

2026 No. 0000

EDUCATION

**Special Educational Needs and Disability Tribunal
(Amendment) Regulations (Northern Ireland) 2026**

Made - - - - 2026

Coming into operation - 1st September 2026

The Department of Justice, in exercise of the powers conferred by Articles 22(3), 23(1), (2) and (4A), and 28(2) of the Education (Northern Ireland) Order 1996^(a) and Articles 23(1), (2), (3) and (5) and 49(4) of the Special Educational Needs and Disability (Northern Ireland) Order 2005^(b) and all other powers enabling it in that behalf, thereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Special Educational Needs and Disability Tribunal (Amendment) Regulations (Northern Ireland) 2026 and shall come into operation on 1st September 2026.

(2) These Regulations apply to all appeals and claims to the Tribunal where the notice of appeal or claim is entered in the records of the Tribunal on or after 1st September 2026.

Interpretation

2. In these Regulations—

“the 2005 Regulations” means the Special Educational Needs and Disability Tribunal Regulations (Northern Ireland) 2005.

Amendments to and revocations of the 2005 Regulations

3. The Schedule (which provides amendments to and revocations of the 2005 Regulations) shall have effect.

(a) S.I. 1996/274 (N.I.1). Functions transferred to the Department of Justice from the Department of Education by S.R. 2011/44.

(b) S.I. 2005/1117 (N.I.6). Functions transferred to the Department of Justice from the Department of Education by S.R. 2021/114.

Sealed with the Official Seal of the Department of Justice on xx xxx 2026



Naomi Long
Minister of Justice

SCHEDULE

Regulation 3

AMENDMENTS TO AND REVOCATIONS OF THE 2005 REGULATIONS

- 1.—(1) Regulation 2 is amended as follows.
 - (2) After the definition of “the 2005 Order” insert—

““The 2026 Regulations” means the Special Educational Needs (SEN) Regulations (Northern Ireland) 2026;”.
 - (3) After the definition of “appeal” insert—

““the applicant” means—

 - (a) A parent who has made or who may make an appeal to the Tribunal under the 1996 Order or a claim under the 2005 Order; or
 - (b) A child over compulsory school age who has made or who may make an appeal to the Tribunal under the 1996 Order or a claim under the 2005 Order;”.
- 2.—(1) Regulation 7 is amended as follows.
 - (2) In paragraph (1)(a) for “parent” in each place it occurs, substitute “applicant”.
 - (3) In paragraph (1)(b)(iii), for “parent” substitute “applicant”.
 - (4) In paragraph (1)(b)(iii), omit “and”.
 - (5) In paragraph (1)(c), for “parent’s” substitute “applicant’s”.
 - (6) In paragraph (1)(c), after “appealing” insert “; and” and omit the full stop.
 - (7) After paragraph (1)(c), insert—

“(d) if applicable, shall be accompanied by a certificate issued by a mediation adviser under Article 21C(4) of the 1996 Order.”
 - (8) In paragraph (2), for “parent” substitute “applicant”.
 - (9) For paragraph (3), substitute—

“(3) (a) If a mediation certificate has been issued to an applicant in accordance with the provisions of the 2026 Regulations and mediation has not taken place, the applicant 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 a period of two months beginning with the date on which the certificate was issued;

 - (b) If a mediation certificate has been issued to an applicant in accordance with the provisions of the 2026 Regulations and mediation has taken place, the applicant 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 a period of two months beginning with the date on which the mediation ended; or
 - (c) In any other case, the applicant 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 a period of two months beginning with the date on which the Education Authority gave notice, under Part II of the 1996 Order, that there was a right of appeal.”.
- (10) After paragraph (4), insert—

“(5) (a) If the notice of appeal has been delivered by a child over compulsory school age, it shall be deemed to have been delivered by the parent of the child if it has been determined that the child lacks capacity to make an appeal.

(b) “Lacks capacity” in paragraph (5)(a) above shall be determined in accordance with the provisions of the 2026 Regulations.”.

3. In regulation 8(1), for “parent” substitute “applicant”.

4.—(1) Regulation 9 is amended as follows.

(2) In the heading, for “parent’s” substitute “applicant’s”.

(3) Paragraph (1) is amended as follows.

(a) For “parent” substitute “applicant”; and

(b) After “which” insert “, if the applicant is the parent of the child.”.

(4) In paragraph (2), for “parent” substitute “applicant”.

(5) In paragraph (3), for “parent” substitute “applicant”.

5. In regulation 10, for “parent” substitute “applicant”.

6.—(1) Regulation 11 is amended as follows.

