



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

**2003 Rhif 287 (Cy.39)**

**2003 No. 287 (W.39)**

**ADDYSG, CYMRU**

**EDUCATION, WALES**

Rheoliadau Addysg (Unedau  
Cyfeirio Disgyblion) (Apelau yn  
erbyn Gwaharddiadau Parhaol)  
(Cymru) 2003

The Education (Pupil Referral  
Units) (Appeals Against Permanent  
Exclusion) (Wales) Regulations  
2003

**NODYN ESBONIADOL**

**EXPLANATORY NOTE**

*(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)*

*(This note is not part of the Regulations)*

Mae'r Rheoliadau hyn yn rhagnodi'r person perthnasol (hynny yw rhiant disgybl, neu'r disgybl ei hun os ydyw'n 18) sy'n gallu apelio yn erbyn penderfyniad athro neu athrawes sy'n gyfrifol am uned cyfeirio disgyblion i wahardd y disgybl yn barhaol. Mae'r hawl newydd hwn i apelio yn gymwys i unrhyw benderfyniad a wneir gan athro neu athrawes sy'n gyfrifol am uned cyfeirio disgyblion i wahardd disgybl yn barhaol ar neu ar ôl 1 Medi 1994.

These Regulations prescribe the relevant person (that is to say the parent of a pupil or, where the pupil is 18, the pupil himself or herself) who may appeal against a decision by a teacher in charge of a pupil referral unit to permanently exclude the pupil. This new right of appeal applies to any decision made by a teacher in charge of a pupil referral unit to permanently exclude a pupil on or after 1st September 1994.

Mae Rheoliad 4 yn darparu bod rhaid i'r athro neu athrawes sy'n gyfrifol hysbysu'r person perthnasol a'r awdurdod addysg lleol ar unwaith am y penderfyniad a'r rheswm drosto pan gaiff disgybl ei wahardd yn barhaol ar ôl dyddiad dod i rym y Rheoliadau hyn. Yn ogystal, rhaid hysbysu'r person perthnasol o'i hawl i apelio yn erbyn y penderfyniad a sut y gall fynd ati i wneud apêl o'r fath.

Regulation 4 provides that where a pupil is permanently excluded after the coming into force of these Regulations, the teacher in charge must immediately inform both the relevant person and the local education authority of the decision and the reason for it. In addition, the relevant person must be informed of his or her right to appeal against the decision and how to go about making such an appeal.

Mae Rheoliad 5 yn gosod dyletswydd ar awdurdod addysg lleol i wneud trefniadau sy'n galluogi'r person perthnasol i wneud apêl. Fodd bynnag, rhaid i'r person perthnasol gydymffurfio â'r terfynau amser ar gyfer hysbysu'r awdurdod addysg lleol o'i fwriad i apelio. Mewn perthynas â phenderfyniad perthnasol a wnaed ar y diwrnod pan ddaw'r Rheoliadau hyn i rym neu ar ôl y diwrnod hwnnw, y terfyn amser yw 15 diwrnod ysgol ar ôl y diwrnod pan dderbyniodd y person perthnasol hysbysiad ysgrifenedig o dan reoliad 4(1). Mewn perthynas â phenderfyniad perthnasol a wnaed cyn y diwrnod pan ddaw'r Rheoliadau hyn i rym, y terfyn amser yw 30 diwrnod ysgol ar ôl y diwrnod hwnnw.

Regulation 5 places a duty on a local education authority to make arrangements enabling the relevant person to make an appeal. However, the relevant person must comply with the time limits for notifying the local education authority of his or her intention to appeal. In relation to a relevant decision made on or after the day on which these Regulations come into force, the time limit is 15 school days after the day on which the relevant person was given notice in writing under regulation 4(1). In relation to a relevant decision made before the day on which these Regulations come into force, the time limit is 30 school days after that day.

Mae rheoliad 6 yn cymhwyso Atodlen 18 i Ddeddf Safonau a Fframwaith Ysgolion 1998, fel y caiff ei haddasu gan yr Atodlen i'r Rheoliadau hyn, ar gyfer unrhyw benderfyniad a wneir yn unol â rheoliad 5.

Mae rheoliadau 7 ac 8 yn ailadrodd y darpariaethau sydd eisoes yn bodoli yn adran 67(3) a (4) o Ddeddf 1998 ar gyfer unedau cyfeirio disgyblion, gan ychwanegu darpariaeth (yn rheoliad 8(b)) i'r panel apelau wneud penderfyniad y byddai adsefydlu wedi bod yn briodol mewn achos pan na fyddai fel arall mewn gwirionedd wedi bod yn ymarferol i roi cyfarwyddyd o'r fath.

