

Draft Regulations Content of Policy

REGULATIONS

entitled

**Education Acts 1998 and 2013 Admission Policies of Schools and Related Matters
Regulations 2013**

To be made by the
Minister for
Education and Skills

I, _____, Minister for Education and Skills, in exercise of the powers conferred on me by sections 33 (g) and 33 (m) of the Education Act 1998 (no. 51 of 1998) as amended by [relevant provisions of new primary legislation], and having consulted with patrons, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, hereby make the following Regulations:

Citation

- (1) These Regulations may be cited as the Education Acts 1998 and 2013 Admission Policies of Schools and Related Matters Regulations 2013

Interpretation

- (2) In these Regulations, except where the context otherwise requires-

“Applicant” means the parent of the student, or in the case of a student who has reached the age of 18 years, the student who has applied for admission to a school.

“Board” means a Board of Management of a school,

“Boarding School” means a school in which some or all of the students reside during the school year

“Characteristic Spirit” has the same meaning as it has in the Education Act, 1998.

“Intake Group” means intake of enrolments for the most junior class or year groupings in a school

“Minister” means the Minister for Education and Skills.

“Parent ” includes a foster parent, a guardian appointed under the Guardianship of Children Acts, 1964 to 1997, or other person acting in loco parentis who has a child in his or her care subject to any statutory power or order of a court and, in the case of a child who has been adopted

under the Adoption Acts, 1952 to 1998, or, where the child has been adopted outside the State, means the adopter or adopters or the surviving adopter.

“Patron” means a patron within the meaning of section 8 of the Education Act, 1998

“School” means a recognised school within the meaning of section 10 of the Education Act, 1998

“Sibling” includes half-siblings, step-siblings, other children living in the same home and foster children living with the same family

“Special Educational Needs” has the same meaning as it has in the Act of 2004

“Student” means a person for whom an application for admission has been made

- (3) In these regulations, any reference to a regulation or schedule which is not otherwise identified is a reference to a regulation of, or a schedule to, these Regulations.
- (4) In these regulations, any reference to a paragraph or sub-paragraph which is not otherwise identified is a reference to the paragraph or sub-paragraph of the provision in which the reference occurs.

Fee-Charging Schools

- (5) In these regulations, any reference to schools to which this regulation applies is a reference to those fee-charging post-primary schools that are recognised by the Minister.

Early Start Unit Primary Schools

- (6) In these regulations, any reference to schools to which this regulation applies is a reference to schools operating Early Start pre-schools recognised by the Department.

Requirement to have an admission policy and to make it available

- (7) Each school shall have an admission policy and that policy shall be a written document which shall be signed and dated by the Chairperson of the Board on the date of its ratification by the Board.
- (8) The admission policy shall be consistent with any agreement that has been made with the Minister in the context of recognition of the school or any agreement that has been made with the Minister in the context of the provision of any infrastructure to the school.
- (9) Before approving an admission policy, or any amendment thereof, the Board of Management of the school shall
- (i) Consult with the patron, the parents of students attending the school, the staff of the school and any other persons or groups of persons that have an interest in, or experience of education, with whom the Board considers it appropriate to consult, and
 - (ii) Make all reasonable effort to consult with parents of students who may wish to seek admission to the school in the period to which the admission policy will apply.
- (10) Without prejudice to the requirements of Section (15) of the 1998 Act, the admission policy of the school shall be made available, without charge, to
- (i) Any parents of students seeking to enrol in the school or expressing an interest in enrolling in the school;
 - (ii) The Minister or an official of the Department on request; and
 - (iii) To any other party on request.

