

(9) The meeting shall recommend-

- (a) any steps which it concludes ought to be taken, including whether the authority should amend or cease to maintain the statement;
- (b) any targets to be established in furtherance of the objectives specified in the statement which it concludes the child ought to meet during the period until the next review, and
- (c) where a transition plan exists, the matters which it concludes ought to be included in that plan.

(10) If the meeting cannot agree the recommendations to be made under paragraph (9) the persons who attended the meeting shall make differing recommendations as appears necessary to each of them.

(11) The report to be submitted under paragraph (2) of this regulation or paragraph (3) of regulation 18 shall be completed after the meeting is held and shall include the head teacher's assessment of the matters referred to in paragraph (8) and his recommendations as to the matters referred to in paragraph (9), and shall refer to any difference between his assessment and recommendations and those of the meeting.

(12) When the head teacher submits his report to the authority under paragraph (2) of this regulation or paragraph (3) of regulation 18 he shall at the same time send copies to-

- (a) the child's parent;
- (b) any other person who submitted advice under paragraph (4) or paragraph (7);
- (c) any other person to whom the authority consider it appropriate that a copy be sent and to whom they direct him to send a copy, and
- (d) any other person to whom the head teacher considers it appropriate that a copy be sent.

(13) The authority shall review the statement under section 328 in light of the report and any other information or advice which they consider relevant, record in writing their decisions on the matters referred to in paragraphs 9(a) and (b) and, where a transition plan exists, shall make written recommendations for amendments to the plan as they consider appropriate

(14) The authority shall within one week of completing the review under section 328 send copies of their decisions and recommendations to-

- (a) the child's parent;
- (b) the head teacher, and
- (c) any other person to whom the authority consider it appropriate that a copy be sent.

(15) The head teacher shall be responsible for ensuring that any necessary amendments to any transition plan are made.

(16) In this regulation the term "school" shall have the same meaning as it does in regulation 18.

Reviews of statements where child in his tenth year of compulsory education attends school

21.-(1) This regulation applies where-

- (a) an authority carry out an annual review of a child's statement;
- (b) the child concerned attends a school, and
- (c) the review is the first review after the child has commenced his tenth year of compulsory education.

(2) Subject to paragraph (3) the authority shall by notice in writing require the head teacher of the child's school to submit a report to them under this regulation by a specified date not less than two months from the date when the notice is given.

(3) If the name of the child is included in the notice served under paragraph (1) of regulation 18 no further notice need be served on the head teacher in respect of that child under paragraph (2) of this regulation.

(4) The head teacher shall for the purposes of the report referred to in paragraph (2) of this regulation or paragraph (3) of regulation 18 seek the advice referred to in paragraph (5) from-

- (a) the child's parent (in relation to all the matters referred to in paragraph (5));
- (b) any person whose advice the authority consider appropriate for the purpose of arriving at a satisfactory report and whom they specify in the notice referred to in paragraph (2) or in paragraph (1) of regulation 18 in relation to a particular child (in relation to such of the matters referred to in paragraph (5) as the head teacher considers are within that person's knowledge or expertise);

(c) a representative of the Connexions service, or if no Connexions Service has been established at the date the advice is requested, a representative of the Careers Service (in relation to the matters referred to in sub-paragraph (5)(f) and such other matters referred to in paragraph (5) as the head teacher considers are within the representative's knowledge or expertise), and

(d) any person whose advice the head teacher considers appropriate for the purpose of arriving at a satisfactory report (in relation to such of the matters referred to in paragraph (5) as the head teacher considers are within that person's knowledge or expertise).

(5) The advice referred to in paragraph (4) shall be written advice as to-

(a) the child's progress towards meeting the objectives specified in the statement;

(b) the child's progress towards attaining any targets established in furtherance of the objectives specified in the statement;

(c) where the school is a community, foundation or voluntary school or a community or foundation special school other than a special school established in a hospital, the application of the provisions of the National Curriculum to the child, and the progress made in relation to those provisions by the child since the statement was made or the last review under section 328;

(d) the application of any provisions substituted for the provisions of the National Curriculum in order to maintain a balanced and broadly based curriculum and the progress made in relation to the provisions by the child since the statement was made or the last review under section 328;

(e) the progress made by the child since the statement was made or the last review under section 328 in his behaviour and attitude to learning;

(f) any matters which are the appropriate subject of a transition plan;

(g) whether the statement continues to be appropriate;

(h) any amendments to the statement which would be appropriate, and

(i) whether the authority should cease to maintain the statement.

(6) The notice referred to in paragraph (2) of this regulation or paragraph (1) of regulation 18 shall require the head teacher to invite the following persons to attend a meeting to be held on a date before the report referred to in that paragraph is required to be submitted-

(a) the child's parent;

- (b) a member or members of the staff of the school who teach the child or who are otherwise responsible for the provision of education for the child whose attendance the head teacher considers appropriate;
- (c) a representative of the social services authority;
- (d) a representative of the Connexions service or, if no Connexions Service has been established at the date of the request, a representative of the Careers Service;
- (e) any person whose attendance the head teacher considers appropriate;
- (f) any person whose attendance the authority consider appropriate and who is specified in the notice, and
- (g) a representative of the authority.

