

2014 No. 3283

EDUCATION, ENGLAND

**The Education (Independent School Standards) Regulations
2014**

<i>Made</i> - - - -	<i>11th December 2014</i>
<i>Laid before Parliament</i>	<i>15th December 2014</i>
<i>Coming into force</i> - -	<i>5th January 2015</i>

The Secretary of State for Education makes these Regulations in exercise of the powers conferred by sections 94(1) and (2) and 166(6) of the Education and Skills Act 2008(a).

Citation and commencement

1. These Regulations may be cited as the Education (Independent School Standards) Regulations 2014 and come into force on 5th January 2015.

Interpretation

2.—(1) In these Regulations—

“16 to 19 Academy” has the same meaning as in section 1B of the Academies Act 2010(b);

“the 1989 Act” means the Children Act 1989(c);

“the 1997 Act” means the Police Act 1997(d);

“the 2002 Act” means the Education Act 2002(e);

“the 2006 Act” means the Safeguarding Vulnerable Groups Act 2006(f);

“the 2008 Act” means the Education and Skills Act 2008;

“the 2010 Act” means the Equality Act 2010(g);

“boarder” means a pupil for whom a school provides accommodation, whether or not the pupil is a pupil at that school;

“EHC plan” means a plan within the meaning of section 37(2) of the Children and Families Act 2014(h);

(a) 2008 c.25. For the meaning of “prescribed” and “regulations” see section 168(1) and for the meaning of “specified” see section 94(3).
(b) 2010 c.32. Section 1B was inserted by section 53(7) of the Education Act 2011 (“the 2011 Act”) (c.21).
(c) 1989 c.41.
(d) 1997 c.50.
(e) 2002 c.32.
(f) 2006 c.47.
(g) 2010 c.15.
(h) 2014 c.6.

“employment business” has the meaning given in section 13(3) of the Employment Agencies Act 1973(a);

“enhanced criminal record certificate” means an enhanced criminal record certificate issued under section 113B(1)(b) of the 1997 Act, which includes, in such cases as are from time to time prescribed under section 113BA(1) of that Act, suitability information relating to children, and any relevant up-date information where such a certificate is subject to up-date arrangements;

“interim prohibition order” has the meaning given in section 141C(7)(c) of the 2002 Act;

“maintained school” means a community, foundation or voluntary school or a community or foundation special school(d);

“the National Minimum Standards for Accommodation of Students under Eighteen by Further Education Colleges” means the statement of national minimum standards published under that title in March 2002 by the Secretary of State for Health under section 87C(1) of the 1989 Act(e);

“the National Minimum Standards for Boarding Schools” means the statement of national minimum standards published under that title in November 2012 by the Secretary of State for Education under section 87C(1) of the 1989 Act;

“the National Minimum Standards for Residential Special Schools” means the statement of national minimum standards published under that title in November 2012 by the Secretary of State for Education under section 87C(1) of the 1989 Act;

“prohibition order” has the meaning given in section 141B(4)(f) of the 2002 Act;

“pupil” has the meaning given in section 3 of the Education Act 1996(g);

“relevant up-date information” means up-date information within the meaning given in section 116A(8)(b)(i)(h) or 116A(8)(c)(i) of the 1997 Act;

“school” means an independent educational institution(i) that is an independent school, or an alternative provision Academy that is not an independent school(j);

“staff” means any person working at the school whether under a contract of employment, under a contract for services or otherwise than under a contract, but does not include supply staff or a volunteer;

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- (a) 1973 c.35.
 - (b) Section 113B was inserted into the Police Act 1997 (c. 50) by section 163(2) of the Serious Organised Crime and Police Act 2005 (c.15). Section 113B(1) was amended by articles 36 and 37(c) of the Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006), sections 97(2), 112(2) and Part 8 of Schedule 8 of the Policing and Crime Act 2009 (c.26) and section 80(1) of the Protection of Freedoms Act 2012 (c.9).
 - (c) Section 141C was inserted by section 8(1) of the 2011 Act.
 - (d) See section 20 of the School Standards and Framework Act 1998 (c.31) as to the categories of maintained school.
 - (e) Section 87 was amended by section 105 of the Care Standards Act 2000 (c.41). Section 87C was inserted by section 107 of that Act and amended by section 43(1) and (5) of the 2011 Act.
 - (f) Section 141B was inserted by section 8(1) of the 2011 Act.
 - (g) 1996 c.56. Section 138(1) of the Education and Skills Act 2008 (“the 2008 Act”) defines “student” in relation to an independent school as “a pupil” as defined in section 3 of the Education Act 1996. These regulations only apply to independent schools and so refer to “pupil” throughout, not “student”.
 - (h) Section 116A was inserted by section 83 of the Protection of Freedoms Act 2012 and amended by articles 36 and 37(g) of the Protection of Freedoms Act 2012 (Disclosure and Barring Service Transfer of Functions) Order 2012 (S.I. 2012/3006).
 - (i) These standards apply only to schools as defined in these Regulations. As originally enacted, section 94 of the 2008 Act applies the standards to independent educational institutions as defined in section 92(1) of that Act. An independent educational institution that is not an independent school is not currently required to register under section 95 of that Act, and so these standards do not apply to them.
 - (j) “Independent school” is defined in section 463 of the Education Act 1996 (c.56), which was substituted by section 172 of the Education Act 2002. Section 463 was amended by section 82 and paragraphs 1 and 43(a) and (b) of Part 1 of Schedule 3 to the Children and Families Act 2014 and article 5(1) and paragraph 7(1) and (2) of Part 1 to Schedule 2 to the Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158). An educational institution which meets the requirements of section 1C(1) of the Academies Act 2010 is known as an “alternative provision Academy”. Section 1C was inserted by section 53(7) of the 2011 Act.

