



# IPSEA

Independent Parental Special Education Advice

Hunters Court, Debden Road, Saffron Walden, Essex CB11 4AA

---

**Misconception:** In order for a local authority (LA) to carry out a education, health and care needs (EHC) assessment of a child or young person, the parent or young person must provide a report from an Education Psychologist and/or evidence that the school/college has spent £6,000 on the child's SEN provision.

**Fact:** Section 36 (8) of the Children and Families Act 2014 (C&FA 2014) states that the LA must secure an EHC needs assessment for the child or young person if the child or young person has or *may* have SEN, and, it *may* be necessary for special educational provision to be made for the child or young person in accordance with an EHC plan. For young people over the age of 18, there is an additional requirement. Section 36 (10) C&FA 2014 states that the LA must consider whether the young person requires additional time to complete their education or training compared to the majority of others the same age who do not have SEN. There is guidance on the test which is contained in Chapter 9 of the Special Educational Needs and Disability Code of Practice 2015.

You will see from the above legal test that the parent or young person must be able to demonstrate that 1. The child/they have or possibly has SEN and 2. It is possible that provision will need to be made by way of a EHC Plan. This is a relatively low test in law. There is absolutely no requirement in law for a parent or young person to obtain a report from a Education Psychologist **or** demonstrate that the school has spent £6,000 on SEN provision in order to demonstrate that a EHC needs assessment is required. It is common practice for many LAs to operate a criteria for assessing children and young people which sets a threshold over and above what the legal test. The above two are the most common requirements IPSEA comes across in our case work. Schools will often implement LA policy and so it is not uncommon for parents to also be told by schools that this is the test in law when it is clearly not. If you have requested assessment and been refused it is important to consider challenging this decision by appealing to the Tribunal. It is the law which will prevail – not LA policy.

---

**Helping children with special educational needs get the right education**

Registered Charity No. 327691 Limited Company No. 2198066