
My child has or may have special educational needs and attends an independent school. We wondered what provision s/he should be receiving? Can we ask for an education care and health (EHC) needs assessment? What about exclusion where my child has special educational needs (SEN) and/or a disability?

If your child attends an independent school and has or may have SEN, the help that school is obliged to provide will depend on the terms of your contract with them: this goes beyond IPSEA's expertise but is something that a solicitor could advise you about.

However, the SEN and Disability Code of Practice might be useful in understanding what kind of special educational provision (SEP) might be expected to be available in maintained mainstream schools, academies and free schools as a point of reference.

Independent schools are also required to comply with the Equality Act 2010. You can find out more about these duties here:

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

If your child or young person's SEN seem to go beyond those which their school can support, it may be that an EHC needs assessment is required. Whether or not the local authority is obliged to carry out an EHC needs assessment depends on whether the statutory threshold for an assessment is met and not where they go to school.

You can find out information about EHC needs assessments here:

<https://www.ipsea.org.uk/what-you-need-to-know/ehc-needs-assessments>

Difficulties can arise when a local authority conducts an EHC needs assessment and determines that an EHC plan is necessary. This is because, whilst parents or young people have the right to request that certain types of school be named in an EHC Plan, these rights don't extend to wholly independent schools. Therefore, it's likely that the local authority will resist naming a wholly independent school in an EHC plan on the basis that it would be "*unreasonable public expenditure*".

For more information on naming a school or college in an EHC plan, see our resource here:

<https://www.ipsea.org.uk/what-you-need-to-know/ehc-plans/choice-of-school-or-college>

Exclusions will also be in accordance with the terms of the school's contract with parents and their discipline/behaviour policies. The statutory guidance relating to exclusions is not something that an independent school must have regard to. However, in applying policies, schools will need to comply with their duties under the Equality Act 2010.

Whilst IPSEA cannot advise on whether or not an independent school is complying with the terms of its contract with a parent, if you want advice about SEN support in maintained schools, in relation to matters under the Equality Act 2010 or about seeking an EHC needs assessment, you can contact a volunteer through our Advice Line:

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

Providing advice to parents of children with special educational needs

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