“suitability information relating to children” has the meaning given in section 113BA(2)(a) of the 1997 Act;

“supply staff” means any person working at the school supplied by an employment business;

“up-date arrangements” has the meaning given in section 116A(3) of the 1997 Act.

(2) For the purposes of these Regulations an “enhanced criminal record check” is made if—

- (a) an application for an enhanced criminal record certificate is made under section 113B(1) of the 1997 Act and the application is countersigned by a registered person (as defined in section 120(1) of that Act) or on behalf of that person; or
- (b) where an enhanced criminal record certificate has been obtained under section 113B(1) of the 1997 Act and is subject to up-date arrangements, relevant up-date information is obtained.

(3) In these Regulations, where an element of a standard is information or a document being “made available”, that element of the standard is met—

- (a) in a case where the school has an internet website, if—
 - (i) the information or a copy of the document is available on the website in a form accessible to parents of pupils and parents of prospective pupils and available for inspection on the school’s premises during the school day; and
 - (ii) the proprietor takes reasonable steps to ensure that parents of pupils and parents of prospective pupils are aware that the information or a copy of the document is available and the form in which it is available; and
- (b) in a case where the school has an internet website but the information or a copy of the document is not available on the website, or where the school does not have an internet website, if—
 - (i) the proprietor takes reasonable steps to ensure that parents of pupils and parents of prospective pupils are made aware that they may request the information or a copy of the document; and
 - (ii) the information or a copy of the document is sent or given to such parents free of charge, in response to a request.

(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,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.

(5) For the purposes of paragraphs 18(2)(d), 19(2)(a)(i)(bb), 20(3)(b)(i), 20(5)(b)(i) and 20(6)(b)(i) of the Schedule, an enhanced criminal record check is only relevant where a person or individual is or will be engaging in—

- (a) regulated activity within the meaning of Part 1 of Schedule 4 to the 2006 Act; or
- (b) regulated activity relating to children within the meaning of Part 1 of Schedule 4 to the 2006 Act as it had effect immediately before the coming into force of section 64 of the Protection of Freedoms Act 2012**(b)**.

(a) Section 113BA was inserted by paragraph 14(4) of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006 and amended by section 170(2) of the Education and Inspections Act 2006 (c.40), paragraph 12 of Schedule 1 to the 2008 Act and section 81 of the Policing and Crime Act 2009 (c.26).

(b) 2012 c.9.

Independent school standards

3.—(1) Except as provided in paragraphs (2) and (3), the provisions contained in the Schedule are prescribed as the independent school standards for the purposes of Part 4 of the 2008 Act in relation to any school.

(2) The standards contained in the following provisions of the Schedule do not apply to an Academy(a)—

- (a) Part 1;
- (b) paragraph 32(1)(b) insofar as it relates to the information referred to in paragraph 32(3)(b), (c) and (e); and
- (c) paragraph 32(1)(h).

(3) The standards referred to in paragraph (2) of this Regulation and the standards contained in paragraphs 15 and 32(1)(f) of the Schedule do not apply to a city technology college or a city college for the technology of the arts(b).

11th December 2014

John Nash
Parliamentary Under Secretary of State
Department for Education

SCHEDULE

Regulation 3(1)

PART 1

Quality of education provided

1. The standards about the quality of education provided at the school are those contained in this Part.

2.—(1) The standard in this paragraph is met if—

- (a) the proprietor ensures that a written policy on the curriculum, supported by appropriate plans and schemes of work, which provides for the matters specified in sub-paragraph (2) is drawn up and implemented effectively; and
- (b) the written policy, plans and schemes of work—
 - (i) take into account the ages, aptitudes and needs of all pupils, including those pupils with an EHC plan; and
 - (ii) do not undermine the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs.

(2) For the purposes of paragraph (2)(1)(a), the matters are—

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- (a) An educational institution to which Academy arrangements relate is known as an Academy under section 1(10) of the Academies Act 2010 (c.32) as amended by sections 53(1) and (6) of the 2011 Act. “Academy arrangements” are defined in section 1(2) of that Act.
 - (b) City technology colleges and city technology colleges of the arts were established under section 482 of the Education Act 1996 as originally enacted which was subsequently repealed by section 63 and paragraph 16 of Schedule 14 to the 2011 Act.

- (a) full-time supervised education for pupils of compulsory school age (construed in accordance with section 8 of the Education Act 1996), which gives pupils experience in linguistic, mathematical, scientific, technological, human and social, physical and aesthetic and creative education;
- (b) that pupils acquire speaking, listening, literacy and numeracy skills;
- (c) where the principal language of instruction is a language other than English, lessons in written and spoken English, except that this matter does not apply in respect of a school which provides education for pupils who are all temporarily resident in England and which follows the curriculum of another country;
- (d) personal, social, health and economic education which—
 - (i) reflects the school's aim and ethos; and
 - (ii) encourages respect for other people, paying particular regard to the protected characteristics set out in the 2010 Act^(a);
- (e) for pupils receiving secondary education, access to accurate, up-to-date careers guidance that—
 - (i) is presented in an impartial manner;
 - (ii) enables them to make informed choices about a broad range of career options; and
 - (iii) helps to encourage them to fulfil their potential;
- (f) 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;
- (g) where the school has pupils above compulsory school age, a programme of activities which is appropriate to their needs;
- (h) that all pupils have the opportunity to learn and make progress; and
- (i) effective preparation of pupils for the opportunities, responsibilities and experiences of life in British society.