(7) The head teacher shall not later than two weeks before the date on which the meeting referred to in paragraph (6) is to be held serve on all the persons invited to attend that meeting and who have not informed the head teacher that they will not be attending it copies of the advice he has received pursuant to his request under paragraph (4) and shall by written notice request the recipients to submit to him before or at the meeting written comments on that advice and any other advice which they think appropriate.

(8) The meeting referred to in paragraph (6) shall consider-

- (a) the matters referred to in paragraph (5), in all cases including the matters referred to in paragraph (5)(f), and
- (b) any significant changes in the child's circumstances since the date on which the statement was made or last reviewed under section 328.

(9) The meeting shall recommend-

- (a) any steps which it concludes ought to be taken, including whether the authority should amend or cease to amend the statement;
- (b) any targets to be established in furtherance of the objectives specified in the statement which it concludes the child ought to meet during the period until the next review, and
- (c) the matters which it concludes ought to be included in a transition plan.

(10) If the meeting cannot agree the recommendations to be made under paragraph (9) the persons who attended the meeting shall make differing recommendations as appears necessary to each of them.

(11) The report to be submitted under paragraph (2) of this regulation or paragraph (3) of regulation 18 shall be completed after the meeting is held, shall include the head teacher's assessment of the matters referred to in paragraph (8) and his recommendations as to the matters referred to in paragraph (9), and shall refer to any difference between his assessment and recommendations and those of the meeting.

(12) When the head teacher submits his report to the authority under paragraph (2) of this regulation or paragraph (3) of regulation 18 he shall at the same time send copies to-

- (a) the child's parent;
- (b) any other person to whom the authority considers it appropriate that a copy be sent and to whom they direct him to send a copy, and
- (c) any other person to whom the head teacher considers it appropriate that a copy be sent.

(13) The authority shall review the statement under section 328 in light of the report and any other information or advice which they consider relevant and shall make written recommendations as to the matters referred to in paragraph 9(a), (b) and (c).

(14) The authority shall within one week of completing the review under section 328 send copies of the recommendations and the transition plan to-

- (a) the child's parent;
- (b) the head teacher, and
- (c) any other person to whom they consider it appropriate to send a copy.

(15) The head teacher shall be responsible for ensuring that a transition plan is drawn up.

(16) In this regulation the term "school" shall have the same meaning as it does in regulation 18.

Review of statement where child does not attend school

22.-(1) This regulation applies where an authority carry out an annual review of a statement and the child concerned does not attend a school.

(2) The authority shall prepare a report addressing the matters referred to in regulation 20(5), including the matters referred to in regulation 20(5)(f) in any case where the review referred to in paragraph (1) is commenced after the child begins his tenth year of compulsory education, and for that purpose shall seek advice on those matters from the child's parent and on such of those matters from any other person whose advice they consider appropriate in the case in question for the purpose of arriving at a satisfactory report.

(3) The authority shall invite the following persons to attend a meeting to be held on a date before the review referred to in paragraph (1) is required to be completed-

(a) the child's parent;

(b) where the review referred to in paragraph (1) is the first review commenced after the child has begun his tenth year of compulsory education, a representative of the social services authority;

(c) where sub-paragraph (b) applies, a representative of the Connexions Service, or if no Connexions Service has been established at the date the invitation is made, a representative of the Careers Service, and

(d) any person or persons whose attendance the authority consider appropriate.

(4) The authority shall not later than two weeks before the date on which the meeting referred to in paragraph (3) is to be held send to all the persons invited to that meeting a copy of the report which they propose to make under paragraph (2) and by written notice accompanying the copies shall request the recipients to submit to the authority written comments on the report and any other advice which they think appropriate.

(5) A representative of the authority shall attend the meeting.

(6) The meeting shall consider the matters referred to in regulation 20(5), and in any case where the review is commenced after the child has begun his tenth year of compulsory education, the matters referred to in regulation 20(5)(f), and shall make recommendations in accordance with regulation 20(9), and in any case where the child has begun his tenth year of compulsory education, recommendations as to the matters which it concludes ought to be included in a transition plan.

(7) The report prepared by the authority under paragraph (2) shall be completed after the meeting referred to in paragraph (3) is held, shall contain the authority's assessment of the matters required to be considered by the meeting and their recommendations as to the matters required to be recommended by it, and shall refer to any difference between their assessment and recommendations and those of the meeting.

(8) The authority shall within one week of the date on which the meeting referred to in paragraph (3) was held send copies of the report completed under paragraph (7) to-

(a) the child's parent;

(b) any person to whom they consider it appropriate to send a copy.

(9) The authority shall review the statement under section 328 in light of the report and any other information or advice which it considers relevant, shall make written recommendations as to the matters referred to in regulation 20(9) and in any case where the review is the first review commenced after the child has commenced his tenth year of compulsory education prepare a transition plan, and in any case where a transition plan exists amend the plan as they consider appropriate.

