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# **Suspension and Permanent Exclusions Policy**

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**Co-ordinator:** Miss C Rose

Signed by..... Dawn Mason (Principal)

Signed by..... Kim Bristow (Chair of Governors)

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## 1. Aims

The Academy aims to ensure that:

- The suspension and permanent exclusion process is applied fairly and consistently
- The suspension and permanent exclusions process is understood by governors, staff, parents and students
- Students in the Academy are safe and happy
- Students do not become NEET (not in education, employment or training)
- Ensure all suspensions and permanent exclusions are carried out lawfully

## 2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education: *Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement.*

It is based on the following legislation, which outlines schools' powers to exclude students:

- Section 51a of the *Education Act 2002*, as amended by the *Education Act 2011*
- *The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012*

In addition, the policy is based on:

- Part 7, chapter 2 of the *Education and Inspections Act 2006*, which sets out parental responsibility for excluded students
- Section 579 of the *Education Act 1996*, which defines 'school day'
- *The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007, as amended by The Education (Provision of Full-Time Education for Excluded Pupils) (England) (Amendment) Regulations 2014*
- *The Equality Act 2010*
- *Children and Families Act 2014*

This policy complies with our funding agreement and articles of association.

## 3. Definitions

**Suspension** – when a student is removed from the school for a fixed period. This was previously referred to as a 'fixed-term exclusion'.

**Permanent exclusion** – when a student is removed from the school permanently and taken off the school roll. This is sometimes referred to as an 'exclusion'.

**Off-site direction** – when a governing board of a maintained school requires a student to attend another education setting temporarily, to improve their behaviour.

**Parent** – any person who has parental responsibility and any person who has care of the child.

**Managed move** – when a student is transferred to another school permanently. All parties, including parents and the admission authority for the new school, should consent before a managed move occurs.

#### **4. The decision to suspend or permanently exclude**

Only the Principal or Vice Principal in their absence can suspend or permanently exclude a student from the Academy. A permanent exclusion will be taken as a last resort. The Academy is aware that off-rolling is unlawful. Ofsted describes off-rolling as:

“The practice of removing a student from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the student.”

We will not suspend or exclude students unlawfully by directing them off site, or not allowing students to attend school:

- Without following the statutory procedure or formally recording the event, e.g. sending them home to 'cool off'
- Because they have special educational needs and/or a disability (SEND) that the school feels unable to support
- Due to poor academic performance
- Because they haven't met a specific condition, such as attending a reintegration meeting
- By exerting undue influence on a parent to encourage them to remove their child from the school

We are committed to following all statutory suspension and exclusion procedures to ensure that every child receives an education in a safe and caring environment. A decision to suspend or permanently exclude a student will only be taken:

- In response to serious or persistent breaches of the Academy's Behaviour policy, and
- If allowing the student to remain in the Academy would seriously harm the education or welfare of others

Before deciding whether to suspend or exclude a student, either permanently or for a fixed period, the Principal will:

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the suspension or exclusion were provoked.
- Allow the student to give their version of events.
- Consider if the student has Special Educational Needs (SEN).
- For Children Looked After / Previously Looked After or working with a Social Worker, we will make every effort to avoid suspension or exclusion, in recognition of the increased risk this poses in terms of quickly disengaging from the Academy. We will liaise with Virtual School and LEA and consider applicable alternatives.
- For Children Looked After / Previously Looked After or working with a Social Worker we will consider Governor Warning Panels and Early Intervention Panels.
- Consider cancelling a suspension or exclusion that has not been reviewed by the Governing Board. This practice is sometimes known as withdrawing/rescinding a suspension or

permanent exclusion. If this occurs, parents, the Governing Board and the Local Authority should be notified.

## **5. Definition**

For the purposes of a suspension or permanent exclusion, the 'school day' is defined as any day on which there is a school session. Therefore, INSET, staff training or strike days do not count as a 'school day'.

## **6. Roles and Responsibilities**

### **6.1. The Principal**

#### **6.1.1 Informing the parents**

The Principal will provide the following information, in writing, to the parents of a suspended or permanently excluded student:

- The reason(s) for the suspension
- The length of a suspension or, for a permanent exclusion, the fact that it is permanent
- Information about parents' right to make representations about the suspension to the Governing Board and how the student may be involved in this
- Where there is a legal requirement for the Governing Board to meet to consider the reinstatement of a student, parents have a right to attend a meeting and be represented (at their own expense)

The Principal or the Assistant Principal in charge of behaviour, will notify parents by the end the day that their child is suspended and that for the first 5 school days of a suspension, (or until the start date of any alternative provision where this is earlier), parents are legally required to ensure that their child is not present in a public place during school hours without good reason. Parents may be given a fixed Penalty Notice or prosecuted if they fail to comply with this.