3. The standard in this paragraph is met if the proprietor ensures that the teaching at the school—

- (a) enables pupils to acquire new knowledge and make good progress according to their ability so that they increase their understanding and develop their skills in the subjects taught;
- (b) fosters in pupils self-motivation, the application of intellectual, physical and creative effort, interest in their work and the ability to think and learn for themselves;
- (c) involves well planned lessons and effective teaching methods, activities and management of class time;
- (d) shows a good understanding of the aptitudes, needs and prior attainments of the pupils, and ensures that these are taken into account in the planning of lessons;
- (e) demonstrates good knowledge and understanding of the subject matter being taught;
- (f) utilises effectively classroom resources of a good quality, quantity and range;
- (g) demonstrates that a framework is in place to assess pupils' work regularly and thoroughly and use information from that assessment to plan teaching so that pupils can progress;
- (h) utilises effective strategies for managing behaviour and encouraging pupils to act responsibly;
- (i) does not undermine the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs; and

^(a) The protected characteristics are set out in Chapter 1 of Part 2 of the Equality Act 2010.

(j) does not discriminate against pupils contrary to Part 6 of the 2010 Act^(a).

4. The standard in this paragraph is met where the proprietor ensures that a framework for pupil performance to be evaluated, by reference to the school's own aims as provided to parents or national norms, or to both, is in place.

PART 2

Spiritual, moral, social and cultural development of pupils

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

- (a) actively promotes 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) ensures that principles are actively 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 of England;
 - (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) enable pupils to acquire a broad general knowledge of and respect for public institutions and services in England;
 - (v) further tolerance and harmony between different cultural traditions by enabling pupils to acquire an appreciation of and respect for their own and other cultures;
 - (vi) encourage respect for other people, paying particular regard to the protected characteristics set out in the 2010 Act; and
 - (vii) encourage respect for democracy and support for participation in the democratic process, including respect for the basis on which the law is made and applied in England;
- (c) precludes the promotion of partisan political views in the teaching of any subject in the school; and
- (d) 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.

(a) Part 6 relates to education and consists of two Chapters. Chapter 1 relates to schools and Chapter 2 to further and higher education.

PART 3

Welfare, health and safety of pupils

6. The standards about the welfare, health and safety of pupils at the school are those contained in this Part.

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

- (a) arrangements are made to safeguard and promote the welfare of pupils at the school; and
- (b) such arrangements have regard to any guidance issued by the Secretary of State.

8. Where section 87(1) of the 1989 Act(a) applies in relation to a school the standard in this paragraph is met if the proprietor ensures that—

- (a) arrangements are made to safeguard and promote the welfare of boarders while they are accommodated at the school; and
- (b) such arrangements have regard to the National Minimum Standards for Boarding Schools or, where applicable, the National Minimum Standards for Residential Special Schools or the National Minimum Standards for Accommodation of Students under Eighteen by Further Education Colleges.

9. The standard in this paragraph is met if the proprietor promotes good behaviour amongst pupils by ensuring that—

- (a) a written behaviour policy is drawn up that, amongst other matters, sets out the sanctions to be adopted in the event of pupil misbehaviour;
- (b) the policy is implemented effectively; and
- (c) a record is kept of the sanctions imposed upon pupils for serious misbehaviour.

10. The standard in this paragraph is met if the proprietor ensures that bullying at the school is prevented in so far as reasonably practicable, by the drawing up and implementation of an effective anti-bullying strategy.

11. The standard in this paragraph is met if the proprietor ensures that relevant health and safety laws are complied with by the drawing up and effective implementation of a written health and safety policy.

12. The standard in this paragraph is met if the proprietor ensures compliance with the Regulatory Reform (Fire Safety) Order 2005(b).

13. The standard in this paragraph is met if the proprietor ensures that first aid is administered in a timely and competent manner by the drawing up and effective implementation of a written first aid policy.

14. The standard in this paragraph is met if the proprietor ensures that pupils are properly supervised through the appropriate deployment of school staff.

15. The standard in this paragraph is met if the proprietor ensures that an admission and attendance register is maintained in accordance with the Education (Pupil Registration) (England) Regulations 2006(c).

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

- (a) the welfare of pupils at the school is safeguarded and promoted by the drawing up and effective implementation of a written risk assessment policy; and

(a) Section 87(1) was amended by section 105 of the Care Standards Act 2000 (c.41) and section 1A was inserted by section 43 of the 2011 Act.

(b) S.I. 2005/1541, to which there are amendments not relevant to these Regulations.

(c) S.I. 2006/1751, to which there are amendments not relevant to these Regulations.

- (b) appropriate action is taken to reduce risks that are identified.

PART 4

Suitability of staff, supply staff, and proprietors

17. The standards about the suitability of staff, supply staff, and proprietors are those contained in this Part.

18.—(1) The standard in this paragraph relates to the suitability of persons appointed as members of staff at the school, other than the proprietor and supply staff.

