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# Exclusions Policy

*Enabling a world of freedom, opportunity and fulfilment*

History of Policy Changes:

Date	Page	Change	Origin of Change
14.03.22	Whole document	All reference to 'fixed term exclusions' replaced with 'suspension'	DfE guidance
28.02.23	Whole document	Date of review updated	Annual review
13.9.23	Whole document	Reference to: Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units, including pupil movement	Annual review
13.9.23	Whole document	Reference to companion piece: Behaviour in Schools	Annual review

**Statement of Intention: Magna Learning Partnership is an inclusive Multi Academy Trust which strives to provide high quality education for all children and young people. Whilst this policy refers to the possibility of permanent exclusion, it is highly unlikely that this would be a step taken by any academy within the Trust.**

## **1. Aims**

Our academies aim to ensure that:

- The suspension and exclusions process is applied fairly and consistently
- The suspension and exclusions process is understood by governors, staff, parents and students
- Students in academies are safe and happy
- Students do not become NEET (not in education, employment or training)

## **2. Legislation and statutory guidance**

This policy is based on statutory guidance from the Department for Education: [Exclusion from maintained schools, academies and pupil referral units \(PRUs\) in England](#).

It is based on the following legislation, which outline academies' powers to exclude students:

- Section 52 of the [Education Act 2002](#), as amended by the [Education Act 2011](#)
- [The School Discipline \(Pupil Exclusions and Reviews\) \(England\) Regulations 2012](#)
- Sections 64-68 of the [School Standards and Framework Act 1998](#)

In addition, the policy is based on:

- Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which looks at 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](#)
- Update from [2023 Suspension and permanent exclusion guidance](#)
- Companion piece reference [Behaviour in Schools](#)

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

## **3. The decision to suspend**

Only the Academy Leader or Acting Academy Leader can suspend a student from the academy.

A decision to suspend a student will be taken only:

- In response to serious or persistent breaches of the academy's behaviour policy, **and**
- If allowing the pupil to remain in the academy would seriously harm the education or welfare of others

Before deciding whether to suspend a student, the Academy Leader will:

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the suspension were provoked
- Allow the student to give their version of events
- Consider if the student has special educational needs and disability (SEND). The academy will make reasonable adjustments for managing behaviour which is related to a student's disability. Where suspension needs to be considered, the academy will ensure that a disabled student is able to present his or her case fully where the disability might hinder this and that the review procedure is made accessible for parents.

The academy may also consider further responses following an incident, such as a referral to Children's Social Care or the Police.

#### **4. Definition**

For the purposes of suspensions, the academy day is defined as any day on which there is an academy session. Therefore, teacher development days do not count as an academy day.

#### **5. Roles and responsibilities**

##### **5.1 The Academy Leader**

###### **Informing parents**

The Academy Leader will immediately provide the following information, in writing, to the parents of a suspended student:

- The reason(s) for the suspension
- The length of a fixed-term suspension
- Information about parents' right to make representations about the suspension to the Academy Governance Committee and how the student may be involved in this
- Where there is a legal requirement for the Academy Governance Committee to meet to consider the reinstatement of a student, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend

The Academy Leader will also notify parents by the end of the afternoon session on the day their child is suspended 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 academy hours without good reason. Parents may be given a Fixed Penalty Notice or prosecuted if they fail to do this.

If 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 it 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 a suspension, in which case the information can be provided with less than 48 hours' notice with parents' consent.

### **Informing the Academy Governance Committee and Local Authority**

The Academy Leader will immediately notify the CEO, Academy Governance Committee and the Local Authority (LA) of:

- A Permanent Exclusion, including when a fixed-period suspension is made permanent
- Suspensions which would result in the student being suspended for more than 5 academy days (or more than 10 lunchtimes) in a term
- Suspensions which would result in the student missing a public examination

For a Permanent Exclusion, if the student lives outside the LA in which the school is located, the Academy Leader 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 Leader will notify the Academy Governance Committee and LA once a term.

### **5.2 The Academy Governance Committee**

Responsibilities regarding suspensions and exclusions are delegated to the Academy Governance Committee.

A representation comprising of three governors from the Academy Governance Committee has a duty to consider the reinstatement of an excluded student (if the criteria in section 6 is met).

Within 14 days of receipt of a request, the Academy Governance Committee will provide the Secretary of State with information about any exclusions in the last 12 months.