(2) In the heading, for “parent” substitute “applicant”.

(3) In paragraph (1), for “parent”, substitute “applicant”.

(4) In paragraph (2), for “parent” substitute “applicant”.

7.—(1) Regulation 12 is amended as follows.

(2) In the heading, for “parent’s” substitute “applicant’s”.

(3) Paragraph (1) is amended as follows.

(a) For “parent” substitute “applicant”; and

(b) For “parent’s” substitute “applicant’s”.

(4) In paragraph (2), for “parent” substitute “applicant”.

(5) In paragraph (3), for “parent” in both places it occurs, substitute “applicant”.

(6) In paragraph (4), for “parent” in each place it occurs, substitute “applicant”.

(7) In paragraph 5(a), for “parent” substitute “applicant”.

(8) In paragraph (6), for “parent” substitute “applicant”.

(9) In paragraph (7), for “parent” substitute “applicant”.

8. In regulation 13(6), for “parent” in both places it occurs, substitute “applicant”.

9. In regulation 15(2), for “parent’s” substitute “applicant’s”.

10.—(1) Regulation 17 is amended as follows.

(2) In paragraph (1)(a)(i), for “parent” substitute “applicant”.

(3) In paragraph (1)(b), for “parent’s” substitute “applicant’s”.

(4) In paragraph (2), for “parent” substitute “applicant”.

(5) In paragraph (3), for “parent” substitute “applicant”.

(6) In paragraph (4), for “parent” in both places it occurs, substitute “applicant”.

(7) After paragraph (5) insert—

“(6) If a child over compulsory school age has been determined to lack capacity to make a claim, then the Tribunal may determine that the notice of claim shall be deemed to have been delivered by the parent.”.

(8) After Regulation 17 insert—

“17A.—(1) The principles in paragraphs (2) to (5) must be complied with where for any purpose of these Regulations a determination falls to be made of whether a child who is over compulsory school age has capacity to make a claim.

(2) A child over school compulsory age is not to be treated as lacking capacity unless it is established that he or she lacks capacity in relation to the matter within the meaning given by Regulation 17B.

(3) Whether a child over school compulsory age is, or is not, able to make a decision for himself or herself about the matter—

- (a) is to be determined solely by reference to whether he or she is or is not able to do the things mentioned in Regulation 17C (1)(a) to (d); and
- (b) accordingly, is not to be determined merely on the basis of any condition that he or she has, or any other characteristic, which might lead others to make unjustified assumptions about his or her ability to make a decision.

(4) A child over the compulsory school age is not to be determined to be unable to make a decision for himself or herself about the matter merely because he or she makes an unwise decision.

Meaning of “lacks capacity”

17B.—(1) For the purposes of these Regulations, a child who is over compulsory school age lacks capacity to make a claim if, at the material time, he or she is unable to make a decision for himself or herself about that matter because of an impairment of, or a disturbance in the functioning of, the mind or brain.

(2) It does not matter—

- (a) whether the impairment or disturbance is permanent or temporary;
- (b) what the cause of the impairment or disturbance is.

(3) In particular, it does not matter whether the impairment or disturbance is caused by a disorder or disability or otherwise than by a disorder or disability.

Meaning of “unable to make a decision”

17C.—(1) For the purposes of these Regulations a child over compulsory school age is “unable to make a decision” for himself or herself about making a claim if he or she—

- (a) is not able to understand the information relevant to the decision;
- (b) is not able to retain that information for the time required to make the decision;
- (c) is not able to appreciate the relevance of that information and to use and weigh that information as part of the process of making the decision; or
- (d) is not able to communicate his or her decision (whether by talking, using sign language or any other means);

and references to enabling or helping him or her to make a decision about a matter are to be read accordingly.

(2) In paragraph (1) “the information relevant to the decision” includes information about the reasonably foreseeable consequences of—

- (a) deciding one way or another; or
- (b) failing to make the decision.

(3) For the purposes of paragraph (1)(a) a child over compulsory school age is not to be regarded as “not able to understand the information relevant to the decision” if he or she is able to understand an appropriate explanation of the information.

(4) An appropriate explanation means an explanation of the information given to a child over school compulsory age in a way appropriate to his or her circumstances (using simple language, visual aids or any other means).

(5) For the purposes of providing the information or explanation mentioned in paragraph (2)(a) in a way appropriate to a child over compulsory school age’s circumstances it may, in particular, be appropriate—

- (a) to use simple language or visual aids; or
- (b) to provide support for the purposes of communicating the information or explanation.