(2) The standard in this paragraph is met if—

- (a) no such person is barred from regulated activity relating to children in accordance with section 3(2) of the 2006 Act where that person is or will be engaging in activity which is regulated activity within the meaning of Part 1 of Schedule 4 to that Act;
- (b) no such person carries out work, or intends to carry out work, at the school in contravention of a prohibition order, an interim prohibition order, or any direction made under section 128 of the 2008 Act or section 142 of the 2002 Act, or any disqualification, prohibition or restriction which takes effect as if contained in either such direction;
- (c) the proprietor carries out appropriate checks to confirm in respect of each such person—
 - (i) the person’s identity;
 - (ii) the person’s medical fitness;
 - (iii) the person’s right to work in the United Kingdom; and
 - (iv) where appropriate, the person’s qualifications;
- (d) the proprietor ensures that, where relevant to any such person, an enhanced criminal record check is made in respect of that person and an enhanced criminal record certificate is obtained before or as soon as practicable after that person’s appointment;
- (e) in the case of any person for whom, by reason of that person living or having lived outside the United Kingdom, obtaining such a certificate is not sufficient to establish the person’s suitability to work in a school, such further checks are made as the proprietor considers appropriate, having regard to any guidance issued by the Secretary of State; and
- (f) in the case of staff who care for, train, supervise or are in charge of boarders, in addition to the matters specified in paragraphs (a) to (e), the proprietor checks that Standard 14 of the National Minimum Standards for Boarding Schools or, where applicable, Standard 14 of the National Minimum Standards for Residential Special Schools, is complied with,

and in the light of the information from the checks referred to in paragraphs (c) to (f) the proprietor considers that the person is suitable for the position to which the person is appointed.

(3) The checks referred to in sub-paragraphs (2)(c) and (except where sub-paragraph (4) applies) (2)(e) must be completed before a person’s appointment.

(4) The checks specified in sub-paragraphs (2)(d), (e) and (f) do not need to be carried out where the new member of staff (“M”) has worked in—

- (a) a school or a maintained school in England in a position which brought M regularly into contact with children or young persons;
- (b) a maintained school in England in a position to which M was appointed on or after 12th May 2006 and which did not bring M regularly into contact with children or young persons; or
- (c) an institution within the further education sector in England or in a 16 to 19 Academy in a position which involved the provision of education or which brought M regularly into contact with children or young persons,

during a period which ended not more than three months before M's appointment.

19.—(1) This paragraph relates to the suitability of supply staff at the school.

(2) The standard in this paragraph is met if—

- (a) a person offered for supply by an employment business to the school only begins to work at the school if the proprietor has received—
 - (i) written notification from the employment business in relation to that person—
 - (aa) that the checks referred to in paragraph 21(3)(a)(i) to (iv), (vii) and (b) have been made to the extent relevant to that person;
 - (bb) that, where relevant to that person, an enhanced criminal record check has been made and that it or another employment business has obtained an enhanced criminal record certificate in response to such a check; and
 - (cc) if the employment business has obtained such a certificate before the person is due to begin work at the school, whether it disclosed any matter or information; and
 - (ii) a copy of any enhanced criminal record certificate obtained by an employment business before the person is due to begin work at the school;
- (b) a person offered for supply by an employment business only begins work at the school if the proprietor considers that the person is suitable for the work for which the person is supplied;
- (c) before a person offered for supply by an employment business begins work at the school the person's identity is checked by the proprietor of the school (irrespective of any such check carried out by the employment business before the person was offered for supply);
- (d) the proprietor, in the contract or other arrangements which the proprietor makes with any employment business, requires the employment business to provide—
 - (i) the notification referred to in paragraph (a)(i); and
 - (ii) a copy of any enhanced criminal record certificate which the employment business obtains,in respect of any person whom the employment business supplies to the school; and
- (e) except for those persons to whom sub-paragraph (4) applies, in the case of supply staff who care for, train, supervise or are in charge of boarders, the proprietor checks that the relevant parts of Standard 14 of the National Minimum Standards for Boarding Schools or where applicable, Standard 14 of the National Minimum Standards for Residential Special Schools are complied with.

(3) Except in the case of a person to whom sub-paragraph (4) applies, the certificate referred to in sub-paragraph (2)(a)(i)(bb) must have been obtained not more than 3 months before the date on which the person is due to begin work at the school.

(4) This sub-paragraph applies to a person ("P") who has worked in—

- (a) a school or a maintained school in England in a position which brought P regularly into contact with children or young persons;
- (b) a maintained school in England in a position to which P was appointed on or after 12th May 2006 and which did not bring P regularly into contact with children or young persons; or
- (c) an institution within the further education sector in England or in a 16 to 19 Academy in a position which involved the provision of education or which brought P regularly into contact with children or young persons,

during a period which ended not more than three months before P is due to begin work at the school.

20.—(1) The standard in this paragraph relates to the suitability of the proprietor of the school.

(2) Sub-paragraph (3) relates to the suitability of the proprietor where the proprietor is an individual.

