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CYMRU

WELSH STATUTORY  
INSTRUMENTS

**2023 Rhif 420 (Cy. 63)**

**2023 No. 420 (W. 63)**

**ADDYSG, CYMRU**

**EDUCATION, WALES**

**Rheoliadau Addysg (Trefniadau  
Apelau Derbyn) (Cymru)  
(Diwygio) 2023**

**The Education (Admission Appeals  
Arrangements) (Wales)  
(Amendment) Regulations 2023**

**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 diwygio Rheoliadau Addysg (Trefniadau Apelau Derbyn) (Cymru) 2005 ("Rheoliadau 2005"). Mae Rheoliadau 2005 yn rhagnodi materion sy'n ymwneud ag apelau sy'n cael eu dwyn o dan adrannau 94 a 95 o Ddeddf Safonau a Fframwaith Ysgolion 1998 ("Deddf 1998") fel y'i diwygiwyd gan Ddeddf Addysg 2002.

These Regulations amend the Education (Admission Appeals Arrangements) (Wales) Regulations 2005 ("the 2005 Regulations"). The 2005 Regulations prescribe matters relating to appeals brought under sections 94 and 95 of the School Standards and Framework Act 1998 ("the 1998 Act") as amended by the Education Act 2002.

Gwnaeth Rheoliadau Addysg (Trefniadau Apelau Derbyn) (Cymru) (Coronafeirws) (Diwygio) 2020 ("Rheoliadau 2020") ddiwygiadau dros dro i Reoliadau 2005 er mwyn caniatáu, o dan amgylchiadau penodol sy'n ymwneud â mynychder neu drosglwyddiad y coronafeirws—

The Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) Regulations 2020 ("the 2020 Regulations") made temporary amendments to the 2005 Regulations to allow, in certain circumstances relating to the incidence or transmission of coronavirus—

- (a) panelau apêl a chanddynt ddau aelod;
- (b) i banelau apêl gynnal gwrandawriadau drwy fynediad o bell neu benderfynu apelau ar sail gwybodaeth ysgrifenedig.

- (a) appeal panels of two members;
- (b) appeal panels to hold hearings by remote access or to decide appeals on the basis of written information.

Darparodd rheoliad 2(2) o Reoliadau 2020 fod y diwygiadau hynny wedi peidio â chael effaith ar 31 Ionawr 2021, ond roedd hynny yn ddarostyngedig i ddarpariaethau arbed yn rheoliad 3 o Reoliadau 2020. Diwygiwyd y dyddiad hwnnw i 30 Medi 2021 gan Reoliadau Addysg (Trefniadau Apelau Derbyn) (Cymru) (Coronafeirws) (Diwygio) (Diwygio) 2020 ("Rheoliadau pellach 2020"). Diwygiwyd y dyddiad eto i 30 Medi 2022 gan Reoliadau Addysg (Trefniadau Apelau Derbyn) (Cymru) (Coronafeirws) (Diwygio) (Diwygio) 2021 ("Rheoliadau 2021").

Regulation 2(2) of the 2020 Regulations provided that those amendments ceased to have effect on 31 January 2021, but that was subject to saving provisions in regulation 3 of the 2020 Regulations. That date was amended to 30 September 2021 by the Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) (Amendment) Regulations 2020 ("the further 2020 Regulations"). The date was further amended to 30 September 2022 by the Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) (Amendment) Regulations 2021 ("the 2021 Regulations").

Mae rheoliad 2 o'r Rheoliadau hyn yn dirymu Rheoliadau 2020, Rheoliadau pellach 2020 a Rheoliadau 2021. Yr effaith yw bod Rheoliadau 2005 yn parhau mewn effaith a'u bod heb eu diwygio gan Reoliadau 2020, Rheoliadau pellach 2020 na Rheoliadau 2021.

