



**European Schools**

Office of the Secretary-General

Pedagogical Development Unit

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## **Measures to be taken to reduce the costs pertaining to SEN children in the European Schools (Notes and observations of the legal adviser of the European Schools)**

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**BOARD OF GOVERNORS OF THE EUROPEAN SCHOOLS**

Meeting in Brussels on 1, 2 and 3 December 2010

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## 1. Introduction

**The Board of Governors discussed the increase in the SEN budget at its April meeting. The meeting reached the conclusion that “the growth in the SEN budget had to be brought under control by defining strict criteria for expenditure on pupils’ integration into teaching and excluding other expenditure on therapeutic provision, which should not be defrayable by the schools.”**

The main reasons for the increase in the SEN budget are simple:

- The schools have recently integrated more students with Special Educational Needs. Amongst these new cases there are several pupils with severe needs.
- There are more students in the secondary cycle requiring SEN provision. The costs for SEN cases in the secondary are very considerably higher than in the nursery/primary.

It is clear that if the European Schools are supposed to integrate children with serious Special Educational Needs, they also have an obligation to take measures to meet their needs. These measures include in some cases specialist support (e.g. speech therapy), which cannot be delivered by mainstream teachers. At the moment the schools do not have an administratively correct way of engaging these specialists.

## 2. Measures taken in the Schools after the Board of Governors’ meeting

The directors of the European Schools were informed about the position of the Board of Governors at the end of April and the message was conveyed at the annual Advisory Group meetings in all the schools in May.

At the end of May, the Commission sent an official letter for the attention of all the Parents’ Associations of the European Schools clarifying the Commission position and budgetary situation concerning SEN teaching.

The message of the letter was that:

- The SEN budget for 2011 has not been cut – but has increased significantly, by 11%.
- The directors need to show good judgement in the management of the budget to be used to provide professionally qualified support for SEN children.
- In the autumn the rules applicable to SEN contracts should be clarified in order to ensure that there is equal treatment between the schools and that the resources are used in the most efficient way and monitored in the future.
- And this point will be discussed in December 2010 by the Board of Governors for potential implementation in the 2012 budget.

The matter was on the agenda of the directors’ meeting in June. The directors proposed that the role and the status of the various therapists should be clarified. Several other ways to reduce SEN costs were also discussed.

### **3. Legal advice concerning the therapists**

The Secretary-General sought legal advice concerning the status of the different specialists who offer various types of therapies for pupils with Special Educational Needs (see annex 1).

According to the legal advice, it would be possible to create a tripartite agreement between the school director, parents with a SEN child and independent therapists in order to organise a therapy session on the school premises paid for directly by the parents.

The tripartite agreement was discussed at the SEN Policy Group meeting on 20 September. The SEN Policy Group expressed reservations about the model agreement proposed. It might be the answer – but the proposed model agreement should be improved and the rights and the responsibilities of the various partners should be further clarified (selection of therapists, their skills, control of work, space and timing problems, lack of team work, etc.)

### **4. Set of measures to reduce the costs related to the support given to SEN pupils**

In accordance with the discussions in the SEN Policy Group and at the directors' meeting, several practical proposals have been made in order to keep the expenses linked to SEN provision under control, without jeopardising the quality of SEN support.

The following measures are under way at present:

- The SEN inspectors and the SEN Policy Group are developing the VADEMECUM concerning SEN for the schools in order to harmonise SEN provision and to share good practice. The medium-term objective is to re-write the SEN document, which is not sufficiently clear.
- The tripartite agreement concerning therapeutic interventions during school time will be further developed according to the guidelines given by the SEN Policy Group.
- A proposal to create a new type of post in the organigram – 'SEN assistant' - is in preparation (remuneration scale, qualifications, job description). The salary of the SEN assistant would be the same in the nursery, primary and secondary cycles.
- Schools are mapping the possibilities of grouping SEN pupils with similar needs together for support lessons, instead of providing individual assistance for them.
- Schools are inquiring about the possibilities for cooperation with local special educational needs centres.

In general, the SEN Policy Group proposes putting the emphasis on early identification of learning difficulties and reinforcement of early intervention in the nursery and primary.

