

# Educate Together

Submission on a Regulatory Framework for Enrolment  
October 2011

## Introduction

Educate Together's first school, Dalkey School Project, opened in 1978. Since then, a further 59 schools have opened. As the majority of those schools have been oversubscribed, Educate Together is acutely aware of the practical difficulties involved in devising and operating a fair and transparent enrolment policy.

Enrolment policies come into focus where there is oversubscription to a particular school. The obvious answer to such oversubscription is the provision of more school places of the type desired, and a wider choice for parents. However, it is also true that in many areas some schools are heavily oversubscribed while others (of the same type) are undersubscribed. Educate Together schools are generally oversubscribed as there are not enough of them to provide a choice that meets Ireland's human rights obligations. The existing legislative framework results in unfair discrimination in enrolments.

The right of parents to school choice is guaranteed in the Constitution. This right is availed of more by middle class parents from the ethnic majority than those with fewer resources, an unfair advantage that needs to be addressed in any enrolment policy that discriminates in order to handle oversubscription. Parents make a decision around 'good' and 'bad' schools in an area, whether of the same or different types.

In this submission, we have followed the layout of the Department's Discussion Paper in addressing the issues around enrolment.

## Requirement for primary legislation

While the Department's Discussion Paper states that it is not its intention to alter the provisions of existing equality legislation, we would contend that all state-funded schools should be open to all pupils, irrespective of social, cultural or religious background, or gender. Schools should reflect the demographic make-up of the area in which they are situated, and policies should support a good mix of students. This is necessary to foster enrolment policies and practices that are genuinely equality-based. It is our view that derogations to support discrimination on any of the 'nine grounds' listed in the Equal Status Act should not be enshrined in legislation. In addition, discrimination on social background should also be included in any regulation covering school enrolments a ground that is absent from current equality legislation.

The current Section 29 Appeal needs to be overhauled. As stated in the Discussion Paper, it is "... burdensome to parents, schools and the Department." It has been (and continues to be) challenged by Boards of Management who find it unacceptable that an Appeal Board has the power to enforce a Board of Management to accept a child, where the Board has serious concerns about its ability to find an equitable balance between meeting the needs of that child, the needs of the other children in

the school, and its duty of care to its employees. Boards require assistance and support in dealing with these complex issues. Any legislation that is put in place must take into account the legal role of the Board of Management, and its voluntary nature.

This issue of balance between authority and responsibility arises again in the area of inter-school co-operation. Any legislation that requires schools to co-operate together will only work if schools are encouraged and supported in working together, rather than forced to work together. The culture of schools in Ireland has been largely competitive in nature, whether for resources, students or accommodation. What is required is a change of culture, supported by, rather than enforced by, legislation. There are mentions in this section of the Discussion Paper of “orderly management of change”. Educate Together would welcome a proactive role for the Department in such change management.

The removal of enrolment from the control of a Board of Management that is perceived to be failing its duties seems to us to again separate authority and responsibility. If the legal responsibility for the safety and welfare of children and employees remains with the Board, it would appear logical that they must also retain the authority to make decisions around enrolment, and employment. We are concerned that there is a trend to increase the responsibility of the Board of Management, while lessening its authority. If legislation is put in place to allow control of enrolment to be removed from the Board, it would have to be done in a way that was mindful of the connection between responsibility and authority. Boards of Management are increasingly feeling that they are becoming increasingly responsible, with less authority. We welcome the statement in the Discussion Paper that “This option would only be activated in circumstances where there is evidence of significant levels of parental concern...”

### **Requirement for Regulations**

Regulations should assist Boards of Management to properly interpret the legislation, and to develop and implement policies that are fair, transparent and equitable. In situations where there is oversubscription, there must be recognition that any enrolment policy will by its nature mean a curtailment of parental choice.

### **Drafting and publishing requirements**

At present, the Education Act (1998) requires Boards of Management to publish its enrolment policy “... in such manner as the board with the agreement of the patron considers appropriate, ...” There is a lack of clarity among Boards and Patrons as to the exact meaning of this phrase. Educate Together would welcome a regulated requirement for consultation throughout the school community regarding drafting of/changes to enrolment policy.

### **Characteristic spirit**

It is our view that all children should be able to apply to any state-funded schools, irrespective of religious, social or cultural background. State-funded schools should be open to all. The characteristic spirit of a school should not be dependent on the homogeneity of its student population.

### **Financial contributions to schools**

Educate Together welcomes proposals to further clarify this issue via regulations. We agree that schools should make it very clear to parents that voluntary contributions are entirely voluntary, at the discretion of the parent. We would suggest that sanctions should be in place for schools who are found to have intentionally breached any such regulation.

### **Enrolment of pupils with special educational needs**

Equality of enrolment can only happen when allocation of resources is equal across schools, including new and developing schools. Delays in assessment and updating of reports need to be addressed, to ensure that appropriate supports are put in place in a timely fashion. Comprehensive and full assessment prior to a child's first day at school are an essential element of ensuring that a child's experience of school is positive, with all necessary resources in place from the start. Children with special educational needs moving from pre-school to primary school are moving from a small to a considerably larger class. Health and safety issues can arise for the school and Board of Management if resources are not in place for children new to the school.

