



Appealing for a school

A practical guide to parents' legal rights



What does it mean?

Here are some common education words and jargon – come back to this page if you get stuck.

In this booklet:

- **must** means the law says that this has to happen.
- **should** means the Government has said they expect this to happen

Other things you should know

The **Local Education Authority (LEA)** is the education department of a local council which may be part of a children's services authority or children's trust. LEAs in England now co-ordinate all admissions. This means you apply through them when your child is starting school or transferring at the normal time.

The **governing body**, with the headteacher, has overall responsibility for the school.

The **admission authority** – the official body which decides on the rules on how children will get a place at the school and also who is offered a place. For community and voluntary controlled schools the admissions authority is the LEA; for all others it is the governing body.

An **unreasonable decision** by an admission authority is a decision which is not rational in terms of its legal responsibilities.

The **appeal panel** – a group of 3 or 5 people who decide whether a child who has already been turned down for a school by the admission authority should be given a place. The appeal panel is set up by the admission authority. There are strict legal rules about who should be on the panel. No member of the panel can be a governor of the school or a local councillor, for example.

If your child has been **permanently excluded twice** and is turned down for a school you may not be able to appeal. If your child has **challenging behaviour** an admission authority may turn them down in very limited circumstances but you can still appeal. If their behaviour is related to a disability you can claim disability discrimination. In both these cases you should take further advice (see page 10 for ACE's advice line).

Types of schools

Community (mostly former county) schools, **foundation** (mostly former grant-maintained) schools, **voluntary aided** or **voluntary controlled schools** (mostly set up by churches or other faiths and a few by charities). At faith schools most or all children will be given a place at the school depending on their religion under rules decided by the admission authority. **Academies and city technology colleges** – these schools operate as independent schools but do not charge fees and should admit pupils on a similar basis to other state schools. They must offer an appeal if your child is turned down for a place.

Secondary schools also fall into the following types:

Comprehensive schools – are open to all children. At banded comprehensive schools children are assessed so that there is a balance of ability across the school.

Fully selective schools – these are generally grammar schools – all children are assessed for a place at the school by taking tests organised by the admission authority.

Partly selective schools or schools which give priority for aptitude – a certain number of children, generally 10 per cent, are assessed for a place at the school under rules decided by the admission authority.

My child has been turned down for the school that I chose

What can I do?

This can be an upsetting time for you and your child. Parents often feel very angry and let down and children are worried about their future. You have a right to explain to an appeal panel (*see opposite*) why your child should go to the school.

If they agree with you, your problems are over. In this booklet ACE explains, step by step, how to put your reasons to the panel.

Step 1: Send back the form

The letter telling you that your child has been turned down for a school must say that you can ask an appeal panel to give your child a place at that school. This is known as an admission appeal. This is your right if you applied in the usual year for starting the school and also if you have applied in later years. The letter may include a form for you to say that you want to appeal. If there is no form send a letter (*see page 11*).

Send the form or your letter as quickly as possible but remember:

- if you have missed the deadline, you can generally still appeal
- you do not need to write out your whole case now – do not delay too long – just say you want to appeal and give as many reasons as you can.

Send your letter to:

- the local education authority, for community and controlled schools (*see page 2*)
- the school itself, for foundation or voluntary aided schools (*see page 2*)

Step 2: What happens next?

A meeting of the appeal panel must be arranged.

Ten working days before the meeting you should be sent a letter giving the time and place. If you cannot make the meeting, ask the person who sent the letter to set another time.

For all but appeals for infant classes of 30, you can send more information about your reasons for wanting your child to go to the school. You can also take more information to the meeting itself. You may be invited to meet the local education authority or the school governors before the appeal meeting to talk about your choice. This is not the appeal.

Step 3: What will the panel look at?

In simple terms, for most appeals the panel will check whether the rules have been followed properly and if the school could take extra pupils.

If the school is full the panel will then balance up

- the problems faced by your child if he or she does not go to this school *against*
- the problems faced by the school if they have to take an extra child.

But if you have been turned down because of the infant class size limit of 30, the panel must only look at:

- whether the admission rules were applied wrongly in your case *and*
- if it was unreasonable to turn your child down given the circumstances.

In law “unreasonable” has a very narrow meaning - *see page 2* - so it is very difficult to win these appeals.

ACE advises

The class size limit is a strict legal one and panels rarely admit more than 30 children. Generally new evidence to support the application will not be allowed at a class size appeal unless it is to show that the admission authority behaved unreasonably or made a mistake.

Steps 4 - 12 will help you put together your case.

Step 4: Check the rules

There are rules about how places at each school are given to pupils. Each school has its own admission rules which can change from year to year. They are generally called the admission criteria or the oversubscription criteria and must be in the local education authority guide or prospectus to local schools. Ask your LEA admissions department for one immediately.