Content of Admission Policy

- (11) The admission policy of a school shall:
- (i) Provide for an offer of enrolment to be made to all students seeking admission save:
 - (a) Where the number of students seeking admission is greater than the number of places being made available by the school,
or
 - (b) In accordance with Section 7 of the Equal Status Act, 2000;
or
 - (c) In accordance with Regulation 12 of these regulations.
- (12) Notwithstanding Regulation 11, the admission policy of a school may provide that an offer of enrolment to a student seeking admission may be refused where:
- (a) the student or his or her parents do not agree to confirm in writing that the school's Code of Behaviour is acceptable to them and that they shall make all reasonable efforts to ensure compliance with such code, or
 - (b) An Garda Síochána or the Health Service Executive has provided in writing to the school its opinion that the admission of the student could have a seriously detrimental effect on the safety of other students and or staff of the school.
- (13) The admission policy of a school shall:
- (i) Include a statement setting out the characteristic spirit and general objectives of the school
 - (ii) Include a statement setting out the position of the school in relation to its arrangements for upholding the constitutional rights of students not to attend religious instruction;
 - (iii) State whether the school is a school to which Regulation 5 of these regulations applies;

- (iv) Include, other than in the case of those schools to which Regulation 5 of these regulations applies, a declaration that no fees or contributions will be sought or charged as a condition of application for admission to the school or of continued enrolment in the school following admission;
- (v) Include a statement detailing the school's policy regarding the admission and participation by students with disabilities or students who have special educational needs;
- (vi) include a statement setting out the criteria, hereinafter referred to as the "oversubscription criteria" to be applied where the number of students seeking admission is greater than the number of places being made available by the school
- (vii) include a statement setting out the manner and sequence in which the oversubscription criteria will be applied, including the criteria for the allocation of a place in the event that, following application of the oversubscription criteria, two or more applicants are tied for a place.
- (viii) Include a statement setting out the arrangements that apply to the admission of students to classes or years other than the school's intake group and a statement setting out the arrangements that apply to the admission of students after the commencement of the school year in which admission is sought.
- (ix) Include a statement setting out the arrangements that apply to the compilation and operation of a waiting list for admission subject to such arrangements complying with these and any other regulations made by the Minister relating to same.
- (x) Include a statement setting out the arrangements whereby an applicant may appeal to the Board against a decision to refuse admission.

Over subscription criteria- not permissible

- (14) It shall not be permissible for the oversubscription criteria to provide for;
- (i) Any priority to be given to any student on the grounds that the student is a relative of a member of the Board of Management, a former student of the school, a benefactor of the school or any other person connected with the school other than
 - (a) to a student who has a sibling who has previously attended or is attending the school or;
 - (b) to a student who has a parent who is a member of the staff of the school or;
 - (c) in accordance with a derogation granted under regulation 15 of these regulations
 - (ii) Priority to be given to a student who has attended any pre-school, crèche or similar facility, other than in the case of those schools to which Regulation 6 of these regulations applies, which may give priority to students who have attended that school's Early Start Unit;
 - (iii) Priority to be given to a student according to the student's date of birth, except in the case of a primary school;
 - (iv) A school, except for a school to which Regulation 5 of these regulations applies, to give priority to a student on the basis of:
 - (a) Any financial or other contribution to the school except in the case of a school which is permitted by the Department to charge a fee to recover the true economic cost of a residential boarding place and in the case of such schools only insofar as the fee charged relates to the cost of the residential boarding place or
 - (b) The capacity or willingness of the student's parents to contribute financially or otherwise to the school, or
 - (c) Any commitment to pay a future fee or to contribute financially or otherwise to the school.

- (v) Priority to be given based on the order in which applications were received except in accordance with a derogation granted under regulation 16 of these regulations;
- (vi) Priority to be given to a student according to the occupation or financial status of the student's parents
- (vii) Priority to be given to a student on the basis of his or her academic ability, skills or aptitude;
- (viii) A mandatory requirement that a student or the student's parents attend any meeting, open day or interview as a condition for the allocation of a place or for the use of any information gained in this way to form any part of the decision to allocate places other than in accordance with Regulation 17.