(10) The authority shall within one week of completing the review under section 328 send copies of the recommendations and any transition plan referred to in paragraph (9) to the persons referred to in paragraph (8).

(11) In this regulation the term "school" shall have the same meaning as it does in regulation 18.

Transfer of statements

23.- (1) This regulation applies where a child in respect of whom a statement is maintained moves from the area of the authority which maintains the statement ('the old authority') into that of another ('the new authority').

(2) The old authority shall transfer the statement to the new authority.

(3) From the date of the transfer-

(a) the statement shall be treated for the purposes of the new authority's duties and functions under Part IV of the Act and these Regulations as if it had been made by the new authority on the date on which it was made by the old authority, and

(b) where the new authority make an assessment and the old authority have supplied the new authority with advice obtained in pursuance of a previous assessment regulation 7(5) shall apply as if the new authority had obtained the advice on the date on which the old authority obtained it.

(4) The new authority shall within 6 weeks of the date of the transfer serve a notice on the child's parent informing him-

(a) that the statement has been transferred;

(b) whether they propose to make an assessment, and

(c) when they propose to review the statement in accordance with paragraph (5).

(5) The new authority shall review the statement under section 328(5)(b) before the expiry of whichever of the following two periods expires later-

(a) the period of 12 months beginning with the making of the statement, or as the case may be, with the previous review, or

(b) the period of 3 months beginning with the date of the transfer.

(6) Where by virtue of the transfer the new authority come under a duty to arrange the child's attendance at a school specified in the statement but in light of the child's move that attendance is no

longer practicable the new authority may arrange for the child's attendance at another school appropriate for the child until such time as it is possible to amend the statement in accordance with the procedure set out in Schedule 27.

(7) In this regulation "the new authority" shall include a local education authority in Wales for the purposes of paragraphs (1) and (2) only.

(8) An authority to whom a statement is transferred from a local education authority in Wales shall treat the statement as having been transferred by an old authority for the purposes of paragraphs (3) to (6).

Restriction on disclosure of statements

24.- (1) Subject to the provisions of the Act and of these Regulations, a statement in respect of a child shall not be disclosed without the child's consent except-

- (a) to persons to whom, in the opinion of the authority concerned, it is necessary to disclose the statement in the interests of the child;
- (b) for the purposes of any appeal under the Act;
- (c) for the purposes of educational research which, in the opinion of the authority, may advance the education of children with special educational needs, if, but only if, the person engaged in that research undertakes not to publish anything contained in, or derived from, a statement otherwise than in a form which does not identify any individual concerned including, in particular, the child concerned and his parent;
- (d) on the order of any court or for the purposes of any criminal proceedings;
- (e) for the purposes of any investigation under Part III of the Local Government Act 1974⁽ⁱ⁾ (investigation of maladministration);
- (f) to the Secretary of State when he requests such disclosure for the purposes of deciding whether to give directions or make an order under section 496, 497 or 497A;
- (g) for the purposes of an assessment of the needs of the child with respect to the provision of any statutory services for him being carried out by officers of a social services authority by virtue of arrangements made under section 5(5) of the Disabled Persons (Services, Consultation and Representation) Act 1986^(m);

⁽ⁱ⁾ 1974 c.7.

^(m) 1986 c.33; section 5 is amended by the Special Educational Needs and Disability Act 2001; paragraphs 16 to 18 of Schedule 8.

(h) for the purposes of a local authority in the performance of their duties under sections 22(3)(a), 85(4)(a), 86(3)(a) and 87(3) of the Children Act 1989⁽ⁿ⁾;

(i) to Her Majesty's Chief Inspector of Schools, one of Her Majesty's Inspectors of Schools, or to a registered inspector or a member of an inspection team, who requests the right to inspect or take copies of a statement in accordance with section 2(8) or 3(3) of, or paragraph 7 of Schedule 3 to, the School Inspections Act 1996^(o) respectively;

(j) to the Connexions Service for the purposes of writing or amending a transition plan, or

(k) to a Young Offender Institution for the purposes of the performance of its duties under rule 38 of the Young Offender Institution Rules 2000^(p).

(2) A child may consent to the disclosure of a statement for the purposes of this regulation if his age and understanding are sufficient to allow him to understand the nature of that consent.

(3) If a child does not have sufficient age or understanding to allow him to consent to disclosure of his statement his parent may consent on his behalf.

(4) The arrangements for keeping such statement shall be such as to ensure, so far as is reasonably practicable, that unauthorised persons do not have access to them.

(5) In this regulation any reference to a statement includes a reference to any representations, evidence, advice or information which is set out in the appendices to a statement.

PART IV

COMPLIANCE WITH TRIBUNAL ORDERS

Compliance with Tribunal Orders

25.-(1) Subject to paragraph (4), if the Tribunal, following an appeal to it by a parent, makes an order requiring an authority to perform an action referred to in paragraph (2) the authority shall perform that action within the period specified in paragraph (2).