(3) The standard in this paragraph is met if—

(a) the individual—

- (i) is not barred from regulated activity relating to children in accordance with section 3(2) of the 2006 Act where that individual is or will be engaging in activity which is regulated activity within the meaning of Part 1 of Schedule 4 to that Act; and
- (ii) does not carry out work, or intend to carry out work, at the school in contravention of a prohibition order, an interim prohibition order, or any direction made under section 128 of the 2008 Act or section 142 of the 2002 Act or any disqualification, prohibition or restriction which takes effect as if contained in either such direction; and

(b) the Secretary of State makes the following checks relating to the individual before the school is entered in the register or, in the case of a registered school, before or as soon as practicable after the individual takes over as proprietor—

- (i) where relevant to the individual, an enhanced criminal record check, countersigned by the Secretary of State where an application for such a check is made under section 113B(1) of the 1997 Act;
- (ii) checks confirming the individual's identity and their right to work in the United Kingdom; and
- (iii) in the case of an individual for whom, by reason of that individual living or having lived outside the United Kingdom, obtaining an enhanced criminal record certificate is not sufficient to establish the individual's suitability to work in a school, such further checks as the Secretary of State considers appropriate;

and, where an enhanced criminal record check is made, the Secretary of State obtains an enhanced criminal record certificate relating to the individual.

(4) Sub-paragraphs (5) to (8) relate to the suitability of the proprietor where the proprietor is a body of persons corporate or unincorporate.

(5) The standard in this paragraph is met in relation to an individual who is the Chair of the school if—

(a) the individual—

- (i) is not barred from regulated activity relating to children in accordance with section 3(2) of the 2006 Act where that individual is or will be engaging in activity which is regulated activity within the meaning of Part 1 of Schedule 4 to that Act; and
- (ii) does not carry out work, or intend to carry out work, at the school in contravention of a prohibition order, an interim prohibition order, or any direction made under section 128 of the 2008 Act or section 142 of the 2002 Act or any disqualification, prohibition or restriction which takes effect as if contained in either such direction; and

(b) subject to sub-paragraphs (7) and (8), the Secretary of State makes the following checks relating to the individual—

- (i) where relevant to the individual, an enhanced criminal record check, countersigned by the Secretary of State where an application for such a check is made under section 113B(1) of the 1997 Act;
- (ii) checks confirming the individual's identity and their right to work in the United Kingdom; and
- (iii) in the case of an individual for whom, by reason of the individual living or having lived outside the United Kingdom, obtaining an enhanced criminal record certificate is not sufficient to establish the individual's suitability to work in a school, such further checks as the Secretary of State considers appropriate;

and, where an enhanced criminal record check is made, the Secretary of State obtains an enhanced criminal record certificate relating to the individual.

(6) The standard in this paragraph is met in relation to an individual (“MB”), not being the Chair of the school, who is a member of a body of persons corporate or unincorporate named as the proprietor of the school in the register or in an application to enter the school in the register, if—

(a) MB—

(i) is not barred from regulated activity relating to children in accordance with section 3(2) of the 2006 Act where that individual is or will be engaging in activity which is regulated activity within the meaning of Part 1 of Schedule 4 to that Act; and

(ii) does not carry out work, or intend to carry out work, at the school in contravention of a prohibition order, an interim prohibition order, or any direction made under section 128 of the 2008 Act or section 142 of the 2002 Act or any disqualification, prohibition or restriction which takes effect as if contained in either such direction;

(b) subject to sub-paragraphs (7) to (8), the Chair of the school makes the following checks relating to MB—

(i) where relevant to the individual, an enhanced criminal record check;

(ii) checks confirming MB’s identity and MB’s right to work in the United Kingdom; and

(iii) where, by reason of MB’s living or having lived outside the United Kingdom, obtaining an enhanced criminal record certificate is not sufficient to establish MB’s suitability to work in a school, such further checks as the Chair of the school considers appropriate, having regard to any guidance issued by the Secretary of State;

and, where an enhanced criminal record check is made, the Chair obtains an enhanced criminal record certificate relating to the individual; and

(c) subject to sub-paragraph (8), where the Secretary of State makes a request for an enhanced criminal record check relating to MB countersigned by the Secretary of State to be made, such a check is made.

(7) In a case where—

(a) the suitability of the proprietor is being considered in response to an application by the governing body of a maintained school to enter the school on the register, and

(b) the local authority maintaining the school has made one or more of the checks referred to in sub-paragraph (5)(b) or (6)(b) in relation to the Chair of the school or MB,

sub-paragraph (5)(b) or (6)(b) (as the case may be) is treated as complied with so far as relating to that check.

(8) In the case of a registered school—

(a) sub-paragraph (5)(b) is met where the checks referred to in that sub-paragraph are completed before or as soon as practicable after the Chair of the school starts acting as such;

(b) sub-paragraph (6)(b) is met where the checks referred to in paragraph (b)(i) and (iii) are completed before or as soon as practicable after MB starts acting as a member of the body of persons corporate or unincorporate named in the register as the proprietor of the school; and

(c) sub-paragraph (6)(c) is met where the enhanced criminal record check is made as soon as practicable after the Secretary of State’s request.

(9) In this paragraph a reference to the Chair of the school is a reference to an individual who is the Chair of a body of persons corporate or unincorporate named as the proprietor of the school in the register or in an application to enter the school in the register and includes a reference to a similar officer.

21.—(1) The standard in this paragraph is met if the proprietor keeps a register which shows such of the information referred to in sub-paragraphs (3) to (7) as is applicable to the school in question.

(2) The register referred to in sub-paragraph (1) may be kept in electronic form, provided that the information so recorded is capable of being reproduced in legible form.

