

SEND & School Anxiety Law: Detailed Parent-Friendly Guide

Below is a deeper breakdown of the laws most relevant to SEND, EBSA, trauma, and school non-attendance in **England**.

1. Children and Families Act 2014 (CFA 2014)

This is the foundation of all SEND rights.
The most important sections:

Section 20 – Definition of SEND

A child has SEND if they have a learning difficulty or disability that requires *special educational provision*.

This includes:

- Autism (diagnosed or traits)
- ADHD
- PDA profiles
- Anxiety disorders
- Trauma impacts
- Dyslexia, dyspraxia, etc.

SEND does **not** require a diagnosis — only *need*.

Section 22 – Local Authority “Child Find Duty”

LAs must **identify every child with or possibly with SEND**, including:

- Children who are struggling mentally
- Children who are out of school
- Children with EBSA
- Children not yet diagnosed

This means:

“We can’t help until there’s a diagnosis” is unlawful.

Sections 36–50 – EHCP Process & LA Duties

Key points:

★ **You have the legal right to request an EHC needs assessment (s.36).**

The LA must conduct one if:

The child may have SEND AND may need special educational provision via an EHCP.

This is a **very low threshold**.

★ **Section 42 – LEGAL DUTY to deliver provision**

Anything in **Section F** of an EHCP is:

- Legally enforceable
- Not optional
- Not dependent on funding
- Not dependent on what the school “normally offers”

If it’s written, it must happen.

★ **2. SEND Code of Practice (2015)**

This is statutory guidance. Schools and LAs must follow it unless they have a “good legal reason” not to (rare).

Important bits:

Sections 6.15–6.28 — SEND Support (K-level support)

Schools must:

- Use the **Assess–Plan–Do–Review** cycle
- Provide additional support even without EHCP
- Adapt teaching
- Track progress
- Involve parents

Schools cannot:

- Refuse support until diagnosis
 - Say “we don’t do 1:1”
 - Skip APDR cycles
 - Blame absence on parenting
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Chapter 6 & 9 — Anxiety and mental health

The Code states that SEN includes **social, emotional, and mental health** difficulties, such as:

- Anxiety
- School avoidance
- Trauma
- Self-regulation difficulties

Support should be early, adaptive, and child-centred.

3. Equality Act 2010 (Disability Law)

This is extremely powerful for EBSA, autism, ADHD, and anxiety.

SEND = disability if:

- It is long term (12+ months or likely to be) AND
- Has substantial impact on day-to-day life

Diagnosis is not required.

Schools must:

- Make **reasonable adjustments**
- Anticipate needs in advance
- Prevent disadvantage
- Ensure equal access to education
- Avoid discriminatory practices

Common reasonable adjustments:

- Reduced or flexible timetable
- Early/late entry
- Safe space
- Online learning from home
- Movement breaks
- Modified expectations
- Sensory adaptations

Unlawful discrimination may occur if a school:

- Punishes anxiety-driven absence
 - Forces full-time attendance too early
 - Refuses environmental adaptations
 - Insists on “100% attendance” policies for SEND children
 - Applies behaviour policies without adjusting for disability
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4. Education Act 1996 — Section 19

This protects children who **cannot attend school**.

LAs must provide “suitable education” for any child who is out of school due to:

- Illness
- SEND
- Anxiety
- EBSA
- Unmet needs
- Trauma
- School-based harm or dysregulation

This must:

- Start as soon as absence reaches 15 days (accumulated or consecutive)
- Be full-time *or the maximum the child can manage*
- Be appropriate to age, ability, and special needs

This law is essential in EBSA cases.

★ 5. Education Act 1996 — Section 7

Parents must ensure their child receives a “**suitable education**” — but this can be:

- In school
- Out of school
- Part-time
- At home
- Via online or hybrid learning

The key word is **suitable**, not “in school”.

If school is not meeting needs, **the LA must act**, not punish the family.

★ 6. Attendance Guidance (2023 update)

Not a law, but statutory.

Important parts:

- Schools must consider the **underlying needs** behind absence
- Fines should not be used where there is SEND or unmet need
- EBSA should trigger:
 - support
 - reasonable adjustments
 - multi-agency involvement
 - review of SEND provision

Schools cannot pressure attendance without addressing the reason behind the anxiety.

★ 7. Human Rights Act 1998

Article 2 of Protocol 1:

Children must not be denied the right to education.

If a child is unable to attend school safely, the LA must provide alternative access to education.

★ 8. Keeping Children Safe in Education (KCSIE)

Schools must safeguard children from:

- Emotional harm
- Mental health deterioration
- Stress caused by poorly handled reintegration
- Unsafe peer environments

This includes creating safe environments for autistic and anxious pupils.

★ 9. Term-Time Leave & Exceptional Circumstances (Education Regulations 2006)

While not SEND-specific, it links strongly:

- Headteachers *may* authorise leave for exceptional circumstances

- There is **no legal definition** of “exceptional”
- Each case must be individually considered
- Blanket policies (“we never authorise holidays”) breach statutory guidance
- SEND, anxiety, trauma, and burnout *can* be classed as exceptional circumstances