Mae rheoliad 9 yn ei gwneud hi'n ofynnol i athro neu athrawes sy'n gyfrifol am uned cyfeirio disgyblion, awdurdod addysg lleol neu banel apelau, barchu canllawiau a roddir gan Gynulliad Cenedlaethol Cymru wrth gyflawni swyddogaethau o dan y Rheoliadau hyn.

Regulation 6 applies Schedule 18 to the School Standards and Framework Act 1998, as modified by the Schedule to these Regulations, to any decision made in accordance with regulation 5.

Regulations 7 and 8 replicate the existing provisions in section 67(3) and (4) of the 1998 Act for pupil referral units, with the addition of a provision (in regulation 8(b)) for the appeal panel to make a determination that a reinstatement would have been appropriate in a case where otherwise it would not in fact be practical to give such a direction.

Regulation 9 requires a teacher in charge of a pupil referral unit, a local education authority or an appeal panel, in carrying out functions under these Regulations, to have regard to guidance given by the National Assembly for Wales.

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Cyfeirio Disgyblion) (Apelau yn  
erbyn Gwaharddiadau Parhaol)  
(Cymru) 2003****The Education (Pupil Referral  
Units) (Appeals Against Permanent  
Exclusion) (Wales) Regulations  
2003**

*Wedi'u gwneud* 12 Chwefror 2003  
*Yn dod i rym* 18 Chwefror 2003

*Made* 12th February 2003  
*Coming into force* 18th February 2003

Drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan baragraff 3 o Atodlen 1 i Ddeddf Addysg 1996(a) ac a freiniwyd bellach yng Nghynulliad Cenedlaethol Cymru(b), a thrwy arfer y pwerau a roddwyd i Gynulliad Cenedlaethol Cymru gan adrannau 52(7) ac (8) a 210(7) o Ddeddf Addysg 2002(c), ac ar ôl ymgynghori gyda'r Cyngor Tribiwnlysoedd yn unol ag adran 8 o Ddeddf Tribiwnlysoedd ac Ymchwiliadau 1992(ch), mae Cynulliad Cenedlaethol Cymru drwy hyn yn gwneud y Rheoliadau canlynol:

In exercise of the powers conferred on the Secretary of State by paragraph 3 of Schedule 1 to the Education Act 1996(a) and now vested in the National Assembly for Wales(b), and in exercise of the powers conferred on the National Assembly for Wales by sections 52(7) and (8) and 210(7) of the Education Act 2002(c), and after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(d), the National Assembly for Wales hereby makes the following Regulations:

**Enwi, cychwyn a chymhwyso**

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Addysg (Unedau Cyfeirio Disgyblion) (Apelau yn erbyn Gwaharddiadau Parhaol) (Cymru) 2003 a deuant i rym ar 18 Chwefror 2003.

(2) Mae'r Rheoliadau hyn yn gymwys mewn perthynas â Chymru yn unig.

**Citation, commencement and application**

1.-(1) These Regulations are called the Education (Pupil Referral Units) (Appeals Against Permanent Exclusion) (Wales) Regulations 2003 and shall come into force on 18th February 2003.

(2) These Regulations apply only in relation to Wales.

**Darpariaethau dehongli****2. Yn y Rheoliadau hyn-**

ystyr "Deddf 1996" ("*the 1996 Act*") yw Deddf Addysg 1996;

**Interpretation provisions****2. In these Regulations-**

"the 1996 Act" ("*Deddf 1996*") means the Education Act 1996;

(a) 1996 p.56. Ar gyfer ystyr "regulations" gweler adran 579.  
(b) Gweler Gorchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672).  
(c) 2002 p.32; gweler adran 212(1) ar gyfer ystyr "regulations".  
(ch) 1992 p.53; amnewidir paragraff 15(b) o Atodlen 1 yn rhagolygol gan baragraff 22 o Atodlen 21 i Ddeddf Addysg 2002.