(3) The information referred to in this sub-paragraph is—

- (a) in relation to each member of staff (“S”) appointed on or after 1st May 2007, whether—
 - (i) S’s identity was checked;
 - (ii) a check was made to establish whether S is barred from regulated activity relating to children in accordance with section 3(2) of the 2006 Act;
 - (iii) a check was made to establish whether S is subject to any direction made under section 128 of the 2008 Act or section 142 of the 2002 Act or any disqualification, prohibition or restriction which takes effect as if contained in such a direction;
 - (iv) checks were made to ensure, where appropriate, that S had the relevant qualifications;
 - (v) an enhanced criminal record certificate was obtained in respect of S;
 - (vi) checks were made pursuant to paragraph 18(2)(d);
 - (vii) a check of S’s right to work in the United Kingdom was made; and
 - (viii) checks were made pursuant to paragraph 18(2)(e),

including the date on which each such check was completed or the certificate obtained; and

- (b) in relation to each member of staff (“S”), whether a check was made to establish whether S is subject to a prohibition order or an interim prohibition order, including the date on which such check was completed.

(4) The information referred to in this sub-paragraph is, in relation to each member of staff in post on 1st August 2007 who was appointed at any time before 1st May 2007, whether each check referred to in sub-paragraph (3) was made and whether an enhanced criminal record certificate was obtained, together with the date on which any check was completed or certificate obtained.

(5) The information referred to in this sub-paragraph is, in relation to supply staff—

- (a) whether written notification has been received from the employment business that—
 - (i) checks corresponding to those referred to in sub-paragraph (3)(a)(i) to (iv), (vi) and (vii) have been made to the extent relevant to any such person; and
 - (ii) an enhanced criminal record check has been made and that it or another employment business has obtained an enhanced criminal record certificate in response to such a check,

together with the date the written notification that each such check was made, or certificate obtained, was received;

- (b) whether a check has been made in accordance with paragraph 19(2)(e) together with the date the check was completed; and
- (c) where written notification has been received from the employment business in accordance with a contract or other arrangements referred to in paragraph 19(2)(d) that it has obtained an enhanced criminal record certificate, whether the employment business supplied a copy of the certificate to the school.

(6) The information referred to in this sub-paragraph is, in relation each member (“MB”) of a body of persons named as the proprietor appointed on or after 1st May 2007, whether the checks referred to in paragraph 20(6)(b) were made, the date they were made and the date on which the resulting certificate was obtained.

(7) The information referred to in this sub-paragraph is, in relation to each member of a body of persons named as the proprietor in post on 1st August 2007 who was appointed at any time before 1st May 2007—

- (a) whether each check referred to in sub-paragraph (6) was made; and
 - (b) whether an enhanced criminal record certificate was obtained, together with the date on which any check was completed or certificate obtained.
- (8) It is immaterial for the purposes of sub-paragraphs (3), (4), (5)(a) and (b), (6) and (7) whether the check was made or certificate obtained pursuant to a legal obligation.

PART 5

Premises of and accommodation at schools

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

23.—(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.

24.—(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.

25. 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.

26. 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.

27. 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.

28.—(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.

29.—(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.

30. 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.

31. 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.

PART 6

Provision of information

32.—(1) The standard about the provision of information by the school is met if the proprietor ensures that—

- (a) the information specified in sub-paragraph (2) is provided to parents of pupils and parents of prospective pupils and, on request, to the Chief Inspector^(a), the Secretary of State or an independent inspectorate^(b);

(a) For the meaning of “Chief Inspector” see section 138(1) of the 2008 Act.

(b) An independent inspectorate is a body approved by the Secretary of State under section 106 of the 2008 Act.

- (b) the information specified in sub-paragraph (3) is made available to parents of pupils and parents of prospective pupils and, on request, to the Chief Inspector, the Secretary of State or an independent inspectorate;
 - (c) particulars of the arrangements for meeting the standard contained in paragraph 7 are published on the school's internet website or, where no such website exists, are provided to parents on request;
 - (d) following an inspection under section 108 or 109 of the 2008 Act, a copy of the report of the inspection (if it has been sent to the proprietor) is published and maintained on the school's internet website, and provided to the parents of each registered pupil, by any date specified by the body who conducted the inspection;
 - (e) following an inspection under section 87(1) of the 1989 Act, a copy of the report of the inspection (if it has been sent to the proprietor) is published and maintained on the school's internet website, and provided to the parents of each boarder;
 - (f) an annual written report of each registered pupil's progress and attainment in the main subject areas taught is provided to the parents of that registered pupil except that no report need be provided where the parent has agreed otherwise;
 - (g) any information reasonably requested in connection with an inspection under section 109 of the 2008 Act which is required for the purposes of the inspection is provided to the body conducting the inspection and that body is given access to the school's admission and attendance registers;
 - (h) where a pupil wholly or partly funded by a local authority (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)) is registered at the school, an annual account of income received and expenditure incurred by the school in respect of that pupil is provided to the local authority and, on request, to the Secretary of State;
 - (i) where a pupil with an EHC plan wholly or partly funded by a local authority or other body through public funds is registered at the school, such information as may reasonably be required for the purpose of the annual review of the EHC plan is provided to the responsible local authority; and
 - (j) particulars of any action specified in sub-paragraph (4) are published and maintained on the school's website or, where no such website exists, are provided to parents.
- (2) The information specified in this sub-paragraph is—
- (a) the school's address and telephone number and the name of the head teacher;
 - (b) either—
 - (i) where the proprietor is an individual, the proprietor's full name, address for correspondence during both term-time and holidays and a telephone number or numbers on which the proprietor may be contacted, or
 - (ii) where the proprietor is a body of persons, the address and telephone number of its registered or principal office;
 - (c) where there is a governing body, the name and address for correspondence of its Chair; and
 - (d) a statement of the school's ethos (including any religious ethos) and aims.
- (3) The information specified in this sub-paragraph is—
- (a) particulars of the school's policy on and arrangements for admissions, misbehaviour and exclusions;
 - (b) particulars of educational and welfare provision for pupils with EHC plans and pupils for whom English is an additional language;

(a) 2006 c.21. Section 7 was substituted by section 1 of the 2011 Act and section 7A was inserted by section 87 of the Children and Families Act 2014 (c.6).