Remember, for most schools, the rules are only used to choose between pupils if too many have applied for the number of places. So, if 50 pupils apply for a school with 40 places, the rules will be used to decide which 40 pupils get a place.

Fully selective schools (*see page 2*) may turn down pupils who do not fit the admission rules about ability, even if the school is not full.

Faith schools may give priority to children of the same faith as the school but may also have rules which allow children of other faiths and denominations or just children in the local community to get places.

Whilst taking account of any selection and faith criteria, schools must give priority to looked after children (children in public care).

Schools must not discriminate on grounds of race or disability.

Look at the admission rules carefully and ask the question: “Have the rules been followed properly?”

Step 5: The rules haven't been followed

In most cases the rules are followed, but mistakes are sometimes made. If you think they have not been followed, contact the admission authority (*see page 2*). If they agree with you, usually your child will be able to go to the school even if it is full. If they don't agree – write down why you think they are wrong:

I do not think the admission rules have been followed because...

A few days before the meeting you should be sent the reasons, in terms of the admission rules, for your child being turned down and all the papers for the hearing. Look through these carefully. Again if you do not agree with what is being said, write down your reasons.

I do not think the admission rules have been followed because...

This is the beginning of your case.

Step 6: My child has been discriminated against

If your child has a disability and you feel the admission authority has discriminated against your child, for example by treating your application differently than for other children, or refusing to accept it, you can claim disability discrimination. See ACE's *Disability Discrimination* guide.

If you think your child has been treated less fairly because of their race, your views should be part of your case.

Write down why you think discrimination has taken place.

I think my child has been discriminated against because...

Step 7: Could the school take extra pupils?

Schools have a set number of places to be filled. This is called the admission number. You will find this in the LEA admission prospectus for schools in its area. Unless the school is a fully selective school, all these places must be filled before a child can be turned down.

So your child has been turned down because the school is full. Another child in the school would mean larger classes which stretch teachers, books, equipment and often room! For infant classes another child would mean that the legal limit of 30 pupils would be broken either this year or in the future, for example, if small infant classes merge in Years 1, 2 or 3.

In the information sent to you before the appeal, there will probably be school details – number of staff, size of classrooms etc. Does this show that the school cannot take an extra pupil or has met the infant class limit? If not add:

It has not been shown that the school cannot take an extra pupil...

Try to find out how many parents were successful at appeal last year. If three were successful, this means there were three extra pupils on top of the set number. This might mean that the school could cope with more pupils.

I feel that the school could take an extra pupil because...

Step 8: About your child

My child is...

Write a little bit about your child – imagine you are describing them to a stranger.

Now add points about your child that fit in with why this school is needed:

- What is your child good at?
- What does your child like to do?
- Any health problems now or in the early years?
- Any social problems – shyness, victim of bullying?
- Any family problems?
- Any emotional problems – anxiety, tantrums?
- Any difficulties with learning?
- Any problems at school?
- Have any recent changes affected your child?

Think carefully. Write down in detail how each point affects your child in school and at home. Do not expect the appeal panel to guess.

Step 9: Why my child must go to this school

It is best to split this into two parts:

1. why this school would be good for your child
and
2. why it would be difficult for your child if they did not go to this school.

This school would be good for my child because...

List all the positive points about the school that you have found out from your visit or the school prospectus e.g.

- it has a good anti-bullying policy
- it has good sports facilities
- my child really liked the school
- most of my child's friends go there
- it is very close to where we live
- it is a very easy bus ride

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- it is a mixed school or a single sex school
 - most of our community goes there
 - it teaches three modern languages or single sciences, etc.

Explain in detail why each point is so important for your child.

If my child does not go to this school I am very worried that...

Explain what may happen. Show how your child will be affected at home and in school. Again, do not expect the panel to guess. Remember problems affect different children in different ways.

Step 10: Other schools

It is very important that you look carefully at all other schools with empty places. Visit them with your child. If you think that going to the schools would cause your child problems, add the reasons to your case. Do not just give general negative views of the school. Schools often get a bad name unfairly. Also different schools suit different children. ACE advises parents to find out for themselves – don't just take the word of others.

If my child had to go to another school, I am worried that ...

List all the problems your child will face. Again, explain the effects.

Step 11: Proof

Look at your whole case and think about how you can prove your points. This is very important.

- Have you any reports that back up your case?
- Will anyone who is independent – like a doctor – send a letter that agrees with you? Show them your case and ask them to detail the points they support.
- Will anyone – like a youth worker or playgroup worker – come as your witness to support certain points at the appeal meeting?
- Does the school profile (on www.parentscentre.gov.uk), school prospectus, inspection reports or any school policy help your case?

Step 12: Your case

Now write (or type) out your whole case.