Criteria for enrolment of pupils with special educational needs are required to ensure the best possible placement for each pupil, including access to appropriate resources. Educate Together has increasing concerns as a result of instances in which 'the best interests of the child' are not being met and schools boards are legally prevented from acting on this basis.

### **Oversubscription**

We welcome the acceptance that it is the role of the Board of Management to assess its overall capacity.

#### **Age**

Offering places to older children can be a logical solution to a problem of oversubscription. However, in a situation where oversubscription continues for a number of years, age alone will not solve the problem. Where age is used, it would be important that parents would be made aware that the places are 'used up' for their child for a particular year.

#### **First Come, First Served**

Since the Dalkey School Project opened in 1978, Educate Together schools have generally used First Come, First Served (FCFS), with some schools using variations thereof (FCFS with Sibling Policy, FCFS with reserved places, etc.) The advantage of FCFS is that it is completely transparent and not easily open to being altered in anyone's favour. However, families coming in to the school's area for any reason may be unable to get a place. FCFS also mitigates against families who would not have a tradition of applying early for a place in their local school. Some of the issues with FCFS could be addressed through active outreach in the community, building awareness, and the provision of more school places in areas where the schools are oversubscribed.

#### **Siblings**

Educate Together schools adopting a sibling policy usually do so in conjunction with a FCFS policy, and is only applied if the parents apply for a place for the child within a specified period of time. This allows the school to give parents of children further down the list (who do not have older siblings) a realistic expectation regarding their child.

**Relative of staff/past pupils**

We believe that this should not be used as criteria.

**Faith**

State-funded schools should not be allowed to discriminate on the basis of religion, or any of the grounds of discrimination set out in the Equal Status Act. Children of all religious, cultural and social backgrounds should be able to access all state-funded education. We are not aware of any situation in which such discrimination is necessary in order to maintain the ethos of a school.

**Distance from Schools, Geographical Boundaries and Feeder Schools**

Using catchment areas can be useful in arranging transport for students. However, regulations should not prevent a parent's desire to make a choice for their child even if that choice requires a longer journey. It is our view that the Constitutional view on parental choice outweighs pragmatic policy concerns in relation to geographic factors. The designation of feeder schools for second-level schools distort enrolments at primary level, particularly in 5<sup>th</sup> and 6<sup>th</sup> class. Where a feeder school system is set up in a developing area, students in newer primary schools may not be able to access appropriate second-level schools if they can't get a place in the relevant feeder school. Any regulation around feeder schools will have to take this into account.

**Language policy**

Where the choice of schools in an area is limited, we agree with the Discussion Document that a requirement to respect the linguist policy of a school would suffice. It should be pointed out that this also applies in areas where the demographic of the school is predominantly students who do not have English as their first language.

**Pupil ability**

Tests should not be used to assess a pupil's suitability for enrolment in a school.

**Open days/Interviews**

Parents should be encouraged to attend open days for the school of their choice. It can be useful if all schools in a geographic area hold their open days/interviews on the same day, as this tends to be a reliable indicator as to the parents' first choice of school.

**Random Selection**

While random selection might seem like a positive solution initially, it does have some flaws. The Discussion Paper refers to independent assessment by "... a reputable person... ". We feel that where a parent has a strong preference for a particular school, this would be one aspect that could be challenged by an unsuccessful applicant. There is also the question of when the selection should take place – too soon, and the system has the same disadvantages as FCFS, without the transparency; too late, and parents will be uncertain and anxious as to whether they have a place for their child. If legally challenged, proving that the system hasn't been corrupted could prove quite difficult. If used, we would recommend that an approved method of random selection be defined by the Department.

**Operation of the enrolment process**

A standard timeline, particularly for schools in designated geographical areas, would be useful for parents. It would also be useful for schools in ascertaining genuine parental interest in a place. Co-ordination between schools in an area around offers of places, open days, etc., can be useful for parents and schools.

## Conclusion

Legislation (and regulation) around enrolment should provide for the following:

- ensure that all schools operate enrolment policies and practices that are genuinely equality-based
- ensure all schools are good and 'desirable' schools - intervene where schools become 'undesirable'
- provide an appropriate balance of school types in every area in line with parental demand
- ensure information about different schools is easily available to all parents - this means outreach work to marginalised groups
- coordinate enrolments to ensure real equality of access
- allow schools to maintain a First Come, First Served policy

We would like to make the following specific recommendations:

- link State funding of schools to an obligation to ensure equality of access to all, regardless of social, cultural or religious background
- make information about different school types easily available to all parents - active outreach for marginalised groups
- keep a register of parental school type preference for all children aged 2 and over
- re-balance provision to better reflect parental demand
- implement a system of coordinated enrolment (operated by local body, etc. - see Educate Together submission to the Forum on Patronage and Pluralism (section attached). This process should be commenced before the suggested date in the Discussion Paper (October)