Mae rheoliad 3 o'r Rheoliadau hyn yn gwneud nifer o ddiwygiadau i Reoliadau 2005. Mae rheoliad 3(5)(a) o'r Rheoliadau hyn yn mewnosod paragraff newydd A1 yn Atodlen 2 i Reoliadau 2005. Mae paragraff A1 yn caniatáu i awdurdodau derbyn benderfynu, o dan amgylchiadau penodol, a yw gwrandawriad apêl i'w gynnal yn bersonol, drwy fynediad o bell ("apêl o bell") neu'n rhannol yn bersonol ac yn rhannol drwy fynediad o bell ("apêl hybrid") (paragraff A1(1) o Atodlen 2 i Reoliadau 2005 fel y mae wedi ei fewnosod gan y Rheoliadau hyn). Os yw'r awdurdod derbyn yn penderfynu cynnal apêl o bell neu apêl hybrid rhaid iddo wneud yr holl drefniadau angenrheidiol er mwyn i'r panel apêl gael mynediad at yr offer mynediad o bell angenrheidiol (paragraff A1(3) o Atodlen 2 i Reoliadau 2005 fel y mae wedi ei fewnosod gan y Rheoliadau hyn).

Mae rheoliad 3 o'r Rheoliadau hyn yn diwygio Rheoliadau 2005 ymhellach i ganiatáu i'r awdurdod derbyn benderfynu y caniateir i apêl gael ei phenderfynu ar sail gwybodaeth ysgrifenedig o dan amgylchiadau penodol (paragraff A1(5) o Atodlen 2 i Reoliadau 2005 fel y mae wedi ei fewnosod gan y Rheoliadau hyn).

Mae darpariaeth bellach mewn perthynas ag apelau derbyn wedi ei gwneud mewn cod o dan adran 84 o Ddeddf 1998.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi oddi wrth: Yr Is-adran Cynllunio Busnes a Llywodraethiant Addysg, Llywodraeth Cymru, Parc Cathays, Caerdydd CF10 3NQ ac ar wefan Llywodraeth Cymru ar [www.llyw.cymru](http://www.llyw.cymru).

Regulation 2 of these Regulations revokes the 2020 Regulations, the further 2020 Regulations and the 2021 Regulations. The effect is that the 2005 Regulations continue in effect unamended by the 2020 Regulations, the further 2020 Regulations and the 2021 Regulations.

Regulation 3 of these Regulations makes a number of amendments to the 2005 Regulations. Regulation 3(5)(a) of these Regulations inserts a new paragraph A1 into Schedule 2 to the 2005 Regulations. Paragraph A1 allows admission authorities to decide in certain circumstances whether an appeal hearing is to be held in person, by remote access ("a remote appeal") or partly in person and partly by remote access ("a hybrid appeal") (paragraph A1(1) of Schedule 2 to the 2005 Regulations as inserted by these Regulations). If the admission authority decides to have a remote appeal or a hybrid appeal it must make all necessary arrangements for the appeal panel to have access to the necessary remote access equipment (paragraph A1(3) of Schedule 2 to the 2005 Regulations as inserted by these Regulations).

Regulation 3 of these Regulations further amends the 2005 Regulations to allow the admission authority to decide that an appeal may be decided on the basis of written information in certain circumstances (paragraph A1(5) of Schedule 2 to the 2005 Regulations as inserted by these Regulations).

Further provision in relation to admission appeals arrangements is made in a code under section 84 of the 1998 Act.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Education Business Planning and Governance Division of the Welsh Government at Cathays Park, Cardiff CF10 3NQ and on the Welsh Government website at [www.gov.wales](http://www.gov.wales).

**2023 Rhif 420 (Cy. 63)**

**ADDYSG, CYMRU**

**Rheoliadau Addysg (Trefniadau  
Apelau Derbyn) (Cymru)  
(Diwygio) 2023**

*Gwnaed* 11 Ebrill 2023  
*Gosodwyd gerbron Senedd Cymru* 12 Ebrill 2023  
*Yn dod i rym* 3 Mai 2023

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir i'r Ysgrifennydd Gwladol gan adrannau 94(5) a (5A), 95(3) a (3A) a 138(7) o Ddeddf Safonau a Fframwaith Ysgolion 1998(1) ac a freiniwyd bellach ynddynt hwy(2), yn gwneud y Rheoliadau a ganlyn:

**Enwi a dod i rym**

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Addysg (Trefniadau Apelau Derbyn) (Cymru) (Diwygio) 2023.

(2) Daw'r Rheoliadau hyn i rym ar 3 Mai 2023.

