



IPSEA

Independent Parental Special Education Advice

Hunters Court, Debden Road, Saffron Walden, Essex CB11 4AA

My son/daughter has an EHC Plan but the provision in it is not being made: what can I do?

The first point to note is that it is the Local Authority which has a statutory duty to secure the provision specified in Section F of the EHC Plan (s.42 Children and Families Act 2014). Whilst a school or college will often be delivering it in practice, this duty will mean that if the school or college can't or won't secure this provision then the Local Authority **must** do so. There are resources about this on the website here:

<https://www.ipsea.org.uk/what-you-need-to-know/ehc-plans/final-ehc-plans-and-enforcement>

We also have a model letter which you can use to complain to the Local Authority if the provision in an EHC plan is not being provided here:

<https://www.ipsea.org.uk/what-you-need-to-know/model-letters/model-letter-6>

Sometimes, the difficulty arises because the special educational provision required by a child or young person is not adequately specified (or specified at all) in the EHC Plan. If this is the case, it may not be possible to force the Local Authority (or expect the school) to secure the provision needed because it isn't actually properly set out in the EHC Plan.

If the issue is the fact that the provision is not properly specified in the EHC plan, it is possible to seek changes to an EHC Plan. You might also like to read our factsheet on the 'Form and content of an EHC plan' which accompanies this one. This gives more detail on what an EHC plan should look like, which might help you decide whether you think that the provision in the EHC plan might need to be changed.

The best time to ask for changes to an EHC plan would be as part of the annual review process, because you would have a right of appeal to the Tribunal if the LA refused to make the changes that you asked for. If no annual review is due soon, then it is possible to ask for an early or emergency annual review, and there are details (including a model letter to use to write to the LA) here:

<https://www.ipsea.org.uk/what-you-need-to-know/changing-an-ehc-plan/annual-review/asking-for-an-early-review-of-an-ehc-plan>

Providing advice to parents of children with special educational needs

If your son/daughter's special educational needs have changed and it has been more than 6 months since an EHC needs assessment was carried out, it is also possible to ask for a re-assessment of their needs, which might also be helpful if the provision in the EHC plan is no longer appropriate and different or additional provision is needed. We have a model letter which can be used for this purpose:

<https://www.ipsea.org.uk/what-you-need-to-know/model-letters/model-letter-2>

Occasionally an issue will arise whereby the LA has named a particular school at Section I of the EHC plan, but the school actually simply refuse to allow the child to attend the school or Academy. This can also happen, if for example, a child doesn't attain certain grades in their GCSE exams and a school then seeks to prevent them entering the 6th Form at the school.

It is worth remembering that if your son/daughter has any of the following types of school/college named in Section I of an EHC Plan then the school/college have a duty to admit your child and **must** allow them to attend the school and access the special educational provision specified in their EHC plan (s.43 Children and Families Act 2014):

- a maintained school;
- a maintained nursery school;
- an Academy;
- an institution within the further education sector in England;
- a non-maintained special school; or
- an institution approved by the Secretary of State under section 41.

If this type of school / institution is refusing to admit a child or young person whose EHC plan names that school or institution, then the ultimate course of action could be to bring an action for judicial review. If you want more information on that issue, you will find a briefing on 'Going to the High Court' within the "Challenging Decisions – Resources" tab here:

<https://www.ipsea.org.uk/what-you-need-to-know/challenging-decisions>

We can only provide information through this service, rather than offer direct advice. So if you need this, or you wish to discuss the situation with someone, you should book a call with one of our Advice Line volunteers:

<https://www.ipsea.org.uk/contact/advice-and-support/advice-line>

Providing advice to parents of children with special educational needs