(2) In the case of an order-

⁽ⁿ⁾ 1989 c.41; section 87(3) is prospectively amended by the Care Standards Act 2000 (c.14), section 105.

^(o) 1996 c.57; section 28 is amended by the Education Act 1997 (c.44), section 42 and Schedule 6 and paragraph 7 of Schedule 3 is amended by the Education Act 1997, section 42 and Schedule 6, paragraph 12.

^(p) S.I. 2000/3371.

- (a) to make an assessment, the authority shall notify the child's parent that it will make an assessment under section 323(4) or 329A(7) as the case may be within 4 weeks;
 - (b) to make and maintain a statement, the authority shall make a statement within 5 weeks;
 - (c) remitting a case back to the authority under section 325(3)(c), the authority shall take the action referred to in regulation 17(1)(a) or 17(1)(b) within 2 weeks;
 - (d) to amend a statement, the authority shall serve an amendment notice on the child's parent under paragraph 2A of Schedule 27 within 5 weeks;
 - (e) to continue to maintain a statement, the authority shall continue to maintain the statement with immediate effect;
 - (f) to continue to maintain and to amend a statement, the authority shall continue to maintain the statement with immediate effect and shall serve an amendment notice on the child's parent under paragraph 2A of Schedule 27 within 5 weeks;
 - (g) to substitute the name of the school or other institution specified in a child's statement with the name of a school specified by a parent, the authority shall specify the school specified by the parent within 2 weeks, and
 - (h) dismissing an appeal against a determination to cease to maintain a statement, the authority shall cease to maintain that statement immediately or on a date proposed by the authority, whichever is the later.
- (3) In each case the period shall begin on the day after the issue of the Order in question.
- (4) The authority need not comply with the time limits referred to in paragraph (2) if it is impractical to do so because-
- (a) exceptional personal circumstances affect the child or his parent during the relevant time period;
 - (b) the child or his parent are absent from the area of the authority for a continuous period of not less than 2 weeks during the relevant time period;
 - (c) the child's parent indicates that he wishes to make representations to the authority about the content of the statement under paragraph 4(1) of Schedule 27 after the expiry of the 15-day period for making such representations provided for in paragraph 4(4) of that Schedule;
 - (d) a meeting between the child's parent and an officer of the authority has been held pursuant to paragraph 4(1) of Schedule 27 and the child's parent under paragraph 4(2) of that Schedule either required that another such meeting be arranged or has required that a meeting with the appropriate person be arranged, or
 - (e) the authority have sent a written request to the Secretary of State seeking his consent under section 347(5) to the child being educated at an independent school

which is not approved by him and such consent has not been received by the authority within 3 weeks of the day on which the request was sent.

Compliance with parents' requests when an authority concedes an appeal to the Tribunal

26.-(1) Subject to paragraph (3) if, under section 326A(2), an appeal to the Tribunal is treated as having been determined in favour of the parent making the appeal, the authority shall--

- (a) in the case of an appeal under section 325, make a statement within 5 weeks;
- (b) in the case of an appeal under section 328, 329 or 329A, the authority shall make an assessment within 4 weeks, and
- (c) in the case of an appeal under paragraph 8(3) of Schedule 27 against a determination not to comply with the parent's request to substitute the name of a maintained school for the name of the school or institution specified in the statement, comply with that request within 2 weeks.

(2) In each case the period shall begin on the day after the authority notifies the Tribunal that they have determined that they will not, or will no longer, oppose the appeal.

(3) The authority need not comply with the time limits referred to in paragraph (1) if it is impractical to do so because-

- (a) exceptional personal circumstances affect the child or his parent during the relevant time period;
- (b) the child or his parent are absent from the area of the authority for a continuous period of not less than 2 weeks during the relevant time period;
- (c) the child's parent indicates that he wishes to make representations to the authority about the content of the statement under paragraph 4(1) of Schedule 27 after the expiry of the 15 day period for making such representations provided for in paragraph 4(4) of that Schedule;
- (d) a meeting between the child's parent and an officer of the authority has been held pursuant to paragraph 4(1) of Schedule 27 and the child's parent under paragraph 4(2) of that Schedule either required that another such meeting be arranged or has required that a meeting with the appropriate person be arranged, or
- (e) the authority have sent a written request to the Secretary of State seeking his consent under section 347(5) to the child being educated at an independent school which is not approved by him and such consent has not been received by the authority within 3 weeks of the day on which the request was sent.

REVOCATION AND TRANSITIONAL PROVISIONS

Revocations

27. - (1) Subject to regulation 28, the 1994 Regulations are revoked.

- (2) The Education (Special Educational Needs) (England) Regulations 2001^(a); the Education (Special Educational Needs) (England) (Amendment) Regulations 2001^(b), and the Education (Special Educational Needs) (England) (Amendment No 2) Regulations 2001^(c), are hereby revoked.