(a) 1996 c.56. For the meaning of "regulations" see section 579.  
(b) See the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).  
(c) 2002 c.32; see section 212(1) for the meaning of "regulations".  
(d) 1992 c.53; paragraph 15(b) of Schedule 1 is prospectively substituted by paragraph 22 of Schedule 21 to the Education Act 2002.

ystyr "Deddf 1998" ("*the 1998 Act*") yw Deddf Safonau a Fframwaith Ysgolion 1998(a);

ystyr "Deddf 2002" ("*the 2002 Act*") yw Deddf Addysg 2002;

ystyr "penderfyniad perthnasol" ("*relevant decision*") yw unrhyw benderfyniad a wnaed ar ôl 31 Awst 1994 gan yr athro neu athrawes sy'n gyfrifol am uned cyfeirio disgyblion i wahardd disgybl yn barhaol (sy'n cynnwys penderfyniad y dylid gwneud unrhyw waharddiad o ddisgybl a wneir am gyfnod penoddedig yn barhaol), yn unol â pharagraff 7 o Atodlen 1 i Ddeddf 1996 neu baragraff 7 o Atodlen 18 i Ddeddf Addysg 1993(b);

ystyr "person perthnasol" ("*relevant person*") yw-

- (a) mewn perthynas â disgybl o dan 18, ei riant;
- (b) mewn perthynas â disgybl sydd wedi cyrraedd yr oedran hwnnw, y disgybl ei hun.

#### **Apelio yn erbyn gwaharddiad parhaol o uned cyfeirio disgyblion**

3.-(1) Mae'r rheoliad hwn yn rhagnodi at ddibenion adran 52(7) o Ddeddf 2002 y person all apelio i banel apelau yn erbyn penderfyniad i wahardd disgybl yn barhaol o uned cyfeirio disgyblion.

(2) Y person a ragnodir yw'r person perthnasol mewn perthynas ag unrhyw ddisgybl sy'n destun penderfyniad perthnasol.

#### **Camau i'w cymryd gan yr athro neu athrawes sy'n gyfrifol am uned cyfeirio disgyblion**

4.-(1) Yn ddarostyngedig i baragraff (2), pan fo athro neu athrawes sy'n gyfrifol am uned cyfeirio disgyblion yn gwahardd unrhyw ddisgybl yn barhaol ar y diwrnod pan ddaw'r Rheoliadau hyn i rym neu ar ôl y diwrnod hwnnw, rhaid i'r athro neu athrawes yng ngofal ddilyn y camau canlynol ar unwaith-

- (a) rhoi hysbysiad ysgrifenedig i'r person perthnasol yn cyfeirio at y penderfyniad hwnnw ac sy'n datgan y materion canlynol-
  - (i) y rhesymau am y penderfyniad,
  - (ii) ei hawl i apelio yn erbyn y penderfyniad,
  - (iii) y person y dylai roi unrhyw hysbysiad apêl iddo,
  - (iv) bod raid i unrhyw hysbysiad apêl gynnwys seiliau'r apêl, a

"the 1998 Act" ("*Deddf 1998*") means the School Standards and Framework Act 1998(a);

"the 2002 Act" ("*Deddf 2002*") means the Education Act 2002;

"relevant decision" ("*penderfyniad perthnasol*") means any decision made after 31st August 1994 by the teacher in charge of a pupil referral unit to exclude a pupil permanently (which includes a decision that any exclusion of a pupil for a fixed period should be made permanent), pursuant to paragraph 7 of Schedule 1 to the 1996 Act or paragraph 7 of Schedule 18 to the Education Act 1993(b);

"relevant person" ("*person perthnasol*") means-

- (a) in relation to a pupil under the age of 18, a parent of his or hers;
- (b) in relation to a pupil who has attained that age, the pupil himself or herself.

#### **Appeal against permanent exclusion from a pupil referral unit**

3.-(1) This regulation prescribes for the purposes of section 52(7) of the 2002 Act the person who may appeal to an appeal panel against a decision to permanently exclude a pupil from a pupil referral unit.

(2) The person prescribed is the relevant person in relation to any pupil who is the subject of a relevant decision.

#### **Action to be taken by the teacher in charge of a pupil referral unit**

4.-(1) Subject to paragraph (2), where the teacher in charge of a pupil referral unit excludes any pupil permanently on or after the day on which these Regulations come into force, the teacher in charge must forthwith-

- (a) give the relevant person notice in writing referring to that decision and stating the following matters-
  - (i) the reasons for the decision,
  - (ii) his or her right to appeal against the decision,
  - (iii) the person to whom he or she should give any notice of appeal,
  - (iv) that any notice of appeal must contain the grounds of appeal, and

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(a) 1998 p.31.

(b) 1993 p.35.

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(a) 1998 c.31.

(b) 1993 c.35.

