

PHASED TRANSFER & NAMING SCHOOL PLACEMENTS IN SECTION I

PHASED TRANSFER DEADLINE IS THE 15TH FEBRUARY OF THE YEAR YOUR CHILD / YOUNG PERSON IS DUE TO MOVE TO A NEW PHASE OF EDUCATION.

FOR THOSE TRANSFERRING FROM SECONDARY SCHOOL TO A POST-16 INSTITUTION, THE EHCP MUST BE REVIEWED AND AMENDED BY 31ST MARCH IN THE YEAR OF TRANSFER.

This process must start within 12 months of a transfer to a new phase of education.

When a young person is already attending a post-16 institution and it is proposed that they move from one post-16 institution to another at any time, the LA must review and amend the EHCP at least five months before that transfer takes place.

These deadlines are set out in Regulation 18 of The Special Educational Needs and Disability Regulations 2014.

If your child / young person's EHCP has not been finalised, the below IPSEA guidance explains what you can do next - including a template letter to help you take action:

[letter to LA when it has or will breach the deadline for reviewing and amending the EHCP in advance of a phase transfer](#)

Phase transfer is the moving between particular stages of education:

- ✚ early years education to school
- ✚ infant to junior school
- ✚ primary to middle school
- ✚ primary to secondary school
- ✚ middle to secondary school
- ✚ secondary school to a post 16 institution

IMPORTANT

An EHCP must fully describe a child / young person's special educational needs (SEN) and specify the provision (SEP) required to meet the identified needs and outcomes as agreed in the EHCP. This then provides the evidence to which type of education setting / placement is most appropriate for the child / young person.

If sections B and F do not accurately set out your/child's needs and the provision required to meet those needs, the Tribunal may conclude that the LA's choice of school is suitable.

Therefore, it is important to ensure that section B and F are specific and quantifiable.

NEEDS (B) + PROVISION (F) = SCHOOL (I)

Parents or young people have a right to request particular types of settings are named in an EHCP, as set out in section 38(3) of the Children and Families Act (CFA) 2014.

The types of setting you have a right to request are:

- ✓ a maintained school or nursery (mainstream or special)
- ✓ an Academy (mainstream or special)
- ✓ an institution in the Further Education sector
- ✓ a non-maintained special school, and
- ✓ a section 41 school.

Independent settings are not one of those types of settings.

If you have found an independent setting [check it is a wholly independent setting](#) and not a 'section 41 approved' setting or a non-maintained special school, the LA could still consider naming it as an 'appropriate' setting.

The LA must consider yours and your child / young person's views, wishes and feelings. This set out in section 19 CFA 2014 and includes where the child or young person wants to be educated.

If you are asking your LA to name an independent setting, they need to have regard to the general principle that pupils (which are usually those under the age of 19) are to be educated in accordance with the wishes of their parents, as far as that is compatible with:

- ✓ the provision of efficient instruction and training, and
- ✓ the avoidance of unreasonable public expenditure.

This general principle is set out in section 9 of the Education Act 1996.

Naming an additional resource provision (ARP)

If the provision is part of a mainstream school, you have a right to request that the school is named in the EHCP.

However, the provision should **not** be named in **section I** of the EHCP, but instead, be described in **section F**.

It is essential that **section F** of the EHCP includes a full description of the special education provisions (SEP) that your child / young person requires, which is provided for in the provision, for example small class teaching, onsite speech and language or occupational therapy, or specially trained staff.

Without a clear description in **section F**, your child could be placed in the mainstream school within which the provision is based and not have any access to the provision.

LAs can name a provision in section I even where it is not a separate provision, but they are not legally obliged too.

If you need to appeal to the SEND Tribunal so your child / young person can access the provision, the SEND Tribunal will **not** be able to order the LA to name the provision in **section I**.

Therefore, it is especially important that your appeal includes sections B and F of the EHCP as well as section I.

The only reasons the LA can refuse a request for a particular school are:

- ✓ The setting is unsuitable for the age, ability, aptitude, or special educational needs (SEN) of your child or young person.
- ✓ The attendance of your child or young person would be incompatible with the provision of efficient education for others, or
- ✓ The attendance of your child or young person would be incompatible with the efficient use of resources.

This is set out in section 39(4) CFA 2014.

There are no other lawful reasons.

A school being full is not a lawful reason.

If the LA refuses your placement request, they must prove that at least one of these conditions applies for the refusal to be lawful.

Cases where each of these conditions have been considered can be found on IPSEA's [case law](#) pages.

If the LA considers that one of the above reasons does apply in relation to your choice of school / placement, it must name a school / placement (or type) it considers would be "appropriate" for your child or young person.

Efficient education means providing for each child or young person a suitable, appropriate education in terms of their age, ability, aptitude, and any special educational needs they may have.

Where the LA is considering the appropriateness of an individual institution, 'others' is intended to mean the children and young people with whom the child or young person with an EHCP will directly come into contact on a regular day-to-day basis.

If you request a particular school that is set out in **section 38(3) of the CFA 2014** (see below), and the school is named in **section I** of the EHCP then that school / placement must admit your child or young person.

This is set out in section 43 CFA 2014.

If the LA refused your request and named a different school in **section I**, then the school / placement named in **section I**, has a duty to admit your child even if you are unhappy with the LA's choice of school.

If you cannot find a school or college you would like to ask the LA to name, and do not make a request for a particular setting to be named, the LA must:

- ✓ name a school or college it considers appropriate, or
- ✓ name a type of school or college it considers appropriate.

However, there is a chance that you may not agree the LA's choice of setting, or type, is appropriate for your child or young person.

Some EHCP's name just the "type" of setting a child or young person is to attend, for example 'mainstream,' or 'special.'

This is lawful if...

- ✓ The LA can show the school / setting requested by the parent or young person should not be named, because one of the exceptions applies, and/or
- ✓ Neither the parent, young person, nor the LA has identified an appropriate setting to be named.

If the EHCP has been finalised with just a "type" of setting to be attended, this means that there is no school/college with the duty to admit your child or young person.

There is no legal deadline for the EHCP to be amended to specify the name, (in addition to the type) of the setting.

Once a setting is found, the LA should take steps to amend the EHCP and name it in [section I](#).

In the meantime, the LA must make sure your child or young person gets all the provision specified in [section F](#).

(this duty is set out in [section 42\(2\) CFA 2014](#))

The responsible commissioning health body will still need to arrange any health care provision in [section G](#) of the EHCP.

If your child is of [compulsory school age](#), the LA must make sure they receive



The LA must follow the [Annual Review Process](#).

The only differences are that there is a different time when the review must take place and a date by which plans must be reviewed and amended by.

[Annual Review Checklist](#)

USEFUL LINKS

[Phase transfer reviews](#)

[Choosing a school or college | \(IPSEA\) Independent Provider of Special Education Advice](#)

List of schools, including Special Schools and Additional Resource provisions (ARP's)

[Special schools & ARP's](#)

[CBC schools](#)

[Council for disabled children reduce anxiety prepare for AR meeting](#)

[CBC LO Annual Reviews](#)

