STATUTORY RULES OF NORTHERN IRELAND

1997 No. 315

EDUCATION

Special Educational Needs Tribunal Regulations (Northern Ireland) 1997

Made - - - -	*24th June 1997*
Coming into operation	*1st September 1997*

The Department of Education, in exercise of the powers conferred on it by Articles 23(1) and (2) and 28(2) of the Education (Northern Ireland) Order 1996(**1**) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Part I

General

Citation and commencement

1. These Regulations may be cited as the Special Educational Needs Tribunal Regulations (Northern Ireland) 1997 and shall come into operation on 1st September 1997.

Interpretation

2.—(1) In these Regulations—

"the 1996 Order" means the Education (Northern Ireland) Order 1996;

"the board" means the education and library board which made the disputed decision;

"chairmen's panel" means a panel of persons appointed under Article 22(2)(*b*) of the 1996 Order who may serve as chairman of the Tribunal;

"child" means the child in respect of whom the appeal is brought;

"the clerk to the Tribunal" means the person appointed by the Secretary of the Tribunal to act in that capacity at one or more hearings;

"disputed decision" means the decision or determination in respect of which the appeal is brought;

(**1**) S.I.1996/274 (N.I. 1)

"hearing" means a sitting of the tribunal duly constituted for the purpose of receiving evidence, hearing addresses and witnesses or doing anything lawfully requisite to enable the tribunal to reach a decision on any question;

"lay panel" means the panel of persons appointed under Article 22(2)(*c*) of the 1996 Order who may serve as the other two members of the Tribunal apart from the chairman;

"parent" means a parent who has appealed to the Tribunal under the 1996 Order;

"records" means the records of the Tribunal;

"the Secretary of the Tribunal" means the person for the time being acting as the Secretary of the office of the Tribunal;

"working day", except in regulation 24, means a day other than a Saturday, a Sunday, a public holiday or a day in August.

(2) Nothing in these Regulations shall authorise a body corporate to attend a tribunal or to take any steps in proceedings other than by a representative.

Sittings of tribunals

3. The tribunals shall sit at such times and in such places as may from time to time be determined by the President.

Membership of tribunal

4.—(1) Subject to the provisions of regulation 28(5), the tribunal shall consist of a chairman and two other members.

(2) For each hearing—

(a) the chairman shall be the President or a person selected from the chairmen's panel by the President; and

(b) the two other members of the tribunal other than the chairman shall be selected from the lay panel by the President.

Proof of documents

5. A document purporting to be a document issued by the Secretary of the Tribunal on behalf of the Tribunal shall, unless the contrary is proved, be deemed to be a document so issued.

Certification of decisions

6. A document purporting to be certified by the Secretary of the Tribunal to be a true copy of a document containing a decision of the tribunal shall, unless the contrary is proved, be sufficient evidence of matters contained therein.

Part II

Making an Appeal to the Tribunal and Reply by the Board

(A)

The Parent

Notice of appeal

7.—(1) An appeal to the Tribunal shall be instituted by notice which—

(a) shall state—

(i) the name and address of the parent instituting the appeal and if more than one address is given, the address to which the Tribunal should send replies or notices concerning the appeal;

(ii) the name of the child;

(iii) that the notice is a notice of appeal;

(iv) the name of the board which made the disputed decision and the date on which the parent was notified of it;

(v) the grounds of the appeal;

(vi) if the parent seeks an order that a school (other than one already specified in the statement of special educational needs relating to the child) be specified in that statement, the name and address of that school;

(b) shall be accompanied by—

(i) a copy of the notice of the disputed decision;

(ii) where the appeal is made under Article 18 of, or paragraph 8 of Schedule 2 to, the 1996 Order, a copy of the statement of special educational needs relating to the child; and

(c) may state the name, address and profession of any representative of the parent to whom the Tribunal should (subject to any notice under regulation 42(2)(*a*)) send replies or notices concerning the appeal instead of the parent.

(2) The parent shall sign the notice of appeal.

(3) The parent shall deliver the notice of appeal to the Secretary of the Tribunal so that it is received no later than the first working day after the expiry of 2 months from the date on which the board gave him notice under Part II of the 1996 Order that he had a right of appeal.

Response, and supplementary provisions

8.—(1) If the board delivers a reply under regulation 12 the parent may deliver a written response to it.

(2) A response under paragraph (1) shall be delivered to the Secretary of the Tribunal not later than 15 working days from the date on which the parent receives a copy of the board's written reply from the Secretary of the Tribunal.

(3) Subject to paragraph (5) a response under paragraph (1) shall include all written evidence which the parent wishes to submit to the tribunal (unless such evidence was delivered with the notice of appeal).