**2023 No. 420 (W. 63)**

**EDUCATION, WALES**

**The Education (Admission Appeals  
Arrangements) (Wales)  
(Amendment) Regulations 2023**

*Made* 11 April 2023  
*Laid before Senedd Cymru* 12 April 2023  
*Coming into force* 3 May 2023

The Welsh Ministers in exercise of the powers conferred on the Secretary of State by sections 94(5) and (5A), 95(3) and (3A) and 138(7) of the Schools Standards and Framework Act 1998(1) and now vested in them(2) make the following Regulations:

**Title and coming into force**

1.—(1) The title of these Regulations is the Education (Admission Appeals Arrangements) (Wales) (Amendment) Regulations 2023.

(2) These Regulations come into force on 3 May 2023.

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(1) 1998 p. 31; gweler adran 142(1) am y diffiniadau o "the Assembly", "prescribed" a "regulations". Amnewidiwyd is-adran (5) o adran 94, a mewnosodwyd is-adran (5A) yn adran 94, gan adran 50 o Ddeddf Addysg 2002 (p. 32). Diwygiwyd is-adran (5A) ymhellach gan adran 152(1) a (7) o Ddeddf Addysg a Sgiliau 2008. Amnewidiwyd is-adran (3) o adran 95, a mewnosodwyd is-adran (3A) yn adran 95, gan baragraff 9 o Atodlen 4 i Ddeddf Addysg 2002. Diwygiwyd is-adran (3A) gan erthygl 5(1) o O.S. 2010/1158 a pharagraff 10(1) a (2) o Ran 1 o Atodlen 2 iddo.

(2) Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan yr adrannau hyn i Gynulliad Cenedlaethol Cymru gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) ac yna i Weiniogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p. 32).

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(1) 1998 c. 31; see section 142(1) for the definitions of "the Assembly", "prescribed" and "regulations". Subsection (5) of section 94 was substituted, and subsection (5A) was inserted into section 94, by section 50 of the Education Act 2002 (c. 32). Subsection (5A) was further amended by section 152(1) and (7) of the Education and Skills Act 2008. Subsection (3) of section 95 was substituted, and subsection (3A) was inserted into section 95, by paragraph 9 of Schedule 4 to the Education Act 2002. Subsection (3A) was amended by S.I. 2010/1158, article 5(1), Schedule 2, Part 1, paragraph 10(1) and (2).

(2) The functions of the Secretary of State under these sections were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and then to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

## Dirymu

### 2. Mae'r Rheoliadau a ganlyn wedi eu dirymu—

- (a) Rheoliadau Addysg (Trefniadau Apelau Derbyn) (Cymru) (Coronafeirws) (Diwygio) 2020(1),
- (b) Rheoliadau Addysg (Trefniadau Apelau Derbyn) (Cymru) (Coronafeirws) (Diwygio) (Diwygio) 2020(2), ac
- (c) Rheoliadau Addysg (Trefniadau Apelau Derbyn) (Cymru) (Coronafeirws) (Diwygio) (Diwygio) 2021(3).

## Diwygio Rheoliadau Addysg (Trefniadau Apelau Derbyn) (Cymru) 2005

3.—(1) Mae Rheoliadau Addysg (Trefniadau Apelau Derbyn) (Cymru) 2005(4) wedi eu diwygio fel a ganlyn.

### (2) Mae rheoliad 2 wedi ei ddiwygio fel a ganlyn—

- (a) ym mharagraff (1), yn y lleoedd priodol mewnosoder—

“mae i “yr awdurdod derbyn” yr un ystyr ag a roddir i “the admission authority” yn adran 88(1)(a) a (b) o Ddeddf 1998;”

“ystyr “gwrandawriad apêl” (“*appeal hearing*”) yw gwrandawriad apêl at ddibenion Pennod 1 o Ran 3 o Ddeddf 1998;”

“ystyr “mynediad o bell” (“*remote access*”) yw mynediad at wrandawriad apêl i alluogi'r rheini nad ydynt i gyd yn bresennol gyda'i gilydd yn yr un man i fynd i'r gwrandawriad neu gymryd rhan ynddo ar yr un pryd drwy ddulliau electronig, gan gynnwys drwy gyswllt awdio byw a chyswllt fideo byw;”

“ystyr “swyddog cyflwyno” (“*presenting officer*”) yw person a enwebir gan yr awdurdod priodol, i wneud sylwadau llafar i'r panel apêl mewn perthynas â'r apêl;” a

- (b) ar ôl paragraff (2) mewnosoder—

“(3) Mae “cyswllt awdio byw”, mewn perthynas â pherson (P) sy'n cymryd rhan yn y gwrandawriad apêl, yn gyswllt ffôn byw neu'n drefniant arall sydd—

## Revocation

### 2. The following Regulations are revoked—

- (a) the Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) Regulations 2020(1),
- (b) the Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) (Amendment) Regulations 2020(2), and
- (c) the Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) (Amendment) Regulations 2021(3).