- (c) particulars of the policy referred to in paragraph 2;
 - (d) particulars of arrangements for meeting the standards contained in paragraphs 9, 10, 11 and 13;
 - (e) particulars of the school’s academic performance during the preceding school year, including the results of any public examinations;
 - (f) details of the complaints procedure referred to in paragraph 33, and the number of complaints registered under the formal procedure during the preceding school year; and
 - (g) a copy of the report of any inspection carried out under sections 108 or 109 of the 2008 Act or section 87(1) of the 1989 Act.
- (4) The action specified in this sub-paragraph is—
- (a) any decision of the Secretary of State to remove the school from the register under sections 100, 105, 112, 116, 119, or 123 of the 2008 Act;
 - (b) any decision of the Secretary of State to impose a relevant restriction on the proprietor under section 116 of the 2008 Act; and
 - (c) any order of a justice of the peace under section 120 of the 2008 Act to remove the school from the register.
- (5) For the purposes of sub-paragraph (4)(b), “relevant restriction” has the meaning given in section 117(1) of the 2008 Act.

PART 7

Manner in which complaints are handled

33. The standard about the manner in which complaints are handled is met if the proprietor ensures that a complaints procedure is drawn up and effectively implemented which deals with the handling of complaints from parents of pupils and which—

- (a) is in writing;
- (b) is made available to parents of pupils;
- (c) sets out clear time scales for the management of a complaint;
- (d) allows for a complaint to be made and considered initially on an informal basis;
- (e) where the parent is not satisfied with the response to the complaint made in accordance with sub-paragraph (d), establishes a formal procedure for the complaint to be made in writing;
- (f) where the parent is not satisfied with the response to the complaint made in accordance with sub-paragraph (e), makes provision for a hearing before a panel appointed by or on behalf of the proprietor and consisting of at least three people who were not directly involved in the matters detailed in the complaint;
- (g) ensures that, where there is a panel hearing of a complaint, one panel member is independent of the management and running of the school;
- (h) allows for a parent to attend and be accompanied at a panel hearing if they wish;
- (i) provides for the panel to make findings and recommendations and stipulates that a copy of those findings and recommendations is—
 - (i) provided to the complainant and, where relevant, the person complained about; and
 - (ii) available for inspection on the school premises by the proprietor and the head teacher;
- (j) provides for a written record to be kept of all complaints that are made in accordance with sub-paragraph (e) and—

- (i) whether they are resolved following a formal procedure, or proceed to a panel hearing; and
- (ii) action taken by the school as a result of those complaints (regardless of whether they are upheld); and
- (k) provides that correspondence, statements and records relating to individual complaints are to be kept confidential except where the Secretary of State or a body conducting an inspection under section 109 of the 2008 Act requests access to them.

PART 8

Quality of leadership in and management of schools

34.—(1) The standard about the quality of leadership and management is met if the proprietor ensures that persons with leadership and management responsibilities at the school—

- (a) demonstrate good skills and knowledge appropriate to their role so that the independent school standards are met consistently;
- (b) fulfil their responsibilities effectively so that the independent school standards are met consistently; and
- (c) actively promote the well-being of pupils.

(2) For the purposes of paragraph (1)(c) “well-being” means well-being within the meaning of section 10(2) of the Children Act 2004^(a).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace the Education (Independent School Standards) (England) Regulations 2010 (“the 2010 Regulations”). Both these Regulations and the 2010 Regulations apply only in relation to England.

These Regulations set out the Independent School Standards (“the standards”) to which independent educational institutions which are independent schools will be inspected under Part 4 of the Education and Skills Act 2008 (“the 2008 Act”).

A person conducting such an inspection will make a report on the extent to which any relevant standard is met, which the Secretary of State will consider along with any other evidence in determining whether to register a new school or to take enforcement action against an existing one. A standard is a relevant one if it is specified by the Secretary of State for the purposes of the inspection or considered to be relevant by the person carrying out the inspection in the circumstances of the case.

Regulation 2 is an interpretation provision. The definitions are largely unchanged from the 2010 Regulations, but new definitions have been inserted to reflect changes to the standards as a result of changes to primary legislation, for example in the areas of safeguarding and special educational needs.

Regulation 3 provides that the standards in the Schedule apply to all independent schools and alternative provision Academies that are not independent schools, save for some limited exceptions, most notably that Part 1 does not apply to Academies. Regulation 3 also introduces the Schedule which contains the new standards for independent schools for the purposes of Part 4 of

(a) 2004 c.31.

the 2008 Act. The paragraph numbers below are references to the paragraphs contained in the Schedule to these Regulations.