If an alternative provision is being arranged, the following information will be included when notifying parents of a suspension:

- The start date for any provision of full-time education that has been arranged
- The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant
- The address at which the provision will take place
- Any information required by the student to identify the person they should report to on the first day

Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but will be provided no later than 48 hours before the provision is due to start. The only exception to this is where alternative provision is to be provided before the sixth day of an exclusion, in which case the information can be provided with less than 48 hours' notice with parental consent.

### **6.1.2 Informing the Governing Board and Local Authority**

The Principal will immediately notify the Governing Board of:

- A permanent exclusion
- Suspensions which would result in the student being suspended for more than 5 school days or
- more than 10 lunchtimes in a term
- Exclusions which would result in the student missing a public examination

The Local Authority (LA) of:

- Any suspensions or permanent exclusions

For a permanent exclusion, if the student lives outside the LA in which the Academy is located, the Principal or the Assistant Principal in charge of behaviour will also immediately inform the student's 'home authority' of the exclusion and the reason(s) for it without delay. For all other exclusions, the Academy will notify the Governing Board and LA once a term.

### **6.2. The Governing Board**

Responsibilities regarding suspension and permanent exclusions is delegated to the Governing Board. The Governing Board has a duty to consider the reinstatement of a suspended or permanently excluded student (see section 6).

Provision does not have to be arranged for students in the final year of compulsory education who do not have any further public examinations to sit.

Responsibilities regarding suspensions and permanent exclusions are delegated to the Governor Panel consisting of at least 3 governors.

The Governor Panel has a duty to consider parents' representations about a suspension or permanent exclusion. It has a duty to consider the reinstatement of a suspended or permanently excluded student (see sections 7 & 8) in certain circumstances.

Within 14 days of receiving a request, the governing board will provide the secretary of state and the LA with information about any suspensions or exclusions within the last 12 months.

For any suspension of more than 5 school days, the governing board will arrange suitable full-time education for the student. This provision will begin no later than the sixth day of the suspension.

The governing board does not have to arrange such provision for students in their final year of compulsory education who do not have any further public exams to sit.

### **Monitoring and analysing suspensions and exclusions data**

The governing board will challenge and evaluate the data on the school's use of suspension, exclusion, off-site direction to alternative provision and managed moves.

The governing board will consider:

- How effectively and consistently the school's behaviour policy is being implemented
- The school register and absence codes
- Instances where students receive repeat suspensions
- Interventions in place to support students at risk of suspension or permanent exclusion
- Any variations in the rolling average of permanent exclusions, to understand why this is happening, and to make sure they are only used when necessary
- Timing of moves and permanent exclusions, and whether there are any patterns, including any indications which may highlight where policies or support are not working
- The characteristics of suspended and permanently excluded students, and why this is taking place
- Whether the placements of students directed off-site into alternative provision are reviewed at sufficient intervals to assure that the education is achieving its objectives and that students are benefiting from it
- The cost implications of directing students off-site

### **6.3. The Local Authority (LA)**

For permanent exclusions, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion.

### **6.4. Social workers and virtual schools**

For students that have a known social worker we will notify the social worker (where applicable) and virtual school of any suspensions or permanent exclusions as early as possible. The Academy would then discuss with the virtual school if the number of days should trigger an Early Intervention Panel or Governor Warning Panel which the social worker/virtual school Head would be invited to. The social worker should also help ensure safeguarding needs and risks and the student's welfare are taken into account.

## **7. Consideration of the reinstatement of a student**

The Governing Board will consider the reinstatement of an excluded student within 15 school days of receiving the notice of the suspension if:

- The exclusion is permanent
- It is a suspension which would bring the student's total number of days out of school to more than 15 in a term; or
- It would result in a student missing a public examination

If requested to do so by parents, the Governing Board will consider the reinstatement of a suspended student within 50 school days of receiving notice of the suspension if the student would be suspended from the Academy for more than 5 school days.

Where a suspension would result in a student missing a public examination, the Governing Board will consider the reinstatement of the student before the date of the examination. If this is not practical, The Governing Board will consider the suspension and decide whether or not to reinstate the student.

The following parties will be invited to a meeting of the governing board and allowed to make representations or share information:

- Parents, or the student if they are 18 or over (and, where requested, a representative or friend)
- The student, if they are aged 17 or younger and it would be appropriate to their age and understanding (and, where requested, a representative or friend)
- The principal
- The student's social worker, if they have one
- The Virtual School Head, if the student is looked after

The governing board will try to arrange the meeting within the statutory time limits set out above and must try to have it at a time that suits all relevant parties. However, its decision will not be invalid simply on the grounds that it was not made within these time limits.

The Governing Board can either:

- Decide to reinstate the student, or
- Direct the reinstatement of the student immediately, or on a particular date

In reaching a decision the Governing Board will consider whether the suspension was lawful, reasonable and procedurally fair and whether the Principal followed their legal duties. They will decide whether or not a fact is true 'on the balance of probabilities', which differs from the criminal standard of 'beyond reasonable doubt', as well as any evidence that was presented in relation to the decision to exclude.