## Amendment of the Education (Admission Appeals Arrangements) (Wales) Regulations 2005

3.—(1) The Education (Admission Appeals Arrangements) (Wales) Regulations 2005(4) are amended as follows.

### (2) Regulation 2 is amended as follows—

- (a) in paragraph (1), in the appropriate places insert—

““the admission authority” has the same meaning as in section 88(1)(a) and (b) of the 1998 Act;”

““appeal hearing” (“*gwrandawriad apêl*”) means a hearing of an appeal for the purposes of Chapter 1 of Part 3 of the 1998 Act;”

““presenting officer” (“*swyddog cyflwyno*”) means a person nominated by the appropriate authority, to make oral representations to the appeal panel in relation to the appeal;”

““remote access” (“*mynediad o bell*”) means access to an appeal hearing to enable those who are not all present together at the same place to attend or participate simultaneously in the hearing by electronic means, including by live audio link and live video link;” and

- (b) after paragraph (2) insert—

“(3) A “live audio link”, in relation to a person (P) taking part in the appeal hearing, is a live telephone link or other arrangement which—

(1) O.S. 2020/479 (Cy. 110), a ddiwygiwyd gan O.S. 2021/996 (Cy. 232).

(2) O.S. 2020/1606 (Cy. 333).

(3) O.S. 2021/996 (Cy. 232).

(4) O.S. 2005/1398 (Cy. 112), a ddiwygiwyd gan O.S. 2009/823 (Cy. 73), O.S. 2010/1142 (Cy. 101), O.S. 2013/2535 (Cy. 250) ac O.S. 2020/479 (Cy. 110).

(1) S.I. 2020/479 (W. 110), amended by S.I. 2021/996 (W. 232).

(2) S.I. 2020/1606 (W. 333).

(3) S.I. 2021/996 (W. 232).

(4) S.I. 2005/1398 (W. 112), amended by S.I. 2009/823 (W. 73), S.I. 2010/1142 (W. 101), S.I. 2013/2535 (W. 250) and S.I. 2020/479 (W. 110).

- (a) yn galluogi P i glywed yr holl bersonau eraill sy'n cymryd rhan yn y gwrandawriad apêl nad ydynt yn yr un lleoliad â P, a
- (b) yn galluogi'r holl bersonau eraill sy'n cymryd rhan yn y gwrandawriad apêl nad ydynt yn yr un lleoliad â P i glywed P.

(4) Mae "cyswllt fideo byw", mewn perthynas â pherson (P) sy'n cymryd rhan yn y gwrandawriad apêl, yn gyswllt teledu byw neu'n drefniant arall sydd—

- (a) yn galluogi P i weld ac i glywed yr holl bersonau eraill sy'n cymryd rhan yn y gwrandawriad apêl nad ydynt yn yr un lleoliad â P, a
- (b) yn galluogi'r holl bersonau eraill sy'n cymryd rhan yn y gwrandawriad apêl nad ydynt yn yr un lleoliad â P i weld ac i glywed P."

(3) Yn rheoliad 3, ar ôl y geiriau "paragraff perthnasol yn" mewnosoder "Atodlen 1".

(4) Yn rheoliad 5, ar ôl y geiriau "yn unol ag" mewnosoder "Atodlen 2".

(5) Mae Atodlen 2 wedi ei diwygio fel a ganlyn—

- (a) o flaen paragraff 1 mewnosoder—

#### **"A1 Gwrandawriadau apêl**

(1) Caniateir i awdurdod derbyn benderfynu bod rhaid cynnal gwrandawriad apêl—

- (a) yn bersonol,
- (b) yn gyfan gwbl drwy ddefnyddio mynediad o bell ("apêl o bell"), cyhyd â bod yr amodau yn is-baragraff (4) wedi eu bodloni, neu
- (c) yn rhannol yn bersonol ac yn rhannol drwy ddefnyddio mynediad o bell ("apêl hybrid"), cyhyd â bod yr amodau yn is-baragraff (4) wedi eu bodloni.