Part 1 of the Schedule sets out the standards on the quality of education to be provided. The standard in paragraph 2(1) is met if the proprietor ensures that a written policy on the curriculum, supported by plans and schemes of work, is drawn up and implemented effectively which provides for the matters set out in paragraph 2(2). It is a new requirement that the written policy, plans and schemes of work do not undermine the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs. Another new requirement is that personal, social, health and economic education encourages respect for other people, paying particular regard to the protected characteristics set out in the Equality Act 2010. Paragraph 3 relates to the teaching at the school. The two main new requirements are that the teaching does not undermine the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs and does not discriminate against pupils contrary to Part 6 of the Equality Act 2010.

Part 2 sets out the standard relating to the spiritual, moral, social and cultural development of pupils. It is the same as in Part 2 of the 2010 Regulations as amended by the Education (Independent School Standards) (England) (Amendment) Regulations 2014. It has been amended by those Regulations so as to require a proprietor of an independent school to actively promote British values.

Part 3 sets out the standards on the welfare, health and safety of pupils. These include standards on the promotion of good behaviour (paragraph 9), the prevention of bullying (paragraph 10), compliance with health and safety laws (paragraph 11) and the administration of first aid (paragraph 13). There is now a new standard requiring the proprietor to ensure that a written risk assessment policy is drawn up and implemented effectively and that appropriate action is taken to reduce risks that are identified (paragraph 16).

Part 4 sets out the standards on the suitability of proprietors and staff. All members of staff (separate provision is made for proprietors and supply staff) must be subject to checks on any bar from working with children and young persons, and on their identity, medical fitness, right to work in the United Kingdom and their qualifications (paragraph 18(2)(a) and (c)). It is also a requirement that, subject to exceptions, such a member of staff, prior to or as soon as practicable after, their appointment be subject to an enhanced criminal record check under the Police Act 1997 (paragraph 18(2)(d)). Paragraph 18(2)(e) provides that any person who has lived outside the United Kingdom must be subject to further checks if an enhanced criminal record check is insufficient to establish suitability to work in a school.

There are also new requirements to check that no member of staff carries out work at a school, or intends to do so, in contravention of a prohibition order, an interim prohibition order, or any direction made under section 128 of the 2008 Act that they may not take part in the management of an independent school (paragraph 18(2)(b)). A prohibition order is an order prohibiting the person to whom it relates from carrying out teaching work and an interim prohibition order may be made by the Secretary of State at any time pending a decision as to whether to make a prohibition order should she consider it necessary in the public interest to do so.

A person supplied by an employment business (supply staff) cannot work at a school until the employment business has confirmed that checks have been carried out (paragraph 19(2)(a)) and schools are required in their arrangements with agencies to place them under an obligation to provide this information (paragraph 19(2)(d)(i)). The person cannot work at a school unless the proprietor considers them suitable for the work for which they are being supplied (paragraph 19(2)(b)) and has checked their identity (paragraph 19(2)(c)). The new requirement that no member of staff carries out work at a school, or intends to do so, in contravention of a prohibition order or an interim prohibition order, or any direction made under section 128 of the 2008 Act that they may not take part in the management of an independent school also applies to supply staff (paragraphs 19(2)(a)(i)(aa) and 21(3)(a)(iii)) and proprietors (paragraphs 20(3)(a)(ii), 20(5)(a)(ii) and 20(6)(a)(ii)).

Part 5 sets out the standards relating to school premises and accommodation. These require the proprietor to ensure that the school premises and the accommodation and facilities provided are maintained to a proper standard. There must be suitable toilet and washing facilities as well as suitable accommodation provided to cater for the medical and therapy needs of pupils. No changes have been made to this Part and it is the same as it is in the 2010 Regulations.

Part 6 sets out the standard on the provision of information, requiring certain information to be provided or made available to parents of pupils and parents of prospective pupils. The standard is largely unchanged from the standard contained in Part 6 of the 2010 Regulations. The main change is that there is a new requirement for a proprietor to publish information relating to certain regulatory action that has been taken in relation to the school.

Part 7 sets out the standard on the handling of complaints. The proprietor must ensure that a complaints procedure is drawn up and effectively implemented which deals with the handling of complaints from parents of pupils and which meets the requirements set out in the standard. The only significant change to the standard as set out in Part 7 of the 2010 Regulations is that there is no longer a requirement for the complaints procedure to provide for a written record to be kept of all complaints, only those that are made in accordance with the formal complaints procedure.

Part 8 sets out the new standard on the quality of leadership and management. The proprietor can now be held accountable for ensuring that those with leadership and management responsibilities at the school demonstrate good skills and knowledge, fulfil their responsibilities effectively and actively promote pupil well-being. There is no leadership and management standard contained in the 2010 Regulations.

The National Minimum Standards for Boarding Schools can be found at <https://www.gov.uk/government/publications/boarding-schools-national-minimum-standards>

and the National Minimum Standards for Residential Special Schools can be found at <https://www.gov.uk/government/publications/residential-special-schools-national-minimum-standards>

The National Minimum Standards for Further Education Colleges have been archived but they still apply to some independent schools and can be found via http://webarchive.nationalarchives.gov.uk/+/www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4005629

An impact assessment of the effect that this instrument will have on the costs of business and the public and voluntary sector is available from the Independent Education and Boarding Team, Department for Education, LG11, Mowden Hall, Staindrop Road, Darlington DL3 9BG and accessible on the Department's internet website at <http://www.education.gov.uk> Copies have also been placed in the Library of each House of Parliament.

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