Minutes will be taken of the meeting, and a record of evidence considered kept. The outcome will also be recorded on the student's educational record.

The Governing Board will notify, in writing, the Principal, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the Governing Board's decision will also include the following:

- The fact that it is permanent
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel, and:
  - The date by which an application for an independent review must be made
  - The name and address to whom an application for a review should be submitted
  - That any application should set out the grounds on which it is being made and that, where appropriate, reference to how the student's SEN are considered to be relevant to the exclusion
  - That regardless of whether the excluded student has recognised SEN, parents have a right to require the Trust to appoint an SEN expert to attend the review
  - Details of the role of the SEN expert and that there would be no cost to parents for this appointment
  - That parents must make clear if they wish for an SEN expert to be appointed in any application for a review
  - That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review



- That, if parents believe that the suspension has occurred as a result of discrimination, they may make a claim under the Equality Act 2010 to the first-tier tribunal (special educational needs and disability), in the case of disability discrimination, or the county court, in the case of other forms of discrimination. A claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place.

## **8. An independent review**

If parents apply for an independent review, the Trust will arrange for an independent panel to review the decision of the Governing Board not to reinstate a permanently excluded student.

Applications for an independent review must be made within 15 school days of notice being given to the parents by the Governing Board of its decision to not reinstate a student.

A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the school governor's category and 2 members will come from the Principal category.

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer.

School Governors who have served as a Governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or Principals during this time.

- Principals or individuals who have been a Principal within the last 5 years.

A person may not serve as a member of a review panel if they:

- Are a director of the Trust or Governing Board of the excluding Academy.
- Are the Principal of the excluding Academy, or have held this position in the last 5 years.
- Are an employee of the Trust, or the Governing Board, of the excluding Academy (unless they are employed as a Principal at another school).
- Have, or at any time have had, any connection with the Trust, Governing Board, parents or student, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality.
- Have not had the required training within the last 2 years (see appendix 1 for what training must cover).

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the Governing Board's decision.
- Recommend that the Governing Board reconsiders reinstatement.
- Quash the Governing Board's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed).

The panel's decision can be decided by a majority vote. In the case of a tied decision, the Chair has the casting vote.

Once the panel has reached its decision, the panel will notify all parties in writing without delay.

This notification will include:

- The panel's decision and the reasons for it
- Where relevant, details of any financial readjustment or payment to be made if the governing board does not subsequently decide to offer to reinstate the student within 10 school days
- Any information that the panel has directed the governing board to place on the student's educational record

## **9. The Academy registers**

A student's name will be removed from Academy admissions register if:

- 15 school days have passed since the parents were notified of the exclusion panel's decision to not reinstate the student and no application has been made for an independent review panel,  
OR
- The parents have stated in writing that they will not be applying for an independent review panel

Where an application for an independent review has been made, the Governing Board will wait until that review has concluded before removing a student's name from the register.

Where alternative provision has been made for an excluded student and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded students are not attending alternative provision, code E (absent) will be used.

Where a student's name is to be removed from the school admissions register because of a permanent exclusion, the school will make a return to the LA.

## **10. Returning from a suspension**

Following a suspension, a reintegration meeting will be held involving the student, parents, a member of senior staff and other staff, where appropriate. A copy of agreed actions will be sent to the parents / carers and stored on the student's record.

The following measures may be implemented when a student returns from a suspension:

The points below are suggestions only and should be adapted to your Academy's specific circumstances.

- Agreeing a behaviour contract (a Pastoral Support Plan (PSP))
- Putting a student 'on report'
- Internal isolation
- Referral to internal and/ or external support agencies

## **11. Monitoring arrangements**

The Assistant Principal in charge of behaviour monitors the number of suspensions every term and reports back to the Principal/Governors. They also liaise with the local authority to ensure suitable full-time education for suspended students.

## **12. Link with other policies**

This suspension and exclusion policy is linked to our

- Behaviour for Learning Policy
- Anti-Bullying Policy
- Special Educational Needs & Disabilities (SEND) Policy

## **13. Disposal of Exclusion paperwork following appeal**

All exclusion paperwork will be given to the Clerk to the Governors/ Hearing Clerk. This information will either be shredded or disposed of securely.

## **14. Evaluating and monitoring**

This policy will be reviewed by the policy coordinator every two years. At every review, the policy will be shared with the Governing Board.

## Appendix 1: Independent Review Panel Training

The Academy Trust must ensure that all members of an independent review panel and clerks have received training within 2 years prior to the date of the review.

Training must have covered:

- The requirements of the primary legislation, regulations and statutory guidance governing suspensions and exclusions, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making
- The need for the panel to observe procedural fairness and the rules of natural justice
- The role of the chair and the clerk of a review panel
- The duties of principals, governing boards and the panel under the *Equality Act 2010*
- The effect of section 6 of the *Human Rights Act 1998* (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act