(2) Ni chaniateir i apêl o bell ond cael ei chynnal yn gyfan gwbl drwy gyswllt awdio—

- (a) os nad oes cyswllt fideo byw ar gael am resymau sy'n ymwneud â chysylltiad rhyngrwyd, a
- (b) os yw'r apelydd a'r swyddog cyflwyno yn gytûn.

(3) Os yw awdurdod derbyn yn penderfynu bod rhaid cynnal naill ai apêl o bell neu apêl hybrid, rhaid iddo wneud yr holl drefniadau angenrheidiol er mwyn i'r panel apêl gael mynediad at yr offer mynediad o bell angenrheidiol.

(a) enables P to hear all other persons taking part in the appeal hearing who are not in the same location as P, and

(b) enables all other persons taking part in the appeal hearing who are not in the same location as P to hear P.

(4) A "live video link", in relation to a person (P) taking part in the appeal hearing, is a live television link or other arrangement which—

(a) enables P to see and hear all other persons taking part in the appeal hearing who are not in the same location as P, and

(b) enables all other persons taking part in the appeal hearing who are not in the same location as P to see and hear P."

(3) In regulation 3 after the words "relevant paragraph of", insert "Schedule 1".

(4) In regulation 5 after the word "in accordance with", insert "Schedule 2".

(5) Schedule 2 is amended as follows—

- (a) before paragraph 1 insert—

#### **"A1 Appeal hearings**

(1) An admission authority may decide an appeal hearing must be held—

- (a) in person,
- (b) wholly through the use of remote access ("a remote appeal"), provided the conditions in sub-paragraph (4) are met, or
- (c) partly in person and partly through the use of remote access ("a hybrid appeal"), provided the conditions in sub-paragraph (4) are met.

(2) A remote appeal may only be held entirely by live audio link if—

- (a) a live video link is not available for reasons relating to internet connectivity, and
- (b) both the appellant and presenting officer agree.

(3) If an admission authority decides either that a remote appeal or a hybrid appeal must be held it must make all necessary arrangements for the appeal panel to have access to the necessary remote access equipment.

(4) Mae'r amodau y cyfeirir atynt yn is-baragraffau (1)(b) ac (c) fel a ganlyn—

- (a) bod y partïon yn gallu cyflwyno eu hachos yn llawn,
- (b) bod gan bob cyfranogwr fynediad at y dulliau electronig i'w alluogi i glywed a chael ei glywed, ac i weld a chael ei weld (pan ddefnyddir cyswllt fideo byw), drwy gydol y gwrandawriad apêl, ac
- (c) bod yr awdurdod derbyn yn ystyried bod modd gwrandawrio ar yr apêl mewn ffordd deg a thryloyw.

(5) Caniateir i'r awdurdod derbyn benderfynu y bydd apêl yn cael ei phenderfynu ar sail yr wybodaeth ysgrifenedig a gyflwynir os nad yw naill ai'r swyddog cyflwyno neu'r apelydd yn gallu bod yn bresennol ar ddyddiad y gwrandawriad.”

- (b) ym mharagraff 1(6), yn lle “ymddangos a gwneud” rhodder “wneud”, ac
- (c) ym mharagraff 2(6), yn lle “ymddangos a gwneud” rhodder “wneud”.

(4) The conditions referred to in subparagraphs (1)(b) and (c) are—

- (a) the parties are able to present their case fully,
- (b) each participant has access to the electronic means to allow them to hear and be heard and (where using a live video link) see and be seen, throughout the appeal hearing, and
- (c) the admission authority considers that the appeal is capable of being heard fairly and transparently.

(5) The admission authority may decide that an appeal will be decided on the written information submitted if either the presenting officer or the appellant are unable to attend on the date of the hearing.”

- (b) in paragraph 1(6) omit the words “appearing and”, and
- (c) in paragraph 2(6)(b) omit the words “appear and”.

*Jeremy Miles*

Gweinidog y Gymraeg ac Addysg, un o Weinidogion  
Cymru  
11 Ebrill 2023

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Argraffwyd a chyhoeddwyd yn y DU gan Y Llyfrfa Cyf dan awdurdod a goruchwyliaeth Jeff James, Rheolwr Llyfrfa Ei Fawrhydi ac Argraffydd Deddfau Senedd y Brenin.

Minister for Education and Welsh Language, one of  
the Welsh Ministers  
11 April 2023

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