Transitional provisions

28.- (1) Subject to the following provisions of this regulation references in these Regulations to anything done under these Regulations shall be read in relation to the times, circumstances or purposes in relation to which a corresponding provision of the 1994 Regulations had effect and so far as the nature of the reference permits as including a reference to that corresponding provision.

(2) Regulations 6 to 11 of the 1994 Regulations shall continue to apply in relation to any assessment where before 1st January 2002 in pursuance of section 323(4) the authority notify the parent that they have decided to make an assessment, and regulations 6 to 12 of these Regulations shall not apply in relation to any such assessment.

(3) Where regulations 6 to 11 of the 1994 Regulations continue to apply in relation to any assessment but the authority have not before 1st May 2002 -

- (a) notified the parent of their decision that they are not required to determine the special educational provision of the child in accordance with section 325(1);
- (b) served on the parent a copy of a proposed statement in accordance with paragraph 2 of Schedule 27, or
- (c) served on the parent a copy of a proposed amended statement under paragraph 3 of Schedule 27,

regulations 6 to 12 of these Regulations shall apply in relation to the assessment from 1st May 2002 as if on that date the authority had given notice to the parent under section 323(4) of their decision to make an assessment.

(4) Where in accordance with paragraph (3) above regulations 6 to 12 of these Regulations apply in relation to an assessment the authority shall obtain advice in accordance with Part II, but advice obtained in accordance with the 1994 Regulations shall be considered to have been obtained under Part II of these Regulations if such advice is appropriate for the purpose of arriving at a satisfactory assessment under that Part.

(5) Where before 1st January 2002 in accordance with section 323(1) the authority have served notice on the child's parent that they propose to make an assessment but they have not before that date notified the parent under section 323(4) of the Act that they have decided to make the assessment or notified him under section 323(6) that they have decided not to make the assessment, regulation 11 of the 1994 Regulations shall continue to apply for the purpose of any such notification under section 323(4) or 323(6) only.

(6) Where before 1st January 2002 in accordance with section 328 or 329 a parent has asked the authority to arrange for an assessment to be made of his child's educational needs but the authority have not before that date notified the parent under section 323(4) that they have decided to make the assessment or notified him under section 328(3) or 329(2) that they have decided not to

^(a) S.I. 2001/2216.

^(b) S.I. 2001/2468.

^(c) S.I. 2001/2612.

make the assessment, regulation 11 of the 1994 Regulations shall continue to apply for the purpose of any notification under section 323(4), 328(3) or 329(2) only.

(7) Regulations 13 and 14 of the 1994 Regulations shall continue to apply to the making of any statement where before 1st January 2002 the authority have served on the parent a copy of a proposed statement in accordance with paragraph 2 of Schedule 27.

(8) Regulation 14 of the 1994 Regulations shall continue to apply in relation to a proposal to amend or cease to maintain a statement where an authority serve a notice under paragraphs 10(1) or 11(2) of Schedule 27 before 1st January 2002.

(9) Regulation 15 of the 1994 Regulations shall continue to apply to a review of a statement in respect of which an authority serve a notice as required by regulation 15(2) of the 1994 Regulations before 1st January 2002.

(10) Regulation 16 of the 1994 Regulations shall continue to apply to a review of a statement in respect of which an authority serve a notice as required by regulation 16(2) of the 1994 Regulations before 1st January 2002.

(11) Regulation 17 of the 1994 Regulations shall continue to apply to a review in respect of which an authority in accordance with regulation 17(3) of the 1994 Regulations have before 1st January 2002 invited the attendance of the persons specified in that regulation to a meeting.

(12) The first occasion before which an authority must, under regulation 19 of these Regulations, ensure that a child's statement is amended, shall be 15th February 2003.

22nd October

2001



Secretary of State,
Department for Education and Skills

SCHEDULE 1

Regulation 14

Part A

Notice to parent

Name and address of authority

Date

Address of Parents

Dear *[here insert name of parents]*

I am pleased to enclose a copy of *[child's name (s)]**[proposed statement of special educational needs/proposed amended statement of special educational needs]*. We have attached to it copies of all the advice we were given during *[child's name]* assessment for the statement.

If you want to meet us to talk about the statement you need to tell us within 15 days of receiving this letter. This is not the final statement. You can ask for changes to be made to it. The rest of this letter tells you how you can do this.

As you will see the statement is in six parts:

Part 1 Introduction

Part 2 Special Educational Needs

Part 3 Special Educational Provision, including objectives and monitoring arrangements

Part 4 Placement

Part 5 Non-educational Needs

Part 6 Non-educational Provision

We have left part 4 blank so that you can tell us where you think *[child's name]* should be educated. You can tell us which maintained (Local Education Authority) school, including an LEA-maintained special school, you would like *[child's name]* to go to and tell us the reasons. To help you decide, a list of all the maintained *[primary/secondary]* schools in the area is attached.

[A list of all primary or secondary schools, depending on whether the child requires primary or secondary education must be attached to this letter].