The Deputy Secretary-General, in conjunction with the SEN Policy Group and the SEN inspectors, will prepare new guidelines for the integration of children with Special Educational Needs into our schools for the 2011-2012 school year. The proposal will be presented at the Joint Teaching Committee's February 2011 meeting.

### **Opinion of the Budgetary Committee**

**At its meeting of 28 and 29 October 2010, the Budgetary Committee scrutinised and took note of document 2010-D-199-en-2 and recommends that the Board of Governors should request the Office of the Secretary-General to propose devising concrete measures for creation of posts of SEN assistant and new guidelines for integration of SEN pupils.**

## ANNEX

### Legal opinion on SEN contracts

Article 4.7 of the Convention defining the Statute of the European Schools provides that the organisation of the education given in the schools will include the taking of measures *“to facilitate the reception of children with special educational needs.”*

A programme of integration into the European Schools of children with special educational needs was therefore put in place, on the basis of a text whose current version has the reference number 2009-D-619-en-3. *“Integration involves allowing pupils with learning difficulties or special educational needs (SEN) to develop and progress in the normal year groups to which they belong, with appropriate support, provided that their aptitudes allow them to do so, in the interest of their personal development.”*

SEN pupils are integrated into the school community on the basis of an agreement concluded between the school and the parents for each pupil and for each school year. The special needs are identified on the basis of a detailed multidisciplinary assessment and with the aim of keeping the child in the mainstream class. A pupil’s admission to the programme and monitoring of his or her development are entrusted to the Advisory Group, composed of a member of the directorate, the SEN inspector (optional), teachers, including the SEN coordinator, ‘the specialists’ and the parents.

In practice, the following findings have been made:

- Substantial growth in the number of pupils admitted to the SEN programme (approximately 400 for all of the 14 European Schools).
- Organisation of speech therapy sessions, and sometimes psychomotricity sessions, on school premises, to allow integration of special needs pupils.
- A very substantial increase in the total cost of the SEN programme budget (€3,426,685 in 2008, rising to the sum of €4,441,142 in 2009 and to the sum of €5,512,040 in 2010).

It has emerged that the European Schools have taken on professionals in the paramedical field (the said specialists) to provide these support services through the conclusion of part-time/locally recruited teachers’ contracts. There are reportedly around 30 ‘part-time/locally recruited SEN teachers’ who have been taken on by the four European Schools in Brussels.

The hiring by the European Schools of speech therapists, psychomotricity specialists or specialists from other paramedical professions to provide SEN support constitutes an infringement of the rules in force within the international organisation, including:

- Article 12 of the Convention defining the Statute of the European Schools, which organises all the staff according to the following categories: Service Regulations for the Secretary-General, the Headteachers, the teaching staff and the administrative and ancillary staff. The teaching staff break down into members of the seconded staff and part-time/locally recruited teachers. Speech therapists are not members of the teaching staff and cannot therefore be incorporated into the part-time/locally recruited teachers category.
- The Conditions of Employment for Part-time [= locally recruited] Teachers (recruited after 31 August 1994) envisage the cases in which the services of this category of staff may be used: teaching of religion, holding of a post which has not been filled by a seconded teacher, insufficient number of lessons to justify the creation of a post of seconded teacher, division of classes, replacements of teachers who are absent. Integration of SEN pupils measures are not amongst the situations in which Directors are authorised to take on part-time/locally recruited teachers.
- Article 3.1. of the Conditions of Employment for Part-time Teachers provides, under the title *“Conditions of recruitment of temporary teaching staff”*, that *“Candidates must have the qualifications required to teach, in the respective classes, the subjects for which they are to be employed.”* Speech therapists cannot be regarded as equivalent to members of the teaching staff and do not, moreover, have the qualifications required to teach.
- The fixing of the rate of pay for a lesson or weekly period taught by part-time/locally recruited teachers by reference to the basic salary of a seconded teacher is not justified for paramedical auxiliary staff charged with providing specialist services.
- The philosophy of integration of SEN pupils is to conclude a particular agreement intended for one child in particular and to which the parents are parties, not to put in place a general support system organised by the school by means of contracts of employment for an indefinite period.