(4) The parent may in an exceptional case (in addition to delivering a response under paragraph (1))—

(a) with the permission of the President, at any time before the hearing; or

(b) with the permission of the Tribunal at the hearing itself,

amend the notice of appeal or any response, deliver a supplementary statement of grounds of appeal or amend a supplementary statement of grounds of appeal.

(5) The parent may in an exceptional case—

(a) with the permission of the President at any time within 15 working days from the date on which a response under paragraph (2) could have been delivered; or

(b) with the permission of the Tribunal at the hearing itself deliver—

(i) written evidence (if he has not previously done so); or

(ii) further written evidence.

(6) The parent shall deliver a copy of every amendment and supplementary statement made under paragraph (4)(*a*) and any written evidence delivered under paragraph (5)(*a*) to the Secretary of the Tribunal.

Withdrawal of appeal

9. The parent may—

(a) at any time before the hearing of the appeal withdraw his appeal by sending to the Secretary of the Tribunal a notice signed by him stating that he withdraws his appeal;

(b) at the hearing of the appeal, withdraw his appeal.

Further action by parent

10.—(1) The parent shall supply the Secretary of the Tribunal with the information requested in the enquiry made under regulation 17.

(2) If the parent does not intend to attend or be represented at the hearing, he may, not later than 5 working days before the hearing, send to the Secretary of the Tribunal additional written representations in support of his appeal.

Representatives of the parent: further provisions

11.—(1) Where a parent has not stated the name of a representative in the notice of appeal pursuant to regulation 7(1)(*c*) he may at any time before the hearing notify the Secretary of the Tribunal in writing of the name, address and profession of a representative to whom the tribunal should (subject to any notice under regulation 42(2)(*a*)) send any subsequent documents or notices concerning the appeal instead of to the parent.

(2) Where a parent has stated the name of a representative, whether in the notice of appeal pursuant to regulation 7(1)(*c*) or pursuant to paragraph (1), he may at any time notify the Secretary of the Tribunal in writing—

(a) of the name, address and profession of a new representative of the parent to whom the tribunal should send documents or notices concerning the appeal instead of to the representative previously notified; or

(b) that no person is acting as a representative of the parent and accordingly any subsequent documents or notices concerning the appeal should be sent to the parent himself.

(3) If the person named by the parent as a representative under regulation 7(1)(*c*) or paragraph (1) or (2)(*a*) notifies the Secretary of the Tribunal in writing that he is not prepared, or is no longer prepared, to act in that capacity—

(a) the Secretary of the Tribunal shall notify the parent accordingly; and

(b) any subsequent documents or notices concerning the appeal shall be sent to the parent himself.

(4) At a hearing, the parent may conduct his case himself (with assistance from one person if he wishes) or may appear and be represented by one person;

Provided that, if the President gives permission before the hearing or the tribunal gives permission at the hearing, the parent may obtain assistance or be represented by more than one person.
(B)

The Reply by the Board

Action by the board on receipt of a notice of appeal

12.—(1) A board which receives a copy of a notice of appeal shall deliver to the Secretary of the Tribunal a written reply acknowledging service upon it of the notice of appeal and stating—

(a) whether or not the board intends to oppose the appeal and, if it does intend to oppose the appeal, the grounds on which it relies; and

(b) the name and profession of the representative of the board and the address for service of the board for the purposes of the appeal.

(2) A written reply under paragraph (1) shall include—

(a) a statement summarising the facts relating to the disputed decision;

(b) if they are not part of the decision, the reasons for the disputed decision; and

(c) subject to regulation 13(3) all written evidence which the board wishes to submit to the tribunal.

(3) A written reply under paragraph (1) shall be signed by an officer of the board who is authorised to sign such documents and shall be delivered to the Secretary of the Tribunal not later than 20 working days after the date on which the copy of the notice of appeal was received by the board from the Secretary of the Tribunal.

Amendment of reply by the board

13.—(1) The board, if it has delivered a written reply pursuant to regulation 12, may, in an exceptional case—

(a) with the permission of the President at any time before the hearing; or

(b) with the permission of the tribunal at the hearing itself,

amends its reply, deliver a supplementary written reply or amend such a supplementary reply.

(2) The President or, as the case may be, the tribunal may give permission under paragraph (1) on such terms as he or it thinks fit including the payment of costs or expenses.

(3) The board may, in an exceptional case—

(a) with the permission of the President at any time within 15 working days from the date on which the parent could have delivered a written response under regulation 8(1); or

(b) with the permission of the tribunal at the hearing itself deliver—

(i) written evidence (if it has not previously done so); or

(ii) further written evidence.

(4) The board shall before the hearing send to the Secretary of the Tribunal a copy of every amendment and supplementary statement made by it, including any written evidence delivered under paragraph (3).