If you suggest the name of a maintained school, including a maintained special school, we must name the school in part 4 of the statement unless-

- a) the school is unsuitable to *[child's name]* age, ability or aptitude or to *[his/her]* special educational needs, or

- b) the attendance of *[child's name]* at the school would be incompatible with the provision of efficient education for the children with whom *[he/she]* would be educated or the efficient use of resources

If you think that *[child's name]* should attend a non-maintained special school or an independent school you can suggest the name of a school and tell us why you think that school should be named in *[child's name]* statement. A list of non-maintained special schools and independent schools approved by the Secretary of State *[and if such a list is produced by the National Assembly of Wales]* and the National Assembly of Wales is attached to help you.

[Such lists of independent and non-maintained special schools as the Secretary of State and the National Assembly of Wales may issue from time to time must be attached to this letter]

If you want to tell us the name of a school you want *[child's name]* to go to you must do so within 15 days of getting this letter. However, if you attend a meeting with us to discuss this statement after getting this letter you will have another 15 days from that meeting to suggest a school. You can also tell us if you disagree with what the statement says. If you do disagree with the statement you must also tell us within 15 days of getting this letter, or 15 days from when you meet us to talk about the statement. If you still disagree with the statement, or any of the advice given during the assessment after you meet us, you can ask us for another meeting to discuss the advice you disagree with but you must ask us within 15 days of the first meeting. We will arrange for the person who gave the advice, or someone else they suggest, to attend this new meeting. We can arrange more than one meeting if necessary, if you disagree with more than one part of the advice.

Once all these stages are finished we will send you a final statement that will have part 4 completed.

If you have any concerns or questions about this process, or disagree with any part of the statement you may wish to get advice or support from the local parent partnership service. They can be contacted at *[contact address and telephone number]*.

They can also put you in touch with the informal arrangements set up to help resolve or prevent any disagreements between you and the authority. Using either of these services does not prevent you from appealing to the Special Educational Needs Tribunal about Parts 2, 3 or 4 of the Statement at the same time; your rights are not affected and an appeal to the Tribunal can run at the same time as any disagreement resolution.

When you receive the final statement, if you disagree with parts 2, 3 or 4 you can appeal to the Special Educational Needs Tribunal. The Tribunal can hold a hearing to decide what should be in these parts of *[child's name]* statement. You have to appeal to the Tribunal within two months of getting the final statement. The address of the Tribunal is 50 Victoria Street, London, SW1H 0HW.

If you have any questions, now or at any time, about this process or about the statement itself, our case officer *[name]* can be contacted at *[address and telephone number]*.

Please do not hesitate to get in touch.

Yours sincerely

[Signature of officer responsible]

PART B

Regulation 15

Name and address of authority

Date

Address of Parents

Dear *[here insert name of parents]*

As you know *[child's name]* has a statement of special educational needs dated *[here insert date of statement]*

We propose amending *[child's name]* statement *[insert reasons e.g. following an annual review]*. Details of the amendments are in the amendment notice attached.

If you disagree with the suggested changes and want to meet us to talk please tell us within 15 days.

(when amendment to part 4 is recommended)

We *[also]* want to amend part 4 of the statement *[explain reasons why e.g. so that a child can go to secondary school]*

You can tell us which maintained (LEA) school, including an LEA-maintained special school you would like *[child's name]* to get to and tell us the reasons. To help you decide, a list of all the maintained *[primary/secondary]* schools in the area is attached.

[A list of all primary or secondary schools, depending on whether the child requires primary or secondary education must be attached to this letter]

If you suggest the name of a maintained school, including a maintained special school, we must name the school in part 4 of the statement unless -

- a) the school is unsuitable to *[child's name]* age, ability or aptitude or to *[his/her]* special educational needs, or
- b) the attendance of *(insert child's name)* at the school would be incompatible with the provision of efficient education for the children with whom *[he/she]* would be educated or the efficient use of resources.

If you think that *[child's name]* should attend a non-maintained special school or an independent school you can suggest the name of a school and tell us why you think that school should be named in *[child's name]* statement. A list of non-maintained special schools and independent schools approved by the Secretary of State *[and if such a list is produced by the National Assembly for Wales]* and the National Assembly of Wales is attached to help you.

[Such lists of independent and non-maintained special schools as the Secretary of State and the National Assembly of Wales may issue from time to time must be attached to this letter]

If you want to tell us the name of a school you want *[child's name]* to go to you must do so within 15 days of getting this letter. However, if you attend a meeting with us to discuss the suggested changes to this statement after getting this letter you will have another 15 days from that meeting to name a school. You can also tell us if you disagree with the changes to the statement that we are suggesting. If you do disagree with the suggested changes you must also tell us within 15 days of getting this letter.

Once all these stages are finished we will send you an amended final statement. If you have any concerns or disagree with any part of the amended final statement you may wish to get advice or support from the local parent partnership service. They can be contacted *[here insert contact address and telephone number]*. They can also put you in touch with the informal arrangements set up to help resolve or prevent any disagreements between you and the authority. Using either of these services does not prevent you from appealing to the Special Educational Needs Tribunal about Parts 2, 3 or 4 of the Statement at the same time; your rights are not affected and an appeal to the Tribunal can run at the same time as any disagreement resolution.