In view of these considerations, the conclusion of **new** SEN agreements should be reviewed, on the basis of the following principles:

- Support measures in general (internal differentiation pedagogy used by teachers) and Learning Support continue to be provided by the teaching staff of the school (seconded and locally recruited teachers).
- Where the services of paramedical auxiliary staff (speech therapist, psychotherapist, specialist staff to support autistic children, etc.) are used, their provision is organised on the basis of a tripartite agreement, a model of which is appended (subject to application of the particular national legislation in force in the school's host country). The school's role is confined to making a suitable room available to the pupil and to the professional whose services are to be used, to agreeing on a timetable, taking due account of class activities, and to providing coordination and monitoring through the SEN Advisory Group.
- Paramedical auxiliary staff provide services as self-employed persons and freely fix their fee rates with the parents, who pay the cost directly, without any contribution from the school (without prejudice to the right to reimbursement of the cost of these services from the sickness insurance scheme or sickness fund of which the parents are members). The European Schools do not recruit paramedical auxiliary staff.
- The European Schools ensure that the civil liability policy covers any damage or injury which paramedical auxiliary staff and pupils might suffer during the organisation of specialist support sessions for SEN pupils.
- The 'part-time/locally recruited SEN teachers' contracts currently in force are not renewed when they expire. In the event of doubt about the procedure to be followed to terminate the disputed contracts, the Central Office should be requested to provide a prior legal opinion.

MODEL AGREEMENT  
PARAMEDICAL AUXILIARY STAFF

BETWEEN:

1. Mr and Mrs ....., parents of the pupil ..... enrolled in year ... of the ..... cycle of the European School, ....., resident at ....., hereinafter referred to as the parents.
  
2. Mr / Mrs ..... (speech therapist, physiotherapist, psychologist, .....) practising at ....., hereinafter referred to as the member of the paramedical auxiliary staff.
  
3. The European School, ....., represented by ....., Director, hereinafter referred to as the School.

WHEREAS:

The pupil ..... has special educational needs. It has emerged that in addition to the support put in place by the School's teaching team, coordinated by the Advisory Group, it is beneficial for the pupil for ..... sessions to be organised on school premises. The parents of the pupil ..... wish this paramedical support to be provided by Mr/Mrs ....., whom they have chosen freely, without any involvement on the School's part.



1. The member of the paramedical auxiliary staff will provide ..... sessions for the pupil ..... at the rate of ..... times per week from .../.../201.. to .../.../ 201..., at ..... (time) on ..... (day(s)), in room ....., made available for that purpose by the School.
2. The member of the paramedical auxiliary staff hereby undertakes to participate in / to produce a detailed report in anticipation of the meeting of the Advisory Group charged with assessing the pupil's development and fixed for .../.../201....
3. The member of the paramedical auxiliary staff has been chosen by the parents. The parents hereby undertake to pay the cost of the services provided by the member of the paramedical auxiliary staff, without any financial contribution from the School. The cost of the services provided amounts to the sum of € ..... / session of ... hours, paid on presentation of a fee note, by transfer into the member of the paramedical auxiliary staff's bank account No .....-.....-.....
4. The School will make available to the member of the paramedical auxiliary staff and to the pupil ..... a room (No ....) in the building. The member of the paramedical auxiliary staff will ensure that the room and any specific teaching material or equipment made available to him/her are kept in a perfect state of repair.
5. The member of the paramedical auxiliary staff will perform the task defined in Article 1 autonomously and will be guided, in performance of this agreement, by the pupil's best interests, which will be assessed, where appropriate, in collaboration with the educational team. The School and the member of the paramedical auxiliary staff hereby acknowledge that they have not entered into any legal relationship and that there is no relationship of subordination between them. The member of the paramedical auxiliary staff hereby undertakes to fulfil all his/her legal, ethical, fiscal and administrative obligations and gives an assurance that he/she has all the required qualifications.

Done at .....

In triplicate, each of the parties acknowledging receipt of their copy,

The School

The member of the paramedical auxiliary staff

The parents