



Mesur Addysg (Cymru) 2009

2009 mccc 5

Mesur gan Gynulliad Cenedlaethol Cymru i wneud darpariaeth i blant gael hawl i apelio mewn cysylltiad ag anghenion addysgol arbennig, a hawl i wneud hawliad mewn cysylltiad â gwahaniaethu ar sail anabledd mewn ysgolion, i Dribiwnlys Anghenion Addysgol Arbennig Cymru; i wneud darpariaeth ar gyfer y canlynol mewn perthynas ag anghenion addysgol arbennig a gwahaniaethu ar sail anabledd mewn ysgolion: gwasanaethau cynghori a rhoi gwybodaeth, trefniadau ar gyfer datrys anghydfodau ac eithrio drwy apelau a hawliadau i Dribiwnlys Anghenion Addysgol Arbennig Cymru, a gwasanaethau eirioli annibynnol; i wneud darpariaeth ar gyfer treialu darpariaethau Rhan 1 o'r Mesur hwn; i wneud darpariaeth ynghylch y cwricwlwm mewn ysgolion yng Nghymru; ac at ddibenion cysylltiedig.

Mae'r Mesur hwn, a basiwyd gan Gynulliad Cenedlaethol Cymru ar 3 Tachwedd 2009 ac a gymeradwywyd gan Ei Mawrhydi yn Ei Chyngor ar 9 Rhagfyr, yn deddfu'r darpariaethau a ganlyn:—

RHAN 1

APELAU A HAWLIADAU ADDYSG GAN BLANT

Apelau anghenion addysgol arbennig

1 Hawl plentyn i apelio mewn cysylltiad ag anghenion addysgol arbennig

- (1) Diwygir Deddf Addysg 1996 (p. 56) yn unol â'r adran hon.
- (2) Ar ôl adran 332 mewnosoder—

“Appeals by children

332ZA Right of a child to appeal to the Welsh Tribunal

- (1) This section applies to the rights of a parent of a child to appeal to the Welsh Tribunal under any of the following provisions—
 - (a) section 325(2) (appeal against decision not to make statement);
 - (b) section 326(1) (appeal against contents of statement);
 - (c) section 328(3)(b) (reviews of educational needs);
 - (d) section 329(2)(b) (assessment of educational needs at request of child’s parent);
 - (e) section 329A(8)(b) (review of assessment of educational needs at request of responsible body);
 - (f) paragraph 8(3)(b) of Schedule 27 (change of named school);
 - (g) paragraph 11(2)(b) of Schedule 27 (ceasing to maintain a statement).
- (2) The child may exercise the rights conferred on the parent in respect of that child.
- (3) The child’s rights are exercisable concurrently with the parent’s rights.
- (4) The exercise of rights under this section is subject to provision made by regulations under sections 332ZC and 336(1).”.

2 Hysbysu a chyflwyno dogfennau

- (1) Diwygir Deddf Addysg 1996 (p. 56) yn unol â'r adran hon.
- (2) Ar ôl adran 332ZA mewnosoder—

“332ZB Notice and service of documents on a child

- (1) This section applies if a local education authority in Wales is required to give notice to or serve a document on a parent of a child under any of the following provisions—
 - (a) section 325 (appeal against decision not to make statement);
 - (b) section 328 (reviews of educational needs);
 - (c) section 329 (assessment of educational needs at request of child’s parent);
 - (d) section 329A(8) (review or assessment of educational needs at request of responsible body);
 - (e) paragraph 3 of Schedule 26 (manner and timing of assessments);
 - (f) paragraph 2A of Schedule 27 (amendments to a statement);
 - (g) paragraph 2B(2) of Schedule 27 (provision of additional information);
 - (h) paragraph 6 of Schedule 27 (service of statement);
 - (i) paragraph 8 of Schedule 27 (change of named school);
 - (j) paragraph 11 of Schedule 27 (ceasing to maintain a statement).

- (2) The local education authority must give notice to, or serve the document on, the child as well as on the parent.
- (3) Any provision applicable to notices given to or documents served on a parent applies equally to notices given to or documents served on a child.”.

3 Cyfeillion achos

- (1) Diwygir Deddf Addysg 1996 (p. 56) yn unol â'r adran hon.
- (2) Ar ôl adran 332ZB mewnosoder—

“332ZC Case friends — Wales

- (1) The Welsh Ministers may provide by regulations for a child to have a person (referred to in this Part as a “case friend”)—
 - (a) to make representations on behalf of a child with a view to avoiding or resolving disagreements about the exercise by local education authorities in Wales of functions under this Part, and
 - (b) to exercise the rights of a child under section 332ZA on the child’s behalf.
- (2) A child’s case friend must—
 - (a) make representations and exercise rights fairly and competently,
 - (b) have no interest adverse to that of the child;
 - (c) ensure that all steps and decisions taken by the case friend are for the benefit of the child and take account of the child’s views.
- (3) Regulations made under this section may (among other things)—
 - (a) confer functions on the Welsh Tribunal;
 - (b) make provision about procedures in relation to case friends;
 - (c) make provision about the appointment and removal of case friends;
 - (d) specify the circumstances in which a person may or may not act as a case friend;
 - (e) specify the circumstances in which a child must have a case friend;
 - (f) specify further requirements in respect of the conduct of case friends.”.