When you receive the amended final statement, if you disagree with parts 2, 3 or 4 of the statement you can appeal to the Special Educational Needs Tribunal. The Tribunal can hold a hearing to decide what should be in these parts of *[child's name]* statement. You have to appeal to the Tribunal within two months of getting the final statement. The address of the Tribunal is 50 Victoria Street, London, SW1H 0HW.

If you have any questions, now or at any time, about this process or about the statement itself, our case officer *[name]* can be contacted at *[address and telephone number]*. Please do not hesitate to get in touch.

Yours sincerely

[Signature of officer responsible]

SCHEDULE 2

Regulation 16

Set out name of Authority

STATEMENT OF SPECIAL EDUCATIONAL NEEDS

PART 1: INTRODUCTION

1. In accordance with Section 324 of the Education Act 1996 ('the Act'), and the Education (Special Educational Needs) (England) (Consolidation) Regulations 2001, the following statement is made on [*here set out date*] by [*here set out name of authority*] ('the education authority') in respect of [*here set out name of child*] whose particulars are set out below.

Child	
Surname:	Other Names:
Home Address:	
	Sex:
Date of Birth:	Religion:
	Home Language:
Child's Parent or person responsible	
Surname:	Other Names:
Home Address:	Relationship to Child:
Telephone Number:	

2. When assessing the child's educational needs under Section 323 of the Education Act 1996 the authority took into consideration, in accordance with Regulation 11 of the Regulations, the evidence and advice set out in the Appendices A to F to this statement.

<i>Name of parent:</i>	Parental Advice	Dated:
<i>Name of head teacher /head of SEN or other person responsible:</i>	Educational Advice	Dated:
<i>Name of Doctor:</i>	Medical Advice	Dated:
<i>Name of Educational Psychologist:</i>	Psychological Advice	Dated:
<i>Name of Social Worker:</i>	Advice for Social Services Authority	Dated:
<i>Name of persons providing other advice:</i>	Advice from others	Dated:

(In making this statement the authority have taken into account the additional representations, evidence and advice set out in Appendix G to this statement).

PART 2: SPECIAL EDUCATIONAL NEEDS

[Here set out child's special educational needs, in terms of the child's learning difficulties which call for special educational provision, as assessed by the authority.]

PART 3: SPECIAL EDUCATIONAL PROVISION

Objectives

[Here specify the objectives which the special educational provision for the child should aim to meet.]

Educational provision to meet needs and objectives

[Here specify the special educational provision which the authority consider appropriate to meet the needs specified in Part 2 and to meet the objectives Specified in this Part, and in particular specify -

- (a) any appropriate facilities and equipment, staffing arrangements and curriculum,
- (b) any appropriate modifications to the application of the National Curriculum,
- (c) any appropriate exclusions from the application of the National Curriculum, in detail, and the provision which it is proposed to substitute for any such exclusions in order to maintain a balanced and broadly based curriculum; and
- (d) where residential accommodation is appropriate, that fact].

Monitoring

[Here specify the arrangements to be made for-

- (a) regularly monitoring progress in meeting objectives specified in this Part,
- (b) establishing targets in furtherance of those objectives,
- (c) regularly monitoring the targets referred to in (b),
- (d) regularly monitoring the appropriateness of any modifications to the application of the National Curriculum and
- (e) regularly monitoring the appropriateness of any provision substituted for exclusions from the application of the National Curriculum.

[Here also specify any special arrangements for reviewing this statement.]

PART 4: PLACEMENT

[Here specify]

- (a) the type of school which the authority consider appropriate for the child and if the authority are required to specify the name of a school for which the parent has expressed a preference, the name of that school, or, where the authority are otherwise required to specify the name of a school or institution, the name of the school/or institution which they consider would be appropriate for the child and should be specified; or
- (b) any provision for his education otherwise than at a school which the authority make under section 319 of the Education Act 1996 and consider it appropriate to specify.]

PART 5: NON-EDUCATIONAL NEEDS

[Here specify the non-educational needs of the child for which the authority consider provision is appropriate if the child is to properly benefit from the special educational provision specified in Part 3.]

PART 6: NON-EDUCATIONAL PROVISION

[Here specify any non-education provision which the authority propose to make available or which they are satisfied will be made available by a health authority, a social services authority or some other body, including the arrangements for its provision. Also specify the objectives of the provision, and the arrangements for monitoring progress in meeting those objectives.]

Date

A duly authorised officer of the authority

Appendix A: Parental Advice

[Here set out

- (1) any written representations made by the child's parent under section 323(1)(d) or 329A(3)(d) of or paragraph 4(1) of Schedule 27 to the Act and a summary which the parent has accepted as accurate of any oral representations so made or record that no such representations were made,*
- (2) any written evidence either submitted by the parent of the child under section 323(1)(d) or 329A(3)(d) of the Act or record that no such evidence was submitted; and*
- (3) the advice obtained under regulation 7(1)(a).]*

Appendix B: Educational Advice

[Here set out the advice obtained under regulation 7(1)(b).]