(6) The reference in paragraph (2)(c) to persons whose involvement is likely to help a child over the compulsory school age to make a decision may, in particular, include a person who provides support to help him or her communicate his or her decision.

(7) Nothing in this regulation is to be taken as in any way limiting the effect of Regulation 17A(4).”.

11. In regulation 18(1) for “parent’s” substitute “applicant’s” and for “parent” substitute “applicant”.

12.—(1) Regulation 19 is amended as follows.

- (2) In the heading, for “parent’s” substitute “applicant’s”.
- (3) In paragraph (1), for “parent” in both places it occurs, substitute “applicant”.
- (4) In paragraph (2), for “parent” substitute “applicant”.
- (5) In paragraph (3), for “parent” substitute “applicant”.

13. In regulation 20, for “parent” substitute “applicant”.

14.—(1) Regulation 21 is amended as follows.

- (2) In the heading, for “parent” substitute “applicant”.
- (3) In paragraph (1), for “parent” substitute “applicant”.
- (4) In paragraph (2), for “parent” substitute “applicant”.

15.—(1) Regulation 22 is amended as follows.

- (2) In the heading, for “Parent’s” substitute “Applicant’s”.
- (3) In paragraph (1), for “parent” substitute “applicant” and for “parent’s” substitute “applicant’s”.
- (4) In paragraph (2), for “parent” substitute “applicant”.
- (5) In paragraph (3), for “parent” in both places it occurs substitute “applicant”.
- (6) In paragraph (4), for “parent” in each place it occurs substitute “applicant”.
- (7) In paragraph (5)(a), for “parent” substitute “applicant”.
- (8) In paragraph (6), for “parent” substitute “applicant”.
- (9) In paragraph (7), for “parent” substitute “applicant”.

16. In regulation 23(6), for “parent” in both places it occurs substitute “applicant”.

17.—(1) Regulation 27 is amended as follows.

- (2) In paragraph (1)(b), for “parent’s” substitute “applicant’s” and for “parent” in both places it occurs substitute “applicant”.
- (3) In paragraph (1)(c), for “parent” substitute “applicant”.
- (4) In paragraph (4), for “parent” in each place it occurs, substitute “applicant”.
- (5) In paragraph (5), for “parent” in both places it occurs, substitute “applicant”.
- (6) In paragraph (6), for “parent” substitute “applicant”.

18. In regulation 29(3), for “parent” substitute “applicant”.

19. In regulation 30(b), for “parent” substitute “applicant”.

20. In regulation 35(1)(a), for “parent” substitute “applicant”.

21. In regulation 37(3), for “parent” substitute “applicant”.

22. In regulation 38(3)(b)(i), for “parent” substitute “applicant”.
- 23.—(1) Regulation 40 is amended as follows.
- (2) In paragraph (2)(b), for “parent” in both places it occurs substitute “applicant”.
- (3) For paragraph (7), substitute:
- “(7) If a child is not a party to the appeal or the claim, the Tribunal may permit that child to give evidence and to address the Tribunal on the subject matter of the appeal or the claim.”.
- (4) In paragraph (9), for “parent” substitute “applicant”.
24. In regulation 42(4), for “parent” in both places it occurs substitute “applicant”.
- 25.—(1) Regulation 46 is amended as follows.
- (2) In paragraph (6), for “parent” in both places it occurs substitute “applicant”.
- (3) In paragraph (7), for “parent” substitute “applicant”.
26. In regulation 47(5)(a), for “parents” substitute “applicants”.
27. In regulation 49(6), for “parent’s” substitute “applicant’s” and for “parent” substitute “applicant”.
28. In regulation 50(1)(a), for “parent” substitute “applicant”.
- 29.—(1) Regulation 53 is amended as follows.
- (2) In paragraph (1), for “parent” substitute “applicant”.
- (3) In paragraph (3), for “parent” substitute “applicant”.
- (4) In paragraph (4), for “parent” substitute “applicant”.
- (5) In paragraph (5), for “parent” substitute “applicant”.
30. In regulation 58(5) for “parent” in both places where it occurs substitute “applicant”.
31. Regulation 61 is revoked.

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations amend the Special Educational Needs and Disability Tribunal Regulations (Northern Ireland) 2005. The Regulations make provision for children who are over compulsory school age to make appeals and claims to the Tribunal in relation to decisions about special educational needs and disability discrimination. The Regulations also make provision for changes to time limits for applying to the Tribunal, which is necessitated by the introduction of mediation services.