(v) y diwrnod olaf y gellir gwneud yr apêl.

(b) hysbysu'r awdurdod addysg lleol bod y digybl yn cael ei wahardd yn barhaol a'r rhesymau dros hynny.

(2) Nid yw'r rheoliad hwn i fod yn gymwys i unrhyw benderfyniad perthnasol a wnaed cyn y diwrnod pan ddaw'r Rheoliadau hyn i rym.

### **Trefniadau ar gyfer apelau yn erbyn gwahardd disgyblion yn barhaol**

5.-(1) Yn ddarostyngedig i baragraff (2), rhaid i awdurdod addysg lleol wneud trefniadau yn unol â'r Rheoliadau hyn i alluogi person perthnasol i apelio yn erbyn unrhyw benderfyniad perthnasol.

(2) Ni ellir gwneud unrhyw apêl mewn perthynas ag unrhyw benderfyniad perthnasol y mae rheoliad 4(2) yn gymwys iddo oni roddir hysbysiad ysgrifenedig yn nodi'r seiliau am yr apêl gan y person perthnasol i'r awdurodd addysg lleol cyn pen 30 diwrnod ysgol ar ôl y diwrnod pan ddaw'r rheoliadau hyn i rym.

### **Cymhwyso deddfwriaeth bresennol**

6.-(1) Yn ddarostyngedig i baragraff (2), mae Atodlen 18 i Ddeddf 1998 i fod yn gymwys gyda'r addasiadau a ragnodwyd yn yr Atodlen i'r Rheoliadau hyn mewn perthynas ag unrhyw apêl yn erbyn penderfyniad perthnasol yn unol â threfniadau a wnaed o dan reoliad 5.

(2) Mewn perthynas ag unrhyw benderfyniad perthnasol a wnaed cyn y diwrnod pan ddaw'r Rheoliadau hyn i rym, nid yw paragraff 1(1) o Atodlen 18 i Ddeddf 1998 fel y cafodd ei haddasu gan y Rheoliadau hyn i fod yn gymwys.

### **Penderfyniad panel apelau yn benderfyniad rhwymol**

7. Bydd penderfyniad panel apelau ar apêl yn unol â threfniadau a wnaed o dan reoliad 5 yn rhwymol ar y person perthnasol, yr athro neu athrawes sy'n gyfrifol a'r awdurdod addysg lleol.

### **Cyfarwyddyd i adsefydlu disgybl**

8. Pan o dan apêl yn unol â'r Rheoliadau hyn bod panel apelau yn penderfynu na ddylai'r disgybl dan sylw fod wedi cael ei wahardd yn barhaol, rhaid i'r panel apelau naill ai-

(a) gyfarwyddo ei fod yn cael ei adsefydlu (naill ai ar unwaith neu erbyn dyddiad a bennir yn y cyfarwyddyd); neu

(v) the last day on which an appeal may be made.

(b) inform the local education authority that the pupil is being permanently excluded and the reasons for it.

(2) This regulation is not to apply to any relevant decision made before the day on which these Regulations come into force.

### **Arrangements for appeals against permanent exclusion of pupils**

5.-(1) Subject to paragraph (2), a local education authority must make arrangements in accordance with these Regulations for enabling a relevant person to appeal against any relevant decision.

(2) No appeal may be made in relation to any relevant decision to which regulation 4(2) applies unless notice in writing setting out the grounds of appeal is given by the relevant person to the local education authority no later than 30 school days after the day on which these Regulations come into force.

### **Application of existing legislation**

6.-(1) Subject to paragraph (2), Schedule 18 to the 1998 Act is to apply with the modifications prescribed in the Schedule to these Regulations in relation to any appeal against a relevant decision pursuant to arrangements made under regulation 5.

(2) In relation to any relevant decision made before the day on which these Regulations come into force, paragraph 1(1) of Schedule 18 to the 1998 Act as modified by these Regulations is not to apply.

### **Decision of appeal panel to be binding**

7. The decision of an appeal panel on an appeal pursuant to arrangements made under regulation 5 is to be binding on the relevant person, the teacher in charge and the local education authority.

### **Direction to reinstate a pupil**

8. Where on an appeal pursuant to these Regulations an appeal panel determines that the pupil in question should not have been permanently excluded, the appeal panel must either-

(a) direct that he or she is to be reinstated (either immediately or by a date specified in the direction); or

(b) mewn achosion pan na fyddai'n ymarferol rhoi cyfarwyddyd sy'n ei gwneud hi'n ofynnol ei adsefydlu, benderfynu y byddai fel arall wedi bod yn briodol i roi cyfarwyddyd o'r fath.