Appendix C: Medical Advice

[Here set out the advice obtained under regulation 7(1)(c).]

Appendix D: Psychological Advice

[Here set out the advice obtained under regulation 7(1)(d).]

Appendix E: Advice from the Social Services Authority

[Here set out the advice obtained under regulation 7(1)(e).]

Appendix F: Other Advice Obtained by the Authority

[Here set out the advice obtained under regulation 7(1)(f).]

Appendix G: Advice Obtained by the Authority since the last assessment of the child under section 323 of the Education Act 1996 was made

[Here set out the advice about the child obtained by the authority since the last assessment of the child under section 323 of the Education Act 1996 was made]

EXPLANATORY NOTES

(This note is not part of the Regulations)

These Regulations relate to the assessment of special educational needs and to statements of such needs under Part IV of the Education Act 1996. These Regulations re-enact with modifications the Education (Special Educational Needs) Regulations 1994, which are revoked for England (regulation 27).

These Regulations also consolidate the Education (Special Educational Needs) (England) Regulations 2001, the Education (Special Educational Needs) (England) (Amendment) Regulations 2001 and the Education (Special Educational Needs) (England) (Amendment No 2) Regulations 2001, all of which are revoked (regulation 27) prior to their coming into force.

The Regulations make provision for a head teacher to delegate his functions under them generally to a qualified teacher, or in a particular case to the staff member who teaches the child (regulation 3).

The Regulations also supplement the procedural framework for making an assessment and a statement contained in Part IV of the Education Act 1996 and Schedules 26 and 27 thereto. Detailed provision is made for the service of documents by post (regulation 4). The Regulations require copies of notices of a local education authority's proposal to make an assessment, their decision to make an assessment or notices of a parent's or responsible body's request for an assessment, to be served on the social services authority, the health authority and the head teacher of the child's school, or the head of SEN if a child is receiving relevant nursery education (regulation 6). Subject to exceptions, they require local education authorities to carry out various steps in making an assessment or a statement within prescribed time limits, including the provision of prescribed information (regulations 12 and 17 respectively).

The Regulations provide that local education authorities in making an assessment of a child's special educational needs must seek advice from the child's parent, educational advice, medical advice, psychological advice, advice from the social services authority and any other advice which they consider appropriate for the purpose of arriving at a satisfactory assessment (regulation 7). If such advice has been obtained on making a previous assessment within the last 12 months and certain persons are satisfied that it is sufficient, it is not necessary to obtain new advice (regulation 7(5)). Provision is made as to the persons from whom educational, medical and psychological advice must be sought (regulations 7 to 10). It is provided that in making an assessment an authority shall take into consideration representations from the parent, evidence submitted by the parent, and the advice which has been obtained (regulation 11).

Provision is made for a child without a statement admitted to a special school for the purpose of an assessment to remain there once the assessment is complete (regulation 13).

The Regulations prescribe the draft of a notice to be served on a parent with a draft statement of special educational needs or amended statement, or amendment notice (regulations 14 and 15 and Part A and B of Schedule 1 respectively). The form and content of a statement is also prescribed (regulation 16).

Detailed provision is made as to how an annual review of a statement by a local education authority under section 328 of the Education Act 1996 is to be carried out (regulations 18 to 22). Local education authorities are required to send composite lists of pupils requiring annual reviews to head teachers and health and social services in advance of each term and to the Connexions Service annually (regulation 18). Special provision for reviews is made where the review is the first review after a child has commenced his tenth year of compulsory education. Regulation 20 requires authorities to ensure that statements are amended by 15 February in the year of a child's transfer between phases of his schooling.

The Regulations provide for the transfer of a statement from one local education authority to another (regulation 23). The duties of the transferor are transferred to the transferee, and within 6 weeks of the transfer the transferee must serve a notice on the parent informing him of the transfer, whether they propose to make an assessment, and when they propose to review the statement (regulation 23(2), (3) and (4)). It is provided that where it would not be practicable to require the transferee to arrange for the

child's attendance at a school specified in the statement they need not do so, but can arrange for attendance at another school until it is possible to amend the statement (regulation 23(6)).

There are restrictions on the disclosure of statements and steps are to be taken to avoid unauthorised persons having access to them (regulation 24).

Regulation 25 sets out time limits within which authorities must comply with orders made by the Special Educational Needs Tribunal, and regulation 26 sets out time limits within which authorities must take specified action following their concession of certain appeals to the Tribunal.

Provision is made for the transition from the regime imposed by the 1994 Regulations to the regime imposed by these Regulations (regulation 28). Broadly, any action taken under the 1994 Regulations can be completed under those Regulations. If an assessment has been commenced before 1st January 2002 the local education authority may continue to make the assessment under the 1994 Regulations. However if the assessment is not complete before 1st May 2002 these Regulations will apply to the assessment as if it had been commenced under them on that date (regulation 28(3)).