal space is suitable, having regard to the nature of the activities which normally take place therein; and
- (b) external lighting is provided in order to ensure that people can safely enter and leave the school premises.

23F.—(1) The standard in this paragraph is met if the proprietor ensures that—

- (a) suitable drinking water facilities are provided;
 - (b) toilets and urinals have an adequate supply of cold water and washing facilities have an adequate supply of hot and cold water;
 - (c) cold water supplies that are suitable for drinking are clearly marked as such; and
 - (d) the temperature of hot water at the point of use does not pose a scalding risk to users.
- (2) The facilities provided under sub-paragraph (1)(a) will be suitable only if—
- (a) they are readily accessible at all times when the premises are in use; and
 - (b) they are in a separate area from the toilet facilities.

23G.—(1) The standard in this paragraph is met if the proprietor ensures that suitable outdoor space is provided in order to enable—

- (a) physical education to be provided to pupils in accordance with the school curriculum; and
 - (b) pupils to play outside.
- (2) Sub-paragraph (1) does not apply in relation to an alternative provision Academy.

23H. The standard in this paragraph is met if the proprietor ensures that, where the school provides accommodation, regard is had to Standard 5 of the National Minimum Standards for Boarding Schools or, where applicable, Standard 5 of the National Minimum Standards for Residential Special Schools.

23I. For the purposes of this Part—

- (a) “physical education” includes the playing of games;
- (b) any requirement that anything provided under this Part must be “suitable” means that it must be suitable for the pupils in respect of whom it is provided, having regard to their ages, numbers and sex and any special requirements they may have; and
- (c) a pupil has “special requirements” if the pupil has any needs arising from physical, medical, sensory, learning, emotional or behavioural difficulties which require provision which is additional to or different from that generally required by children of the same age in schools other than special schools.”

(9) In Part 6 of Schedule 1 (provision of information), in paragraph 24—

- (a) in sub-paragraph (1)(c), for “sent” substitute “provided”;
- (b) in sub-paragraph (1)(d), for “sent”, where it appears for the second time, substitute “provided”;
- (c) in sub-paragraph (1)(e), for “sent” substitute “provided”;
- (d) in sub-paragraph (1)(f), for every instance of “sent” substitute “provided”;
- (e) in sub-paragraph (1)(g)—
 - (i) omit “, and access to the school’s admission and attendance registers,”; and
 - (ii) after the last instance of “inspection” insert “and that body is given access to the school’s admission and attendance registers”;
- (f) in sub-paragraph (1)(h)—
 - (i) after the first instance of “local authority” insert “(except where funding is solely for free of charge early years provision in accordance with the duty contained in section 7 of the Childcare Act 2006(a))”; and
 - (ii) for “submitted” substitute “provided”;

(a) 2006 c.21.

- (g) in sub-paragraph (1)(i)—
 - (i) after the first instance of “statement” insert “wholly or partly funded by a local authority or other body through public funds”; and
 - (ii) for “supplied” substitute “provided”; and
 - (h) in sub-paragraph (3)(e), for “10, 11 and 12” substitute “10 and 11”.
- (10) In Part 7 of Schedule 1 (manner in which complaints are to be handled), in paragraph 25—
- (a) in sub-paragraph (i)(i), for “sent by electronic mail or otherwise given” substitute “provided”; and
 - (b) omit sub-paragraph (l) (and the “and” immediately before it).

Jonathan Hill
Parliamentary Under Secretary of State
Department for Education

26th November 2012

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Independent School Standards) (England) Regulations 2010 (“the 2010 Regulations”), which make provision for the standards for independent schools for the purposes of Part 10 of the Education Act 2002.

Regulation 2(2) amends the definition of “the National Minimum Standards for Boarding Schools” and that of “the National Minimum Standards for Residential Special Schools” in regulation 2(1) of the 2010 Regulations, to refer to the latest versions of those publications and removes the now redundant definition of “School Premises Regulations”.

Regulation 2(3) inserts regulation 2(4) into the 2010 Regulations, which sets out the circumstances in which schools, when they are required to “provide” documents or information under a standard, can do so electronically. Consequential amendments have been made to standards in Part 6 (provision of information) and Part 7 (manner in which complaints are to be handled) of Schedule 1 (by regulations 2(9)(a) - (e), (f)(ii), (g)(ii) and 2(10)(a)), making it clear which documents and information can be so “provided”.

Regulation 2(4) inserts a new standard in paragraph 2 of Schedule 1 requiring a school’s curriculum to meet the educational needs of any pupils below compulsory school age.

Regulation 2(5) replaces paragraph 5 of Schedule 1 (the spiritual, moral, social and cultural development of pupils). The existing standards from paragraph 5 have been retained and renumbered, minor amendments have been made to some and new requirements have been added. Paragraph 5(a)(ii) replaces former paragraph 5(b), which has been amended so that the reference to the law is now to the civil and criminal law. Paragraph 5(a)(iii) replaces former paragraph 5(c) and the reference to community lives therein has been amended. Paragraph 5(a)(vi) inserts a new standard requiring the promotion of principles which encourage pupils to respect the fundamental British values listed. Paragraph 5(b) is new and precludes the promotion of partisan political views through teaching. Paragraph 5(c) is new and requires a balanced presentation of political issues to be given when they are brought to the attention of pupils.

Regulation 2(6) amends Part 3 of Schedule 1, removing the requirements in former paragraphs 10, 11 and 12 to have regard to withdrawn Departmental guidance on anti-bullying and health and safety. These have been replaced with requirements to draw up and implement effective policies on those matters. Regulation 2(9)(h) removes the now redundant reference to paragraph 12.

Regulation 2(7) amends paragraphs 19(2)(e) and 20(2)(e) of Schedule 1 to update references within the new National Minimum Standards for Boarding and those for Residential Special Schools and also amends paragraphs 19(4)(a) and 20(4)(a) to refer to a maintained school.

Regulation 2(8) replaces the standards about the premises of and accommodation at independent schools, set out in paragraph 23 of Schedule 1, with new ones.

Regulation 2(9)(f)(i) amends paragraph 24(1)(h) of Schedule 1 to make it clear that schools are not required to provide information in relation to publicly funded pupils where funding is solely for free of charge early years provision.

Regulation 2(9)(g)(i) amends paragraph 24(1)(i) of Schedule 1 to make it clear that schools are only required to provide information to local authorities in relation to pupils with statements funded wholly or partly by a local authority or otherwise through public funds.

Regulation 2(10)(b) removes paragraph 25(1) of Schedule 1, which is now redundant in light of the updated versions of the National Minimum Standards for Boarding and those for Residential Special Schools.

The National Minimum Standards for Boarding Schools and the National Minimum Standards for Residential Special Schools can be found at:

<http://www.education.gov.uk/schools/leadership/typesofschools/a00192112/boarding-schools>

A full impact assessment of the effect that this instrument will have on businesses and civil society organisations is annexed to the Explanatory Memorandum which is available alongside the instrument at www.legislation.gov.uk.

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STATUTORY INSTRUMENTS

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