For a suspension of more than 5 academy days, the relevant LA will arrange suitable full-time education for the student. This provision will begin no later than the sixth day of the suspension. 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.

### **5.3 Permanent Exclusion**

In accordance with the secondary schools' Service Level Agreement, Magna Learning Partnership aims to avoid permanent exclusion in all cases. However, there may be occasions in primary, secondary or post 16 academies where a child or young person's behaviour (either as a significant ongoing issue or through a single extremely serious event) causes that child or young person's place in the academy to become untenable. In such a case, Magna Learning Partnership, through the Academy Leader of an individual academy will explore a range of options to best fit the needs of the child. These may include, though will not be limited to, education delivered through offsite alternative provision.

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

## 6. Considering the reinstatement of a student

The Academy Governance Committee will consider the reinstatement of a suspended student within 15 academy days of receiving the notice of the suspension if:

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

If requested to do so by parents, the Academy Governance Committee will consider the reinstatement of a suspended student within 50 academy days of receiving notice of the suspension if the student would be suspended for more than 5 academy days, but less than 15, in a single term.

If the exclusion is for 5 days or fewer, parents can still ask the Academy Governance Committee to hear their views but the Academy Leader's decision cannot be overturned.

Where a suspension would result in a student missing a public examination, a sub-committee of the Academy Governance Committee will consider the reinstatement of the student before the date of the examination.

The Academy Governance Committee can either:

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

In reaching a decision, the Academy Governance Committee will consider whether the suspension was lawful, reasonable and procedurally fair and whether the Academy Leader 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 suspend.

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 Academy Governance Committee will notify, in writing, the Academy Leader, parents and the LA of its decision, along with reasons for its decision, without delay.

For permanent exclusion, the Academy Governance Committee's decision will also include the following:

- The fact that it is permanent exclusion not suspension
- 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 SEND are considered to be relevant to the exclusion
  - That, regardless of whether the excluded pupil has recognised SEND, parents have a right to require Magna Learning Partnership (MLP) to appoint an SEND expert to attend the review

- Details of the role of the SEND expert and that there would be no cost to parents for this appointment
- That parents must make clear if they wish for an SEND 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 permanent exclusion 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

## **7. An independent review**

If parents apply for an independent review, MLP will arrange for an independent panel to review the decision of the Academy Governance Committee not to reinstate a permanently excluded student.

Applications for an independent review must be made within 15 academy days of notice being given to the parents by the Academy Governance Committee 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 category and 2 members will come from the Academy Leader category.

- A lay member to chair the panel who has not worked in any academy 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, Academy Leaders or Academy Leaders during this time
- Academy Leaders or individuals who have been an Academy Leader within the last 5 years

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

- Are a member of MLP or Academy Governance Committee of the excluding academy
- Are the Academy Leader of the excluding academy or have held this position in the last 5 years
- Are an employee of MLP, or the Academy Governance Committee, of the excluding academy (unless they are employed as an Academy Leader at another academy)
- Have, or at any time have had, any connection with MLP, the academy, Academy Governance Committee, parents or pupil, 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 Academy Governance Committee's decision
- Recommend that the Academy Governance Committee reconsiders reinstatement
- Quash the Academy Governance Committee 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.

## **8. Academy registers**

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

- 15 academy 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 Academy Governance Committee will wait until that review has concluded before removing a student's name from the register.

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

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

## **9. Returning from a suspension**

Following a suspension, a re-integration meeting will be held involving the student, parents, a member of senior staff and other staff, where appropriate.

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

- Internal isolation
- Putting a pupil on report
- Agreeing a behaviour contract
- Agreeing a risk assessment of behaviours
- Adjustment of curriculum or timetable
- Additional targeted intervention

## **10. Monitoring arrangements**

The Academy Leader monitors the number of exclusions every term and reports back to the CEO and Academy Governance Committee. The policy will be reviewed by the Trust annually and the reviewed policy will be shared with Academy Governance Committee and published externally.

## **11. Links with other policies**

This exclusions policy is linked to Trust and academy policies as follows:

- Behaviour Policy
- Home School Agreement
- SEND Policy and Information Report
- Child Protection & Safeguarding Policy
- Attendance Policy
- Child Looked After Policy
- Anti-bullying Policy

And other relevant academy policies



## **Appendix 1: independent review panel training**

MLP must ensure that all members of an independent review panel and clerks have received training within the 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 Academy Leaders, AGCs 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.