

Current	Proposed additions	Notes
<p>434 Registration of pupils</p> <p>(1) The proprietor of a school shall cause to be kept, in accordance with regulations, a register containing the prescribed particulars in respect of all persons who are pupils at the school.</p> <p>(2) Without prejudice to the generality of subsection (1), the prescribed particulars shall include particulars of the name and address of every person known to the proprietor to be a parent of a pupil at the school.</p> <p>(3) The regulations shall prescribe the grounds on which names are to be deleted from a register kept under this section; and the name of a person entered in such a register as a pupil at a school—</p> <p style="padding-left: 40px;">(a) shall, when any of the prescribed grounds is applicable, be deleted from the register on that ground; and</p> <p style="padding-left: 40px;">(b) shall not be deleted from the register otherwise than on any such ground.</p>	<p>434A Local authority consent for withdrawal of certain children from school</p>	<p>Read relevant sections in Publications- Explanatory Notes, Delegated Powers Memorandum. Human Rights Memorandum</p>
	<p>(1) A parent of a relevant child must obtain the consent of the relevant local authority to withdraw the child from school if the parent intends—</p> <p style="padding-left: 40px;">(a) that the child should cease to attend the school at which the child is a registered pupil, and</p> <p style="padding-left: 40px;">(b) to withdraw the child from school for the purpose of causing the child to receive education otherwise than at school.</p>	
	<p>(2) A child is a “relevant child” for the purposes of this section if—</p> <p style="padding-left: 40px;">(a) the child is of compulsory school age,</p> <p style="padding-left: 40px;">(b) the child is a registered pupil at a school in England, and</p> <p style="padding-left: 40px;">(c) condition A or condition B is met in respect of the child.</p>	

<p>(4) The regulations may make provision—</p> <p>(a) for enabling registers kept under this section to be inspected;</p> <p>(b) for enabling extracts from such registers to be taken for the purposes of this Act by persons authorised to do so under the regulations; and</p> <p>(c) for requiring the person by whom any such register is required to be kept to make to—</p> <p>(i) the Secretary of State,</p> <p>(ii) the funding authorities, and</p> <p>(iii) local education authorities,</p> <p>such periodical or other returns as to the contents of the register as may be prescribed.</p>	<p>(3) Condition A is that the child became a registered pupil under arrangements made by a local authority in England at—</p> <p>(a) a special school within the meaning of section 337(1), or</p> <p>(b) an independent school within the meaning of section 463 which is specially organised to make special educational provision for pupils with special educational needs.</p>	
<p>(5) In this Act—</p> <p>“registered pupil”, in relation to a school, means a person registered as a pupil at the school in the register kept under this section; and</p> <p>“registered”, in relation to the parents of pupils at a school or in relation to the</p>	<p>(4) Condition B is that a local authority in England is—</p> <p>(a) conducting enquiries under section 47 of the Children Act 1989 (duty to investigate) in respect of the child, or</p> <p>(b) taking action under section 47(8) of that Act to safeguard or promote the child's welfare, in a case where the enquiries mentioned in paragraph (a) have led the local authority to conclude that the child is suffering, or is likely to suffer, significant harm (within the meaning of section 31(9) and (10) of that Act).</p>	
	<p>(5) Where the proprietor of a school is notified by a parent of a child who is a registered pupil at the school that the parent intends to withdraw the child from school for the purpose of causing the child to</p>	