4 Cyngor a gwybodaeth

- (1) Diwygir Deddf Addysg 1996 (p. 56) yn unol â'r adran hon.
- (2) Yn adran 332A (cyngor a gwybodaeth i rieni)—
 - (a) yn y pennawd, ar ôl y gair “parents” mewnosoder “— England”;
 - (b) yn is-adran (1), ar ôl y geiriau “local education authority” mewnosoder “in England”;
 - (c) yn is-adran (2), yn lle “given—” rhodder “given by the Secretary of State.”;
 - (d) yn is-adran (2), hepgorer paragraffau (a) a (b).
- (3) Ar ôl adran 332A mewnosoder—

“332AA Advice and information — Wales

- (1) A local education authority in Wales must arrange for any child in their area with special educational needs, for a parent of any such child and for a case friend for any such child, to be provided with advice and information about matters relating to those needs.
- (2) In making the arrangements, the authority must have regard to any guidance given by the Welsh Ministers.
- (3) The arrangements must comply with any provisions made in regulations by the Welsh Ministers that relate to the arrangements.
- (4) The authority must take such steps as they consider appropriate for making the services provided under subsection (1) known to—
 - (a) children in their area,
 - (b) parents of children in their area,
 - (c) head teachers and proprietors of schools in their area, and
 - (d) such other persons as they consider appropriate.”

5 Datrys anghydfodau

- (1) Diwygir adran 332B o Ddeddf Addysg 1996 (p. 56) yn unol ag is-adran (2).
- (2) Yn adran 332B (datrys anghydfodau)—
 - (a) yn y pennawd, ar ôl y gair “disputes” mewnosoder “— England”;
 - (b) yn is-adrannau (1) a (2), ar ôl y geiriau “local education authority” mewnosoder “in England”;
 - (c) yn is-adran (4), yn lle “given—” rhodder “given by the Secretary of State.”;
 - (d) yn is-adran (4), hepgorer paragraffau (a) a (b).
- (3) Ar ôl adran 332B mewnosoder—

“332BA Resolution of disputes — Wales

- (1) A local education authority in Wales must make arrangements with a view to avoiding or resolving disagreements between—
 - (a) authorities and children in their area about the exercise by authorities of functions under this Part, and
 - (b) authorities and parents of children in their area about the exercise by authorities of functions under this Part.
- (2) A local education authority in Wales must also make arrangements with a view to avoiding or resolving, in each relevant school, disagreements between—
 - (a) a relevant child and the proprietor of the school about the special educational provision made for that child, and
 - (b) the parents of a relevant child and the proprietor of the school about the special educational provision made for that child.
- (3) The arrangements must provide for the appointment of independent persons with the functions of facilitating the avoidance or resolution of such disagreements.

Status: This is the original version (as it was originally enacted).

- (4) In making the arrangements, the authority must have regard to any guidance given by the Welsh Ministers.
- (5) The arrangements must comply with any provisions made in regulations by the Welsh Ministers that relate to the arrangements.
- (6) The authority must take such steps as they consider appropriate for making the arrangements under subsections (1) and (2) known to—
 - (a) children in their area,
 - (b) parents of children in their area,
 - (c) head teachers and proprietors of schools in their area, and
 - (d) such other persons as they consider appropriate.
- (7) The arrangements cannot affect the entitlement of a child or a parent of a child to appeal to the Tribunal, and the authority must take such steps as they consider appropriate to make that fact known to children, to parents of children and to case friends for children in their area.
- (8) In this section—

“authorities” means the governing bodies of maintained schools and the local education authority;

“relevant child” means a child who has special educational needs and is a registered pupil at a relevant school.
- (9) For the purposes of this section a school is a relevant school in relation to a child if it is—
 - (a) a maintained school or a maintained nursery school,
 - (b) a pupil referral unit,
 - (c) an independent school named in the statement maintained for the child under section 324, or
 - (d) a school approved under section 342.”.

6 Gwasanaethau eirioli annibynnol

- (1) Diwygir Deddf Addysg 1996 (p. 56) yn unol â'r adran hon.
- (2) Ar ôl adran 332BA mewnosoder y canlynol—

“332BB Independent advocacy services — Wales

- (1) Every local education authority in Wales must—
 - (a) make arrangements for the provision of independent advocacy services in their area;
 - (b) refer any child in their area who requests independent advocacy services to a service provider;
 - (c) refer any person who is a case friend for a child in their area and who requests independent advocacy services to a service provider.
- (2) In this section “independent advocacy services” are services providing advice and assistance (by way of representation or otherwise) to a child—
 - (a) making, or intending to make an appeal to the Tribunal under section 332ZA, or