

**THE EDUCATION (SPECIAL EDUCATIONAL NEEDS CO-ORDINATORS)
(ENGLAND) REGULATIONS 2008
(2008 No. 2945)**

EXPLANATORY NOTE FOR GOVERNING BODIES

These Regulations are made under section 317(3B) of the Education Act 1996. The purpose of this note is to explain the regulatory provisions to governing bodies of community, foundation, voluntary and maintained nursery schools.

The Regulations were laid before Parliament on 21 November 2008. They come into effect on 1 September 2009, in order to allow schools that may be affected to make any necessary staffing adjustments.

Introduction

1. Special Educational Needs Co-ordinators (SENCOs) play a key role in ensuring that schools meet the needs of children and young people with SEN and disabilities. They are also an important point of contact for parents.
2. Up to now there has been a presumption, but no requirement, in the SEN Code of Practice and elsewhere that those carrying lead responsibility for SENCO functions should be qualified teachers. The then Education and Skills Committee's 2006 report on SEN recorded a number of concerns about the role and status of SENCOs:
 - SENCOs should in all cases be qualified teachers;
 - they should be in a senior management position in the school, as suggested by the SEN Code of Practice;
 - SENCOs should be properly trained.
3. In their response to the Select Committee (October 2006), Ministers declared their intention to make regulations relating to the role, responsibilities, experience and training required of SENCOs and gave specific commitments to introduce a requirement that SENCOs should be qualified teachers. Section 173 of the Education and Inspections Act 2006 amended the SEN provisions of the Education Act 1996 to require governing bodies of community, foundation, voluntary and maintained nursery schools to designate a member of staff as the person responsible for co-ordinating SEN provision for pupils. It also provided a power to make regulations requiring those governing bodies to ensure that SENCOs have prescribed qualifications or prescribed experience, or both, and conferring on them other functions relating to SENCOs.

Effect of the Regulations

4. The Regulations are designed to strengthen the standing of SENCOs in schools and ensure that the postholder has the necessary authority to negotiate differentiated teaching provision in relation to individual children with qualified colleagues.

5. The Regulations have the following effect:

Regulation 3 requires the SENCO to be either:

- Regulation 3(2), a qualified teacher working as a teacher in the school (and who has successfully completed an induction period where this is required);
- Regulation 3(3), the head teacher or appointed acting head teacher; or
- Regulation 3(4), a person carrying out the role of SENCO for at least six months prior to 31 August 2009, who is taking steps to become a qualified teacher and shows reasonable prospect of becoming qualified by 1 September 2011.

Regulation 4 requires the governing body to determine the role of the SENCO in relation to the leadership and management of the school.

Regulation 5 requires the governing body to determine the key responsibilities and to monitor the effectiveness of the SENCO in carrying out a list of illustrative tasks reflecting the way posts operate in practice.

The list of tasks does not impose legal obligations on SENCOs in carrying out the role. Its purpose is to assist governing bodies in identifying with SENCOs which responsibilities the SENCO will carry out or arrange to be carried out.

6. Special schools are not covered by these Regulations as the primary legislation, referred to above, does not extend to them. That does not prevent a special school governing body designating a member of the teaching staff as having SEN co-ordinating responsibilities if they consider that is appropriate.

Governing body responsibilities

7. Governing bodies have an important strategic role in improving outcomes for children with SEN, as is made clear in the SEN Code of Practice.¹ Clearly this means taking a close interest in what the SENCO is doing and in the range of SEN represented at the school. This is happening in most schools as

¹ SEN Code of Practice 2001. The duties of governing bodies are set out in paragraphs 1.16 – 22.

part of normal good practice.

8. The monitoring requirement in Regulation 5 is not intended to be burdensome to governing bodies. In practical terms, it could be met by relatively straightforward steps. For example by the governors:

- considering reports to the governing body from the head teacher reflecting the activities of the SENCO and any current issues;
- considering reports from the member of the senior leadership team designated as champion of SEN and disability issues (see paragraph 9);
- holding regular discussions between the SEN governor (or SEN committee) and the SENCO; or
- inviting the SENCO to attend meetings at regular intervals to report in person.

SENCO membership of senior leadership teams (SLTs)

9. The document which accompanied the draft regulations when they issued for consultation explained that it had been our original intention to require SENCOs to be members of SLTs. However, our social partners expressed concerns about the practicalities. In the light of those concerns, our advice to governing bodies is that, where the SENCO is not a member of the SLT, a member of the team should be designated as champion of SEN and disability issues within the school. The champion would liaise closely with the SENCO.

Nationally approved training for SENCOs

10. The Training and Development Agency for Schools (TDA) recently completed (15 October 2008) consultation on a specification for nationally approved training for SENCOs. DCSF intends to consult in early 2009 on draft regulations requiring that all SENCOs new to the role should undertake such training.

11. If you have any queries about the Regulations or this note, please contact John Perryman, john.perryman@dcyf.gsi.gov.uk tel: 020 7273 5054

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