<p>names or addresses of such parents or pupils, means shown in that register.</p> <p>(6) A person who contravenes or fails to comply with any requirement imposed on him by regulations under this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.</p>	<p>receive education otherwise than at school, the proprietor must notify—</p> <p>(a) the local authority responsible for the area in which the school is located, and</p> <p>(b) the local authority responsible for the child, if different from the local authority mentioned in paragraph (a).</p>	
	<p>(6) If a parent of a relevant child applies to the relevant local authority for consent to withdraw the child from school for the purpose of causing the child to receive education otherwise than at school, the authority—</p> <p>(a) must decide without undue delay whether to grant consent, and</p> <p>(b) must refuse consent if the local authority considers—</p> <p>(i) that it would be in the child's best interests to receive education by regular attendance at school, or</p> <p>(ii) that no suitable arrangements have been made for the education of the child otherwise than at school,</p> <p>but otherwise must grant consent.</p>	<p>URGENT Notes on Human Rights Memorandum 157</p> <p>“With regards to the safeguarding measures and the differential treatment between different groups of potentially disabled children, this is justified because children in special schools tend to have greater needs and the consent mechanism enables local authorities to determine whether safeguarding issues will arise from the loss of the support that the child is receiving in school through their EHCP. It is also considered harder for parents of children with greater needs to provide a suitable education themselves and therefore it is important that the local authority assesses suitability before the child is removed from school. Requiring all children with EHCPs to obtain consent would mean that more children with likely less complex needs would need to obtain consent, which would constitute a greater interference with</p>

		<p>Article 14. Confining the consent mechanism to those children who are likely to have more complex needs is deemed to be a more proportionate way of meeting the safeguarding aim.”</p>
	<p>(7) An application mentioned in subsection (6) may also be made by the proprietor of a school at which the relevant child is a registered pupil, on behalf of the child’s parent, and with the consent of the parent.</p>	
	<p>(8) The relevant local authority must serve notice of the decision under subsection (6) on —</p> <ul style="list-style-type: none"> (a) the parent who made the application, or on whose behalf the application was made, (b) any other parent of the child, where contact details of that parent are known, unless exceptional circumstances apply, and (c) the proprietor of a school at which the relevant child is a registered pupil. 	
	<p>(9) Regulations under section 434—</p>	

	<p>(a) must provide that, where consent of the relevant local authority is required under subsection (1) in respect of a relevant child, the proprietor of a school must not allow the deletion from the school's register of the name of that child unless the proprietor receives notice that the relevant local authority has granted consent under this section in respect of that child, and</p> <p>(b) may make provision to require the proprietor of a school to arrange to take, or not to take, any other steps specified in the regulations in relation to the registration of a registered pupil at the school where a relevant local authority has granted or refused consent under subsection (6).</p>	
	<p>(10) If a parent is aggrieved by a decision of the relevant local authority to grant consent under subsection (6)—</p> <p>(a) the parent may refer the question to the Secretary of State, and</p> <p>(b) the Secretary of State may—</p> <p>(i) uphold the decision of the local authority, or</p> <p>(ii) refer the question back to</p>	

	<p>the local authority to determine.</p>	
	<p>(11) If a parent is aggrieved by a decision of the relevant local authority to refuse consent under subsection (6)—</p> <p>(a) the parent may refer the question to the Secretary of State, and</p> <p>(b) the Secretary of State may—</p> <p>(i) give such direction determining the question as the Secretary of State considers appropriate, or</p> <p>(ii) refer the question back to the local authority to determine.</p>	
	<p>(12) If a subsequent application is made in relation to a relevant child in respect of whom the relevant local authority has previously refused consent under subsection (6), the authority is only required to make a new decision under subsection (6)(a) if a period of 6 months has elapsed since the date of the previous application.</p>	
	<p>(13) In this section, a “relevant local authority”, in relation to a relevant child, means—</p> <p>(a) where the child is a relevant child</p>	

	<p>as a result of condition A (but not condition B) being met in respect of the child, the local authority that made the arrangements mentioned in subsection (3);</p> <p>(b) where the child is a relevant child as a result of condition B (but not condition A) being met in respect of the child, the local authority conducting enquiries or taking action as mentioned in subsection (4);</p> <p>(c) where the child is a relevant child as a result of conditions A and B being met in respect of the child, the local authority conducting enquiries or taking action as mentioned in subsection (4).”</p>	
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