Granting of a derogation in relation to use of past pupil criterion

- (15) Notwithstanding the provisions of these or other regulations –
 - (i) The Minister may grant a derogation to permit a school's admission policy to include an oversubscription criterion, hereinafter referred to as a "past pupil criterion", that gives priority to any student on the grounds that the student is the son or daughter of a former student of the school provided that-
 - (a) in each of the five school years prior to the commencement of these regulations, the school's written admission policy included such a past pupil criterion and;
 - (b) in at least three of the five school years prior to the commencement of these regulations, the school has offered admission to students as a direct result of the implementation of such a past pupil criterion and;
 - (c) the school has published, in one or more newspapers circulating in the district in which the school is located and on the school's website, where it has a website, a notice stating its intention to apply for a derogation under this regulation, the reasons for such application and providing a period of not

- less than one month for any interested parties to make a submission to the school in relation to such application and;
- (d) the school, before applying for a derogation under this regulation, has considered and taken into account any submissions received by it in accordance with the notice referred to in (c) and;
 - (e) the school has, within such timeframe as shall be determined by the Minister, made a written application to the Minister for a derogation under this regulation stating the reasons for its application and;
 - (f) the application made by the school in accordance with (e) is accompanied by satisfactory evidence that the school meets the conditions at (a),(b),(c) and (d) of this regulation and such other information as may be determined by the Minister.
- (ii) A derogation granted by the Minister under this regulation shall –
- (a) be for such period or periods as may be determined by the Minister and;
 - (b) provide that no more than 25 % of available places may, in any school year to which the derogation applies, be filled by the application of the past pupil criterion by the school.
- (iii) In respect of any period of time for which a derogation under this regulation has been granted, the admission policy of the school for that period of time shall -
- (a) include a statement setting out the terms of such derogation and;
 - (b) provide that the past pupil criterion permitted under such derogation will be applied before any other oversubscription criterion in deciding on applications for admission to the school.

Derogation to facilitate transition arrangements in respect of pre-existing waiting lists

- (16) Notwithstanding the provisions of these or other regulations –
- (i) The Minister may grant a derogation permitting a school to include in its admission policy an oversubscription criterion, hereinafter referred to as a “pre-existing waiting list criterion”, that provides for priority to be given based on the order in which applications were received provided that -
- (a) in each of the five school years prior to the commencement of these regulations, the school’s written admission policy included such a pre-existing waiting list criterion and;
 - (b) in each of the five school years prior to the commencement of these regulations, the school has offered at least 75% of its available school places to applicants as a direct result of the implementation of such a pre-existing waiting list criterion and;
 - (c) immediately prior to the commencement of these regulations, the operation of the admission policy of the school has resulted in a waiting list of applicants from which offers of admission would, but for the commencement of these regulations, be made and;
 - (d) the school has published, in one or more newspapers circulating in the district in which the school is located and on the school’s website, where it has a website, a notice stating its intention to apply for a derogation under this regulation, the reasons for such application and providing a period of not less than one month for any interested parties to make a submission to the school in relation to such application and;
 - (e) the school, before applying for a derogation under this regulation, has considered and taken into account any submissions received by it in accordance with the notice referred to in (d) and;

- (f) the school has, within such timeframe as shall be determined by the Minister, made a written application to the Minister for a derogation under this regulation stating the reasons for its application and;
 - (g) the application made by the school in accordance with (f) is accompanied by satisfactory evidence that the school meets the conditions at (a),(b),(c), (d) and (e) of this regulation and such other information as may be determined by the Minister and;
 - (h) in the opinion of the Minister, a derogation is necessary to accommodate the needs of those applicants who are on a waiting list for admission to the school at the time of commencement of these regulations.
- (ii) Where a school is granted a derogation under this regulation, such derogation shall –
- (c) be for such periods as may be determined by the Minister and but in any case shall not exceed a period of 5 years;
 - (d) apply only to those applicants that, immediately prior to the commencement of these regulations, were on a waiting list that had been drawn up in accordance with the admission policy of the school and from which offers of admission would, but for the commencement of these regulations, otherwise be made.
- (iii) In respect of any period of time for which a derogation under this regulation has been granted, the admission policy of the school for that period of time shall include a statement setting out the terms of such derogation.

Boarding Schools

- (17) Notwithstanding the provisions of these or other regulations it is permissible for a Boarding School to require that the student or his or her parents attend a meeting, open day or interview where such attendance is

required for the purposes of deciding on an application for a residential boarding place in the school and subject to such attendance or information not being used for the purposes of assessing the student's academic abilities.

GIVEN under my Official Seal,

_____ 2013

Minister for Education
and Skills.