(b) in cases where it would not be practical to give a direction requiring his or her reinstatement, determine that it would otherwise have been appropriate to give such a direction.

### **Parchu canllawiau**

9. Rhaid i athro neu athrawes sy'n gyfrifol am uned cyfeirio disgyblion, awdurdod addysg lleol neu banel apelau sy'n cyflawni unrhyw swyddogaeth a roddwyd iddo gan neu o dan y Rheoliadau hyn a Deddf 1998 (fel y cafodd ei haddasu gan y Rheoliadau hyn) barchu canllawiau a roddir gan Gynulliad Cenedlaethol Cymru o dan Ddeddf 2002.

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(a).

### **Regard to guidance**

9. A teacher in charge of a pupil referral unit, a local education authority or an appeal panel discharging any function conferred by or under these Regulations and the 1998 Act (as modified by these Regulations) must have regard to guidance given by the National Assembly for Wales under the 2002 Act.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(a).

*D. Elis-Thomas*

12 Chwefror 2003

12th February 2003

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

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(a) 1998 p38.

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(a) 1998 c.38.

## Rheoliad 6

## Regulation 6

## Addasu Atodlen 18 i Ddeddf 1998

1. Yn lle "section 67(1)", bob tro y digwydd, rhoddir "regulation 5 of the Education (Pupil Referral Units) (Appeals Against Permanent Exclusion) (Wales) Regulations 2003".

2. Yn lle "section 66(6)(b)", bob tro y digwydd, rhoddir "regulation 4(1)(a) of the Education (Pupil Referral Units) (Appeals Against Permanent Exclusion) (Wales) Regulations 2003".

3. Ym mharagraff 1, yn lle "not to reinstate", bob tro y digwydd, rhoddir "to permanently exclude".

## 4. Ym mharagraff 2(7)-

- (a) ym mharagraff (a), yn lle "governing body of the school" rhoddir "management committee (where one has been established) of the pupil referral unit";
- (b) ym mharagraff (b) hepgorir "or the governing body"; ac
- (c) ym mharagraff (c), yn lle "school", bob tro y digwydd, rhoddir "pupil referral unit".

## 5. Ym mharagraff 10(2)-

- (a) ym mharagraff (a), yn lle "head teacher", rhoddir "teacher in charge";
- (b) ym mharagraff (b) hepgorir "and the governing body" ac ar ôl "written representations," ychwanegir "and";
- (c) ym mharagraff (c) hepgorir ", and a governor nominated by the governing body," ac ", and"; ac
- (ch) hepgorir paragraff (d).

## 6. Ym mharagraff 14-

- (a) hepgorir "the governing body"; a
- (b) yn lle "head teacher" rhoddir "teacher in charge".

## Modification of Schedule 18 to the 1998 Act

1. For "section 67(1)", in each place where it occurs, there is substituted "regulation 5 of the Education (Pupil Referral Units) (Appeals Against Permanent Exclusion) (Wales) Regulations 2003".

2. For "section 66(6)(b)", in each place where it occurs, there is substituted "regulation 4(1)(a) of the Education (Pupil Referral Units) (Appeals Against Permanent Exclusion) (Wales) Regulations 2003".

3. In paragraph 1, for "not to reinstate", in each place where it occurs, there is substituted "to permanently exclude".

## 4. In paragraph 2(7)-

- (a) in paragraph (a), for "governing body of the school" there is substituted "management committee (where one has been established) of the pupil referral unit";
- (b) in paragraph (b) "or the governing body" is omitted; and
- (c) in paragraph (c), for "school", in each place where it occurs, there is substituted "pupil referral unit".

## 5. In paragraph 10(2)-

- (a) in paragraph (a), for "head teacher", there is substituted "teacher in charge";
- (b) in paragraph (b) "and the governing body" is omitted and after "written representations," there is added "and";
- (c) in paragraph (c) ", and a governor nominated by the governing body," and ", and" are omitted; and
- (d) paragraph (d) is omitted.

## 6. In paragraph 14-

- (a) "the governing body" is omitted; and
- (b) for "head teacher" there is substituted "teacher in charge".

CYNULLIAD CENEDLAETHOL CYMRU

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OFFERYNNAU STATUDOL

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**2003 Rhif 287 (Cy.39)**

**ADDYSG, CYMRU**

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