



Department of
Education

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Subject:

**REGULATIONS PROHIBITING DISCRIMINATION
BY GENERAL QUALIFICATIONS BODIES ON THE
GROUNDS OF DISABILITY**

**Circular No:
2008/07**

**Date of Issue:
9 May 2008**

Target Audience:

- Principals and Boards of Governors of grant-aided post-primary schools and special schools with post-primary pupils;
- Education and Library Boards;
- Council for Catholic Maintained Schools;
- Council for the Curriculum, Examinations and Assessment.
- Northern Ireland Council for Integrated Education
- Comhairle na Gaelscolaíochta

Summary of Contents:

This Circular advises that the Department of Education, in exercise of the powers conferred by the Special Educational Needs and Disability (Northern Ireland) Order 2005, has made two sets of regulations which make it unlawful for general qualifications bodies to discriminate against candidates on the grounds of disability.

Enquiries:

Any enquiries about the contents of this Circular should be addressed to:

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Governor Awareness:
Essential

Status of Contents:
Advice
Information for schools

Related Documents:
None

Superseded Documents:
None

Expiry Date:
N/A

DE Website:
<http://www.deni.gov.uk>

Tel: 028 9127 9361

Additional copies:
Tel: 028 9127 9561

Purpose of this Circular

1. This Circular provides information about two sets of regulations which the Department has made in exercise of powers conferred by the Special Educational Needs and Disability (Northern Ireland) Order 2005. The regulations make it unlawful for general qualifications bodies to discriminate against candidates on the grounds of disability.

Background

2. The Disability Discrimination Act 1995, as originally enacted, contained provisions making it unlawful to discriminate against a disabled person in relation to employment, the provision of goods, facilities and services, and the management of premises. It also contained some provisions relating to education.
3. More substantial provisions relating to education were included in the Special Educational Needs and Disability (Northern Ireland) Order 2005 (SENDO). General qualifications bodies came under the scope of SENDO 2005 to ensure that access arrangements did not disadvantage disabled people in respect of gaining general qualifications.
4. The Department has made two sets of regulations; one set prescribes the list of qualifications covered by the 2005 Order, the other sets out the enforcement mechanisms for making a claim of unlawful discrimination against a general qualifications body. The regulations, which went out to public consultation in 2007, are intended to make similar provision in Northern Ireland to that in the Disability Discrimination Act 1995, which applies to England, Scotland and Wales. The regulations seek to mirror, as far as possible, the arrangements already covering bodies that administer professional and trade qualifications.
5. The regulations covering the enforcement mechanisms and procedures for making a claim, serve to underscore the good practice that has already been developed in Northern Ireland. The regulations do not alter the procedures already in place regarding access arrangements and special consideration for pupils with disabilities undertaking examinations. The Joint Council on Qualifications, which represents the main general qualifications bodies and is responsible for overseeing these procedures, has set up a resolution procedure with the aim of settling disputes at an early stage and the Equality Commission for Northern Ireland has extended its conciliation service to cover complaints against general qualifications bodies.
6. Although general qualifications bodies will often rely on examination centres to identify and meet the requirements of disabled candidates for adjustments to examinations, their duties towards disabled candidates cannot always be completely avoided or always discharged simply through delegation of such duties to examination centres. Examination centres and general qualifications bodies should work effectively together to ensure that the requirements of disabled people are met and unlawful discrimination is avoided. A failure to do so may mean that both are liable for unlawful disability discrimination under the Disability Discrimination Act 1995, and it is possible that schools and colleges

could themselves be individually or jointly liable (with the general qualifications bodies) for unlawful disability discrimination occurring in the context of delivering examinations, tests and assessments for relevant general qualifications.

The Special Educational Needs and Disability (General Qualifications Bodies) (Relevant Qualifications, Reasonable Steps and Physical Features) Regulations (Northern Ireland) 2008

7. These regulations prescribe the relevant qualifications in respect of which it is unlawful for a general qualifications body to discriminate against a disabled person. The regulations make it clear that the granting of exemptions from one or more components of an assessment or examination in certain circumstances will be lawful. They also provide a definition of physical features that will apply to premises owned or leased by general qualifications bodies.
8. The regulations came into operation on 1 April 2008.

The Special Educational Needs and Disability (2005 Order) (Amendment) (General Qualifications Bodies) (Alteration of Premises and Enforcement) Regulations (Northern Ireland) 2008

9. The regulations insert new provisions into Part III of and Schedule 2 to the Special Educational Needs and Disability (Northern Ireland) Order 2005 in relation to the enforcement of the duties placed on general qualifications bodies. They also make provision for cases in which premises that are required to be altered are occupied by a general qualifications body under a lease.
10. The regulations came into operation on 23 April 2008.

Further information

11. The regulations are available at www.opsi.gov.uk and copies may also be purchased from TSO Bookshop, 16 Arthur Street, Belfast, BT1 4GD. General qualifications bodies and others may obtain advice on their legal responsibilities under SENDO 2005 from the Equality Commission, which will also produce guidance on the regulations.

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