Send it to the panel, with all your proof, and/or take copies of everything with you to the appeal panel meeting.

Step 13: At the meeting

Generally there will be three people on the panel plus a clerk to take notes.

The person from the LEA (or a school governor if it is a voluntary aided school or foundation school) will explain why your child was turned down and try to show that the rules have been followed properly.

Often the headteacher will add information about the school – its size, how many teachers etc. This is to show how difficult it will be if more children attend. They should not bring new information. This part of the meeting can be confusing. Make notes about anything that you do not understand.

You can then ask questions.

Next you put your case. Parents can be tense and upset at these meetings. If you read out your case you will not forget any points. Anyone who has come with you can then add their points if the panel agrees. It is not normally necessary for your child to come with you.

After reading out your case, hand it to the panel and others in the room.

The local education authority officer or the school governor may then ask you questions. The panel can ask questions whenever they wish.

At the end of the meeting you can sum up. (This means bringing together the main points that you have already made.) You, the local education officer or the governor, and the headteacher will then leave the room.

The meeting must be fair. Put your case as you wish. If you forget something, ask if you can add it. If you do not understand anything that is said, ask for it to be explained.

Step 14: The panel decides

For most appeals, in legal terms, the appeal panel must take into account parental preference, arrangements for admissions, including selection, and prejudice in the provision of efficient education and use of resources.

This means – you will probably win your case if the panel decides:

1. that the rules have not been followed
or
2. that the school can cope with an extra pupil
or
3. that the problems your child will face if they do not go to the school will be greater than problems for the school caused by an extra pupil.

But for appeals affected by the infant class size limit of 30, you will only win your case if the panel decides:

1. your child was turned down wrongly because the admission rules were not followed properly
or
2. it was unreasonable in the legal sense (*see page 2*) to turn your child down.

You will be told the panel's decision by letter. If you win your case your child must be offered a place.

ACE cannot cover everything here - for more help from ACE:

For pupils with Special Educational Needs: **Special Education Handbook, Getting Extra Help, Asking for a Statutory Assessment, Getting the Statement Right**
Bullying: Tackling Bullying, Taking Matters Further
Home education: **Home Education Pack**
Available from ACE, 1c Aberdeen Studios 22, Highbury Grove London N5 2 DQ.
ACE Advice Line 0808 8005793 or www.ace-ed.org.uk.

Useful Government publications are:

Code of Practice School Admissions and Code of Practice School Admission Appeals
Special Educational Needs - A Guide for Parents
Available free from DfES Publications: Tel: 0845 6022260
www.dfes.gov.uk

To: the Appeal Panel
c/o The Local Education Authority Admissions Section
(for Community and Controlled Schools)

or
c/o The Chair of School Governors (for all others)
Date

Dear Sir / Madam

I am writing because I wish to appeal against the decision not to give my child (name) a place at (name of school). If you have an official form on which I should write my appeal, please send it to me as soon as possible.

My grounds for appeal are:

(Outline as many of your reasons as possible.)

Yours sincerely,
Parent

Appeal for admission to (give name of school)
for (give name and date of birth of your child)

I very much want my child to be a pupil at this school. I believe it will be best for my child's education and welfare.

Now add all the points that fit your case:

- **I do not think the admission rules have been followed ...**if this is the case see step 5
- **I think my child has been discriminated against because ...**if this is the case see step 6
- **It has not been shown that the school cannot take an extra pupil...**if this is the case see step 7
- **I feel that the school could take an extra pupil...**if this is the case see step 7
- **My child is...**Describe your child - see step 8
- **This school would be so good for my child because...**Give your reasons see step 9
- **If my child does not go to this school I am worried that...**Explain what may happen see step 9
- **If my child had to go to another school, I am worried that...**Explain what may happen see step 10

ACE advises

If you lose your appeal

- Only about a third of parents win their appeal, so try not to be too negative about other schools when you talk to your child.
- You may ask that your child is put on the waiting list – but children can move down waiting lists if others apply to the school who have greater priority. Some schools close their waiting lists after a certain time.
- If you are not successful, you do not have to send your child to any school allocated to you.
- You must make sure that your child is at a school or is taught at home (see ACE's Home Education Pack).
- If your situation changes you may be able to appeal again or to reapply.
- If you feel that the appeal was run unfairly you may complain but this may not change the situation for your child (see ACE's Taking Matters Further).
- Parents sometimes hear of a case "just like ours" that was successful – but remember all cases are different.

Points to remember

- You can appeal if you have accepted another school.
- You can appeal for more than one school.
- If your child has a Statement of Special Educational Needs you cannot use this appeals procedure. You can appeal and/or make a disability discrimination claim to the Special Educational Needs and Disability Tribunal (see ACE's Special Education Handbook).

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