



IPSEA
Independent Parental Special
Education Advice

Natspec

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SEND and the law: understanding the rights of young people and families

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How can colleges work effectively with young people, families and local authorities to ensure that young people are benefitting from the new legislation?

- By the end of the workshop, you should have a better understanding of the law and some practical ideas for how to best support young people and their families
- We are going to:
 - talk about the law - look at some scenarios and discuss whether they are lawful
 - ways in which you can support families going to Tribunal

The Law: test for EHC needs assessment

A local authority must carry out an EHC needs assessment for a child or young person if there is a recommendation from an educational psychologist that they need an EHC plan

FALSE

The Law: test for EHC needs assessment

A local authority will only carry out an EHC needs assessment for a child or young person if their school/college has spent £6,000 on SEN provision for them

FALSE

The Law: the actual test for EHC needs assessment

A local authority must undertake an EHC needs assessment for a child or YP if the authority is of the opinion that:

- (a) the child or YP has or may have SEN
- and
- (b) it may be necessary for special educational provision to be made for the child or YP in accordance with an EHC plan

The Law: specificity of provision

M would benefit from a regular speech and language therapy programme to develop his understanding and use of specific conjunctions and prepositions

NOT SUFFICIENTLY SPECIFIC

The Law: specificity of provision

It would be helpful for M to take part in a weekly social skills group subject to termly review

NOT SUFFICIENTLY SPECIFIC

The Law: specificity of provision

M should have access to a programme of activities to develop his hand strength and upper limb/weight bearing

NOT SUFFICIENTLY SPECIFIC

The Law: specificity of provision

Staff working with M should follow agreed de-escalation strategies

NOT SUFFICIENTLY SPECIFIC

The Law: specificity of provision

M should have opportunities to regulate his nervous system throughout the day

NOT SUFFICIENTLY SPECIFIC

The Law: specificity of provision

**M will receive support under Band C of
the local authority's banding
arrangements**

NOT SUFFICIENTLY SPECIFIC

The Law: specificity of provision

In our local authority, detailed provision is not set out in EHC plans. Instead, it's left to the school or college to set out the specifics in an action plan

UNLAWFUL

The Law: specificity of provision

L v Clarke & Somerset County Council [1998] ELR 129

“the real question ... is whether [the statement] is so specific and clear as to leave no room for doubt as to what has been **decided** and what is needed in the individual case”.

B-M and B-M v Oxfordshire County Council (SEN): [2018] UKUT 35 (AAC)

“[...]even for children in specialist provision, the requirement of specificity [cannot] be abandoned where detail could reasonably be provided”

The Law: Annual Reviews

Annual review must be completed and EHC plan amended by:

- 31 March in the case of a transfer from secondary school to a post-16 institution
- 15 February in the case of a child's transfer in any other case
- When YP transfers from one post-16 institute to another at least 5 months before the transfer takes place

The Law: Ceasing to maintain an EHC plan

- LA can only cease EHC plan where:
 - YP has turned 25
 - YP has started university or work
 - Provision is no longer necessary

The Law: Ceasing to maintain

The local authority only has to maintain an EHC plan for a YP beyond the age of 19 if they are working towards qualifications or independent living

FALSE

The Law: Ceasing to maintain

If the local authority decides to cease to maintain an EHC plan, it must continue to fund placement / provision until timeframe for appeal is over

TRUE

The Law: Ceasing to maintain

If the local authority decides to cease to maintain an EHC plan, and an appeal is made, the local authority must continue to fund the placement until the appeal is concluded

TRUE